



Brussels, 8.11.2023  
SWD(2023) 691 final

## **COMMISSION STAFF WORKING DOCUMENT**

### **Bosnia and Herzegovina 2023 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**

#### **2023 Communication on EU Enlargement policy**

{ COM(2023) 690 final } - { SWD(2023) 690 final } - { SWD(2023) 692 final } -  
{ SWD(2023) 693 final } - { SWD(2023) 694 final } - { SWD(2023) 695 final } -  
{ SWD(2023) 696 final } - { SWD(2023) 697 final } - { SWD(2023) 698 final } -  
{ SWD(2023) 699 final }

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# 1. INTRODUCTION

## 1.1. CONTEXT

Following its application for EU membership in February 2016, Bosnia and Herzegovina must fulfil **14 key priorities** as set out in the **Commission's Opinion**<sup>1</sup> of May 2019 covering democracy/functionality, the rule of law, fundamental rights, and public administration reform. Once the Commission assesses that Bosnia and Herzegovina has achieved the necessary degree of compliance with the membership criteria and in particular has met the key priorities, the Commission will recommend opening EU accession negotiations. On the basis of the December 2019 conclusions of the Council of the European Union<sup>2</sup>, the Commission focuses its annual reports on Bosnia and Herzegovina's implementation of the 14 key priorities.

On the basis of a recommendation by the Commission<sup>3</sup>, in December 2022 the European Council granted Bosnia and Herzegovina the status of **candidate country**<sup>4</sup>. The positive momentum that followed the granting of candidate status resulted in limited progress on the Opinion's key priorities. Positive developments at state level were in stark contrast to negative developments at the level of the *Republika Srpska* entity, impacting the country as a whole.

Following the October 2022 elections, state and entity-level legislative and executive bodies were set up by May 2023. The Commissioner and the Chairwoman of the Council of Ministers co-chaired a **High-Level Political Forum** in Sarajevo on 17 May to monitor the implementation of the steps in the recommendation, report on further progress on the ground and discuss reform efforts along the EU path. At the Political Forum the authorities reconfirmed their commitment to the strategic goal of EU accession.

Following the granting of candidate status, the **public commitment** of political parties to the strategic goal of **European integration** brought positive results. Important steps and commitments were made towards the fulfilment of the key priorities, despite negative legislative developments at entity level. The formation of a state-level coalition government at record speed is an important proof of a new political dynamism and will.

To address the **steps** specified in the Commission recommendation for candidate status, in the reporting period Bosnia and Herzegovina took the following actions. The Council of Ministers adopted strategies to counter organised crime, made an updated risk assessment and an accompanying action plan on anti-money laundering and combating the financing of terrorism, adopted strategies and action plans on migration and on terrorism, and appointed a supervisory body for the implementation of the national war crimes processing strategy. The contact point with Europol finally started operations in June 2023. The Council of Ministers endorsed a set of draft laws, notably on: integrity in the judiciary; torture prevention (designating the Ombudsman as national preventive mechanism); foreigners; and freedom of access to information. These were adopted by Parliament in August and September 2023.

The Council of Ministers also endorsed the legal basis for conducting negotiations on the southern and eastern gas interconnections, and the cooperation agreement with Eurojust. The Council of Ministers also endorsed the organisation of the Digital Summit of the Western

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<sup>1</sup> SWD(2019) 222 final, COM(2019) 261 final.

<sup>2</sup> <https://www.consilium.europa.eu/en/press/press-releases/2019/12/10/council-conclusions-on-commission-opinion-on-bosnia-and-herzegovina-s-application-for-membership-of-the-european-union/>

<sup>3</sup> COM(2022) 528 final, p. 38-39.

<sup>4</sup> <https://www.consilium.europa.eu/media/60872/2022-12-15-euco-conclusions-en.pdf>

Balkans, held in Sarajevo in October 2023, the establishment of the Computer Emergency Response Team (CERT), and the procurement of helicopters for the Ministry of Defence and the Armed Forces. A state budget for 2023 was adopted in March. Bosnia and Herzegovina has launched ratification of two regional mobility agreements and needs to do the same for the agreement on free travel with identity card.

Recent developments, mainly in the *Republika Srpska* entity, are going against the positive momentum. Notably, the entity called for constitutional judges to resign and adopted a law decreeing that Constitutional Court decisions would not be implemented, calling into question the authority, integrity and the unimpeded functioning of the Constitutional Court and breaching the constitutional and legal order of the country. The entity also reintroduced criminal penalties for defamation, which severely impact the environment for civil society and restrict freedom of expression and media freedom, representing a major step backwards in the protection of fundamental rights. A draft law targeting civil society groups as ‘foreign agents’ was adopted in the first reading by the entity assembly. If finally adopted, this law would further undermine the effective functioning of democracy and would mark another regrettable and undeniable major step backwards.

Bosnia and Herzegovina continues to implement the **Stabilisation and Association Agreement** (SAA) which, together with its Interim Agreement applied since 2008, has enabled progressive trade liberalisation with the EU and mutual duty-free access for most goods. Continued protectionist measures are, however, a cause of increasing and serious concern regarding implementation of the SAA.

**Policy dialogue** under the SAA was restored after political blockage in 2021 and early 2022. The cycle of sectoral subcommittees opened in 2020 was completed in June 2023. A Stabilisation and Association Council took place in July 2023.

Bosnia and Herzegovina received the first 90% of the EUR 70 million energy support package in May 2023. The Council of Ministers needs to urgently appoint a National IPA Coordinator (NIPAC) for IPA III.

## **1.2. SUMMARY OF THE REPORT<sup>5</sup>**

As regards **political criteria**, elections took place in October 2022. The High Representative intervened multiple times in electoral matters, including on the evening of the election day, which according to OSCE/ODIHR challenged legal certainty.

All state and entity-level legislative and executive bodies were set up by May 2023. A new state-level Council of Ministers took office in late January, supported by a ruling coalition including SNSD, HDZ BiH, and the ‘trojka’ (SDP, NiP, *Naša Stranka*). A state budget for 2023 was adopted in March. The new Council of Ministers took significant steps to adopt EU reforms following the granting of candidate status: it adopted the strategy on organised crime, an updated risk assessment and accompanying action plan on anti-money laundering and combating terrorism financing, as well as the strategies and action plans on migration and on terrorism. It also appointed a supervisory body for implementation of the national war crimes

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<sup>5</sup> This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from Bosnia and Herzegovina, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law. The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

processing strategy. The contact point with Europol finally started operations in June 2023. The Council of Ministers also endorsed a set of draft laws, notably on: integrity in the judiciary; torture prevention (designating the Ombudsman as national preventive mechanism); foreigners; and freedom of access to information. These were adopted by Parliament in August and September 2023.

A number of Constitutional Court decisions have yet to be fully enforced, including on state property. The Constitutional Court suspended or quashed several legal and political acts by the *Republika Srpska* entity. The entity leadership determined to enforce such laws nevertheless, endangering legal certainty. The entity assembly called on state-level constitutional judges to resign, and in June 2023 it legalised the non-publication of decisions of the High Representative and the non-implementation of the rulings of the Constitutional Court, calling into question the authority and integrity of the Constitutional Court and breaching the constitutional and legal order of the country. Both entities' assemblies should appoint judges swiftly to the vacant judges' seats and ensure the full composition of the Constitutional Court.

Constitutional and electoral reforms are still needed to bring the Constitution into line with the European Convention on Human Rights, complying with the *Sejdić-Finci* case law.

No steps were taken to develop socio-economic reforms in line with Commission recommendations and with the joint conclusions of the economic and financial dialogue. The continued protectionist measures are a matter of concern in the implementation of the SAA. Policy dialogue under the SAA was restored after its political blockage in 2021-2022. Bosnia and Herzegovina has not yet developed a national plan for the adoption of the EU *acquis* (NPAA), as required by the SAA.

Some progress was made on the alignment with the common foreign and security policy (CFSP). Bosnia and Herzegovina significantly improved its alignment with EU foreign policy. *Republika Srpska* entity authorities and parties advocated for a neutral stance on Russia's aggression against Ukraine, contesting the country's alignment with EU statements and obstructing the full implementation of restrictive measures against Russia. Bosnia and Herzegovina has launched ratification of two regional mobility agreements and needs to do the same for the agreement on free travel with identity cards. Bosnia and Herzegovina is at an early stage of preparation and made some progress on **public administration reform** (PAR). Some positive steps were taken by (i) adopting the PAR coordination arrangement ('common platform'), including a political decision-making body; (ii) implementing comprehensive and countrywide public finance management, (iii) improving capacity for public consultation at state level and on regulatory impact assessment in the *Republika Srpska* entity, (iv) adopting a strategy on human resource management in the Federation entity, (v) improving the professional development and performance appraisal in the Federation entity and at state level, and (vi) adopting a Law on freedom of access to information, aimed at fostering proactive disclosure and transparency. Some five years after adoption, the PAR action plan has been implemented only to a limited extent. Civil service laws are still not harmonised with each other and merit principles are not enshrined in recruitment procedures. The monitoring of human resources is not effective in detecting irregularities. A political decision-making body, included in the 'common platform', still needs to become operational to steer reforms effectively. The capacity of entity-level PAR coordinators remains weak. Bosnia and Herzegovina needs to complete essential steps to improve the overall functioning of the public administration by ensuring a professional and depoliticised civil service and a coordinated, countrywide approach to policymaking.

Bosnia and Herzegovina is at an early stage of preparation as regards its **judiciary**. Some progress was made in this area. In September 2023, Bosnia and Herzegovina amended the Law on the High Judicial and Prosecutorial Council (HJPC) with the aim of establishing a system to verify the asset declarations of judges, prosecutors and HJPC members, albeit with changes compared to the version on which the Venice Commission was consulted. Such changes hamper the effectiveness of the asset-declaration system and therefore need to be amended. The Council of Ministers also appointed a new supervisory body overseeing the implementation of the national war crimes strategy. The independence and impartiality of the judiciary did not improve. Executive and legislative authorities failed to adopt additional safeguards. Inconsistency and overly broad discretion persist in applying the rules on appointment, disciplinary responsibility, career advancement and conflict of interest of judges and prosecutors. Persistent and evident signs of deterioration continue to require urgent measures to strengthen integrity and regain the public's trust in the judiciary. The poor functioning of the judicial system continued to undermine citizens' enjoyment of rights and the fight against corruption and organised crime. The *Republika Srpska* entity assembly called on state-level constitutional judges to resign and legalised the non-implementation of the rulings of the Constitutional Court, calling into question the authority and integrity of the Constitutional Court and breaching the constitutional and legal order of the country.

Bosnia and Herzegovina is between an early stage and some level of preparation in the prevention of and **fight against corruption and organised crime**. No progress was made in the fight against corruption. Some progress was made in the fight against organised crime. The Council of Ministers adopted a strategy on organised crime, a strategy and action plan on terrorism, an updated risk assessment and an accompanying action plan on anti-money laundering and combating the financing of terrorism. The contact point for cooperation with Europol started operating in June 2023. The Ministry of Justice is yet to submit a draft state-level law on the prevention of conflict of interest in line with European standards to the Council of Ministers for adoption. Although there were some indictments pertaining to high-level corruption, the overall track record on preventing and repressing corruption (including at high level) remains insignificant due to operational inefficiency and political interference. There are systemic shortcomings in the operational cooperation between law enforcement agencies fighting organised crime, due to non-harmonised criminal legislation, weak institutional coordination, and a very limited exchange of intelligence. Criminal organisations take advantage of legal and administrative loopholes. The police is vulnerable to political interference. Financial investigations and asset seizures are also largely ineffective. A proactive approach remains fundamental to countering criminal infiltration in the political, legal and economic systems. Cooperation with Eurojust and the European Public Prosecutor's Office (EPPO) still needs to be stepped up. Building upon some operational successes in 2023, Bosnia and Herzegovina needs to continue its efforts in the fight against terrorism and drug trafficking and must increase its capacity to do so. A new law on anti-money laundering and terrorism financing in line with the EU *acquis* urgently needs to be adopted.

The legislative and institutional framework on **fundamental rights** is largely in place. In August 2023 the Parliament adopted a Law on freedom of access to information and amended the Law on the human rights Ombudsman to designate it as the national preventive mechanism against torture and ill-treatment. Significant reforms are still needed to ensure that all citizens can exercise their voting rights and to ensure non-discriminatory, inclusive and quality education for all, including by overcoming the practice of 'two schools under one roof'. Pride marches have been held regularly since 2020, and an action plan on the rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons was adopted in July 2022. The gender action plan was adopted in October 2023. Gender-based violence, ill-

treatment of detainees and inadequate protection of minorities, including the Roma<sup>6</sup>, continue to cause concern.

There was backsliding in guaranteeing freedom of expression and freedom of the media by protecting journalists from threats and violence and ensuring the financial sustainability of the public broadcasting system. Criminal penalties for defamation, reintroduced in the *Republika Srpska* entity in July 2023, severely impact the environment for civil society and restrict freedom of expression and of the media. In September 2023, a draft law targeting civil society groups as ‘foreign agents’ was also adopted in first reading in the *Republika Srpska* entity assembly; if fully adopted, it would mark another regrettable and undeniable major step backwards.

Bosnia and Herzegovina continued to take steps to improve **migration** management. Bosnia and Herzegovina adopted a new strategy and action plan on migration and asylum and now needs to implement them. A Law on foreigners was adopted in September 2023. Major weaknesses still undermine the provision of necessary assistance. Bosnia and Herzegovina needs to urgently step up efforts to ensure access to asylum and strengthen border management. Bosnia and Herzegovina is satisfactorily implementing the integrated border management strategy and should adopt in good time the strategy and action plan for 2024-2029.

As regards **economic criteria**, Bosnia and Herzegovina is at an early stage of establishing a functioning market economy. Cooperation and coordination of economic policymaking at state level and among the entities have further deteriorated. As a result, the country’s internal market remains fragmented, adversely affecting the business environment. Unemployment remains very high and labour out-migration persists. The country’s economic reform programme (ERP) continues to be of poor quality and implementation of reforms is limited. The ERP does not contain sufficient credible countrywide measures to address the major structural economic challenges in relation to the business environment, the informal economy, public enterprises, the green and digital transitions and unemployment. Overall, Bosnia and Herzegovina’s economic performance remains below its potential, as policymaking is hindered by political stalemate, an overly short-term approach, and lack of focus on policy measures to build growth.

Bosnia and Herzegovina is between an early stage and some level of preparation in terms of **capacity to cope with competitive pressure and market forces in the EU**, and made limited progress in this area. The quality of education has remained low and the country continues to lag behind in the energy and digital transition. In response to changes in global demand, some structural adjustment took place, with the focus of value-added moving towards services, such as trade, IT and tourism. Economic integration with the EU remains high, but overall trade is below potential.

Bosnia and Herzegovina is in between an early stage and some level of preparation in its ability to take on the **obligations of EU membership**. It needs to significantly step up alignment with the EU *acquis* and implement and enforce the necessary legislation. Limited to no progress was made on most EU *acquis* chapters during the reporting period.

Bosnia and Herzegovina has some level of preparation and made limited progress in the area of **public procurement** with the adoption of certain bylaws. The legislation needs to be further aligned with the EU *acquis*, including in the area of concessions. There was limited progress on **statistics**; preparations for the next census have hardly progressed and the

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<sup>6</sup> In line with the terminology of European institutions the umbrella term ‘Roma’ is used here to refer to a number of different groups, without denying the specificities of these groups.

production of macroeconomic statistics continues to deviate from the EU *acquis*. Some progress was made on public internal **financial control (PIFC)** in terms of implementing PIFC strategies in the entities and at state level.

Major steps are needed to align the legal framework across the country with the EU *acquis* on the **internal market** (free movement of goods, workers, services and capital, company law, intellectual property, competition policy, financial services, consumer and health protection) as well as to establish an internal market within the country. Bosnia and Herzegovina made no progress in this cluster. Procedures and legislation that differ between the entities create obstacles to competitiveness and growth and hinder enforcement. Bosnia and Herzegovina should improve coordination among the relevant authorities in all areas to achieve a countrywide approach and improve their enforcement record. It should abolish ethnic-based voting procedures in the Competition Council and State Aid Council and set up a financial stability fund as part of the bank resolution framework. This cluster is key for Bosnia and Herzegovina's preparations to meet the EU single market requirements and is very important for early integration with and the development of the Common Regional Market, as well as for the country to benefit from the Economic and Investment Plan and the New Growth Plan for the Western Balkans.

Bosnia and Herzegovina made limited or no progress in the areas of **competitiveness and inclusive growth** (taxation, digital transformation and media, social policy and employment, enterprise and industrial policy, science and research, education and culture and customs). It showed no progress in other areas (economic and monetary policy) where it is at an early stage or has some level of preparation. These areas have significant links to the economic reform programme. The country needs to introduce socio-economic reforms to address structural weaknesses, including low competitiveness and high unemployment. Bosnia and Herzegovina made some or limited progress in the **green agenda and sustainable connectivity** cluster, where it is at an early stage on energy, environment and climate change. It has some level of preparation in the areas of transport and trans-European networks. Further steps are needed on connectivity reform measures and in aligning with the Trans-European Transport Network (TEN-T) and Trans-European Networks for Energy (TEN-E) Regulations. The green transition and sustainable connectivity are key to economic integration within the region and with the EU. The implementation of the Economic and Investment Plan<sup>7</sup> and the Green Agenda for the Western Balkans<sup>8</sup> needs to be accelerated.

Bosnia and Herzegovina made no progress in the areas of **resources, agriculture and cohesion** (agriculture and rural development, food safety, veterinary and phytosanitary policy, fisheries and aquaculture, and financial and budgetary provisions), where preparation is mostly at an early stage. It must step up its efforts to prepare and adopt a post-2021 countrywide strategy for rural development, align its legislation on food safety, veterinary and phytosanitary policy and strengthen its administrative capacity. The administrative capacity of laboratories and central databases has yet to be strengthened. More efforts are also needed to prepare and adopt a countrywide strategy on fisheries and aquaculture and harmonise data collection. Bosnia and Herzegovina should start preparing a countrywide regional development strategy.

Bosnia and Herzegovina has some level of preparation in the cluster on **external relations**. Its alignment with the EU Common Foreign and Security Policy (CFSP) significantly improved, notably on High Representative statements on behalf of the EU and Council

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<sup>7</sup> COM(2020) 641 final.

<sup>8</sup> SWD(2020) 223 final.

decisions on restrictive measures following Russia's war of aggression against Ukraine, although the implementation of sanctions remains a challenge. Bosnia and Herzegovina again unilaterally introduced and continued export restrictions breaching the terms of the SAA, a matter of concern for trade and commercial policy. The country needs to implement the additional protocols to the Central European Free Trade Agreement (CEFTA) on trade facilitation and trade and services, and swiftly adopt the additional protocol on dispute settlement. Bosnia and Herzegovina continued to actively participate in **regional cooperation** and to maintain good neighbourly relations. It needs to swiftly ratify the three regional mobility agreements.

In 2022, Bosnia and Herzegovina benefited from EUR 45.5 million under the **Instrument for Pre-accession Assistance 2021-2027 (IPA III)**<sup>9</sup>, providing support for programmes in justice, public administration reform, public finance management, EU integration, environment and climate change, employment and social protection. This set of programmes, complemented by a package of multi-country programmes, significantly contributes to the implementation of the **Economic and Investment Plan** for the Western Balkans and the **Green Agenda**.

The 2023 annual action plan consists of the **energy support package** for the Western Balkans and provides EUR 70 million to reduce the socio-economic impact of rising energy prices, in particular on small and medium-sized enterprises and households, and to support the transition to renewable energy sources, in line with the priorities of the EU's Economic and Investment Plan for the Western Balkans.<sup>10</sup>

Adopting countrywide sector strategies remains a key requirement for Bosnia and Herzegovina to benefit fully from IPA funding in the future. The Council of Ministers urgently needs to appoint the National IPA Coordinator (NIPAC) for IPA III.

### **1.3 ASSESSMENT OF THE IMPLEMENTATION OF THE 14 KEY PRIORITIES FOR OPENING EU ACCESSION NEGOTIATIONS AND OF THE STEPS SPECIFIED IN THE COMMISSION RECOMMENDATION FOR CANDIDATE STATUS**

**Key priority 1:** *Ensure that elections are conducted in line with European standards by implementing OSCE/ODIHR and relevant Venice Commission recommendations, ensuring transparency of political party financing, and holding municipal elections in Mostar.*

The electoral frameworks remains to be aligned with European standards and recommendations. The High Representative imposed several changes to the electoral framework, including on the evening of the election day (2 October 2022), which according to OSCE/ODIHR challenged legal certainty. Municipal elections were held in Mostar in December 2020.

**Key priority 2:** *Ensure a track record in the functioning at all levels of the coordination mechanism on EU matters including by developing and adopting a national programme for the adoption of the EU acquis.*

**Step:** *ensure a track record in the functioning at all levels of the coordination mechanism on EU matters including by developing and adopting a national programme for the adoption of the EU acquis.*

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<sup>9</sup> C(2022) 9167 final.

<sup>10</sup> C(2022) 9158 final.

There was no action on this key priority and step. The Council of Ministers should improve the functioning and make effective use of the coordination mechanism (collegium and ministerial conferences), and develop a national programme for the adoption of the EU *acquis* (NPAA). The programme for EU integration, prepared by DEI is still pending approval by the Council of Ministers. The Council of Ministers needs to urgently appoint the national IPA coordinator (NIPAC) for IPA III.

**Key priority 3:** *Ensure the proper functioning of the Stabilisation and Association Parliamentary Committee.*

The Stabilisation and Association Parliamentary Committee (SAPC) adopted its rules of procedure in 2021. Following the October 2022 elections, delegates to the SAPC were appointed in May 2023. Bosnia and Herzegovina's Parliament and the European Parliament held a full session of the SAPC in late October 2023. **The key priority is completed.**

**Key priority 4:** *Fundamentally improve the institutional framework, including at constitutional level, in order to:*

- a) *Ensure legal certainty on the distribution of competences across levels of government;*
- b) *Introduce a substitution clause to allow the State upon accession to temporarily exercise competences of other levels of government to prevent and remedy breaches of EU law;*
- c) *Guarantee the independence of the judiciary, including its self-governance institution (HJPC);*
- d) *Reform the Constitutional Court, including addressing the issue of international judges, and ensure enforcement of its decisions;*
- e) *Guarantee legal certainty, including by establishing a judicial body entrusted with ensuring the consistent interpretation of the law throughout Bosnia and Herzegovina;*
- f) *Ensure equality and non-discrimination of citizens, notably by addressing the Sejdić-Finci ECtHR case law;*
- g) *Ensure that all administrative bodies entrusted with implementing the *acquis* are based only upon professionalism and eliminate veto rights in their decision-making, in compliance with the *acquis*.*

*NB: The June 2022 European Council called on the leaders of Bosnia and Herzegovina to urgently finalise the pending constitutional and electoral reforms. These reforms should be advanced as an utmost priority.*

This key priority requires fundamental reforms, including at constitutional level to improve the institutional framework of Bosnia and Herzegovina. In June 2023 the *Republika Srpska* entity adopted a law on the non-application of decisions of the Constitutional Court, in breach of the constitutional and legal order, further hindering legal certainty.

**Key priority 5:** *Take concrete steps to promote an environment conducive to reconciliation in order to overcome the legacies of the war.*

The Council of Ministers appointed a supervisory body for the implementation of the national war crimes processing strategy. Some positive action was taken at local level (Mostar, Brčko). Occasionally political leaders continue spreading historical revisionism and glorifying war criminals, including by denying and trivialising genocide, war crimes, and crimes against humanity. Bosnia and Herzegovina should address outstanding issues concerning war crime trials, missing persons, redress of wartime victims of torture and sexual violence, and transitional justice.

**Key priority 6:** *Improve the functioning of the judiciary by adopting new legislation on the*

*High Judicial and Prosecutorial Council and of the Courts of Bosnia and Herzegovina in line with European standards.*

**Step:** *adopt, as a matter of priority, integrity amendments in the existing law of High Judicial and Prosecutorial Council.*

The Parliament adopted integrity amendments to the HJPC Law in September 2023, albeit with changes compared to the version on which the Venice Commission was consulted. These changes hamper the effectiveness of the asset declaration system and therefore need to be amended. Bosnia and Herzegovina should finalise and adopt the two comprehensive judicial reform laws – the new Law on the HJPC and the new law on the Courts of Bosnia and Herzegovina – in line with the opinions of the Venice Commission.

**Key priority 7:** *Strengthen the prevention and fight against corruption and organised crime, including money laundering and terrorism, notably by:*

- a) adopting and implementing legislation on conflict of interest and whistle-blowers' protection;*
- b) ensuring the effective functioning and coordination of anti-corruption bodies;*
- c) align the legislation and strengthen capacities on public procurement;*
- d) ensuring effective cooperation among law enforcement bodies and with prosecutors' offices;*
- e) demonstrating progress towards establishing a track record of proactive investigations, confirmed indictments, prosecutions and final convictions against organised crime and corruption, including at high-level;*
- f) de-politicising and restructuring public enterprises and ensuring transparency of privatisation processes.*

**Step:** *adopt the Law on prevention of conflict of interest.*

**Step:** *take decisive steps to strengthen the prevention and fight against corruption and organised crime.*

The Parliament amended the Law on public procurement in August 2022, and bylaws have been put in place. The Europol contact point started operating in June 2023, and Bosnia and Herzegovina deployed a liaison officer to The Hague. All police bodies in Bosnia and Herzegovina can now exchange messages through the Secure Information Exchange Network Application (SIENA) system. The Council of Ministers adopted strategies on terrorism and on organised crime, and an updated risk assessment and accompanying action plan on anti-money laundering and combating the financing of terrorism. These strategies and action plans need to be implemented at operational level.

**Key priority 8:** *Ensuring effective coordination, at all levels, of border management and migration management capacity, as well as ensuring the functioning of the asylum system.*

**Step:** *decisively advance work to ensure effective coordination, at all levels, of border management and migration management capacity, as well as ensuring the functioning of the asylum system.*

Migration management has improved. The Council of Ministers adopted a migration strategy and action plan. The Parliament adopted a Law on foreigners in August 2023. Reception capacities are sufficient. Readmission agreements and implementing protocols are implemented overall satisfactorily. Bosnia and Herzegovina needs to assign an appropriate budget for migration management, improve the procedures for the return of persons not in

need of international protection and take further steps to ensure a functioning asylum system. Obstacles persist to ensuring effective access to asylum.

**Key priority 9:** *Strengthen the protection of the rights of all citizens, notably by ensuring the implementation of the legislation on non-discrimination and on gender equality*

Legislation on gender equality and on anti-discrimination is not harmonised across the country or effectively enforced. The Council of Ministers adopted a new gender action plan in October 2023; a new action plan on women, peace and security remains to be adopted. Cases of femicide sparked public protests and exposed systemic shortcomings of response to gender-based and domestic violence, including in the legislative alignment with the Istanbul convention.

**Key priority 10:** *Ensure the right to life and prohibition of torture, notably by (a) abolishing the reference to death penalty in the Constitution of the Republika Srpska entity and (b) designate a national preventive mechanism against torture and ill-treatment.*

**Step:** *ensure prohibition of torture, notably by establishing a national preventive mechanism against torture and ill-treatment.*

In October 2019 the Constitutional Court repealed the reference to death penalty in the Constitution of the *Republika Srpska* entity. In August 2023 the Parliament amended the Law on the human rights Ombudsman to designate it as national preventive mechanism against torture and ill-treatment – an international obligation of the country. **The key priority is completed.**

**Key priority 11:** *Ensure an enabling environment for civil society, notably by upholding European standards on freedom of association and freedom of assembly.*

While the overall legal and regulatory framework is broadly in line with the EU *acquis*, recently the *Republika Srpska* entity adopted in the first reading a draft law targeting civil society actors as ‘foreign agents’ which, if fully adopted, would mark another regrettable and undeniable major step backwards.

**Key priority 12:** *Guarantee freedom of expression and of the media and the protection of journalists, notably by: (a) ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers, and (b) ensuring the financial sustainability of the public broadcasting system.*

**Step:** *guarantee freedom of expression and of the media and the protection of journalists, notably by ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers.*

There continue to be concerns about political pressure, intimidation and threats against journalists. In July 2023 the *Republika Srpska* entity re-introduced criminal penalties for defamation, with disproportionate restrictions that severely impact freedom of expression and of the media and representing a major step backwards. No action was taken to ensure the financial sustainability of the public broadcasting system.

**Key priority 13:** *Improve the protection and inclusion of vulnerable groups, in particular persons with disabilities, children, LGBTIQ persons, members of the Roma community, detainees, migrants and asylum seekers, as well as displaced persons and refugees in line with the objective of closure of Annex VII of the Dayton Peace Agreement.*

Pride marches have been held regularly since 2020. An action plan on the rights of LGBTIQ persons was adopted in July 2022 and remains to be implemented. The protection and inclusion of persons in vulnerable situation should be further addressed.

**Key priority 14:** *Complete essential steps in public administration reform towards improving the overall functioning of the public administration by ensuring a professional and de-politicised civil service and a coordinated countrywide approach to policy making.*

All levels of government have been implementing the action plan on public administration reform (PAR), the comprehensive and countrywide public finance management strategy, and their own individual strategies on public financial management. In August 2023 the Parliament adopted a Law on freedom of access to information, intended to improve the proactive disclosure of information and the transparency of state-level institutions. A professional and de-politicised civil service remains to be achieved, notably by amending civil service laws. A coordinated countrywide approach to policy making remains to be ensured.

## **2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS**

### **2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM**

#### **2.1.1. Democracy**

General elections took place in October 2022. Ahead of the vote and even directly after the closure of the polls, the High Representative intervened multiple times in electoral matters, including on budget and rules. State and entity-level legislative assemblies were swiftly formed by March, and executive bodies by May. The ruling coalition includes SNSD, HDZ BiH, and the ‘trojka’ (SDP, NiP, *Naša Stranka*) while excluding SDA from these levels of government. The Presidency took office in November, and for the first time since 1995 includes a woman, Željka Cvijanović (SNSD), also as first female chair. A new state-level Council of Ministers was swiftly set up after the vote and took office in late January, chaired for the first time by a woman, Borjana Krišto (HDZ BiH). A new government of the Federation entity was appointed in late April, headed by SDP leader Nermin Nikšić, after the High Representative suspended the Federation entity constitution to enable this.

Following the granting of candidate status, the public commitment of political parties to the strategic goal of European integration has brought positive results. Important steps and commitments towards the fulfilment of the key priorities were taken, despite negative legislative developments at entity level. The formation of a state-level coalition government at record speed is an important proof of a new political dynamism and will. The positive momentum which followed the granting of candidate status resulted in limited progress on the key priorities during the reporting period.

Recent developments, mainly in the *Republika Srpska* entity, are going against the positive momentum. Notably, the entity adopted a law not to implement Constitutional Court decisions and criminalised defamation, severely restricting media freedom and representing a major step backwards in the protection of fundamental rights. A draft law targeting civil society as ‘foreign agents’ is also pending adoption in the entity. If adopted, this law would further undermine the effective functioning of democracy and would mark another regrettable and undeniable major step backwards. These developments have a severe negative impact on

progress on key priority 4 on the improvement of the institutional framework, including at the constitutional level; key priority 12 on the guarantees of freedom of expression and the media; and key priority 11 on ensuring an enabling environment for civil society.

The Constitutional Court suspended and then quashed several legal and political acts adopted by the *Republika Srpska* entity that were in breach of the constitutional and legal order, including twice on state property matters, which the High Representative had previously also suspended. In June 2023, the *Republika Srpska* entity legalised the non-publication of a decisions of the High Representative and decreed that the rulings of the Constitutional Court would not be implemented, in breach of the constitutional and legal order. The High Representative annulled these laws in July. Entity authorities determined to enforce them anyway, thereby calling into question the authority and integrity of the Constitutional Court and to breach the constitutional and legal order of the country.

In April 2023, the *Republika Srpska* entity assembly called on state-level constitutional judges to resign. This is of concern. Entity parliaments should instead swiftly appoint judges to the vacant seats to ensure the unimpeded functioning of the Constitutional Court of Bosnia and Herzegovina.

To swiftly respond to unconstitutional initiatives by the *Republika Srpska* entity, the Constitutional Court needs to reform its own rules of procedures, including to be able to suspend unconstitutional legislation before its entry into force.

### *Elections*

Neither before nor after the October 2022 elections did the Parliament amend the election law to address outstanding recommendations by OSCE/ODIHR and GRECO on electoral standards, including as regards transparency of political party financing (Opinion key priority 1). The High Representative imposed several changes to the electoral framework, including on the evening of the election day, which according to OSCE/ODIHR challenged legal certainty. Overall, elections were competitive and well organised, but marked by mistrust in public institutions and ethnically divisive rhetoric. The Parliament needs to address OSCE/ODIHR and GRECO recommendations to improve the integrity of and public trust in the electoral process, ahead of the 2024 local elections.

No steps were taken by the Parliament to harmonise the legislation on the registration of political parties across the country, nor to remove from the Constitution any ethnic and residence-based discrimination in voting rights, in line with European Court of Human Rights (ECtHR) rulings. The country needs urgently finalise the pending constitutional and electoral reforms. These reforms should be advanced as an utmost priority.

General elections took place on 2 October 2022 following interventions by the High Representative in June and July to ensure the appropriate budget and with the stated aim of improving the integrity and transparency of the electoral process and strengthening the role of the Central Election Commission. According to OSCE/ODIHR, elections were competitive and well organised overall, but were marked by mistrust in public institutions and ethnically divisive rhetoric.

On the evening of election day, following the closure of the polls, the High Representative imposed significant amendments to the election law and to the constitution of the Federation entity, including for the appointment of cantonal delegates to the entity House of Peoples. According to OSCE/ODIHR this challenged legal certainty, as the full impact of the cantonal assembly vote was not foreseeable by electoral contestants and voters. The Constitutional

Court in March 2023 established that the electoral changes imposed did not breach the Constitution. An application on the matter is pending at the ECtHR.

Appeals against alleged irregularities in the vote caused delays in the publication of results. The Central Election Commission (CEC) ordered a control count of all votes for the President of the *Republika Srpska* entity, finally confirming the political results. The CEC confirmed all electoral results 30 days after the vote. The judicial prosecution of reported cases of electoral frauds has been weak. The CEC needs to strengthen its audit capacity to monitor compliance on political party financing. Political parties should respect its independence and refrain from threatening to dismiss CEC members.

Despite the appointment of two women, as Chairs of the Council of Ministers and of the Presidency, the October 2022 elections led to a decrease in the participation of women in politics. The country needs to further harmonise its legislation with the gender equality law, implement measures to reduce verbal violence against women in politics, increase visibility of women candidates and improve party cultures to secure equal participation of women.

As regards internal party democracy, political parties lack democratic internal policies and structures. There are no women among party leaders, and few in other leadership positions.

Early mayoral elections took place in six municipalities in February 2023, with very low turnouts and multiple reports of incidents, including voter fraud and family voting.

### *Parliament*

Following the October 2022 elections, new legislative assemblies were formed by March 2023. Parliamentary oversight over the executives remains weak. No improvement was made on the registration and financing of political parties. The Stabilisation and Association Parliamentary Committee held a full session in October 2023 (Opinion key priority 3).

The Parliamentary Assembly went into pre-electoral recess from August until December 2022, which resulted in a very poor legislative output, despite the outstanding backlog, as in the previous period. The outgoing Parliament adopted only a law on trial within reasonable time and the 2022 budget and four sets of amendments (including on public procurement in August 2022), of which two in urgent procedure (28%). The new Parliament adopted three laws (2023 budget; wine market; freedom of access to information) and six sets of amendments (on basics road safety; foreigners, integrity in the judiciary, torture prevention). The 2023 budget and the laws on VAT and foreigners were adopted in urgent procedure (33%). The 2023 budget was adopted in late March, after a first quarter under temporary financing.

Parliamentary oversight of the executive was very weak. No follow-up was given to the findings and recommendations of the interim investigative committee of the House of Representatives on the state of the judiciary, published in June 2022. The House of Representatives established a standing committee for the fight against corruption and the kleptocracy. There is no parliamentary monitoring of compliance with the recommendations of independent institutions or of their annual reports.

Despite legislation laying down a 40% gender quota for candidates, after the 2022 elections women account only for 24% of the members of the House of Representatives (10 out of 42, down from 11) and 13% of the members of the House of Peoples (2 out of 15, down from 3). Rules of procedure requiring gender balance are largely ignored, and there are no measures to promote the political representation of disadvantaged women. At entity level, the *Republika Srpska* assembly includes only 12 women among 83 MPs (14.5%, down from 18 MPs), and

the Federation House of Representatives has 27 women out of 98 MPs (27%, down from 30 MPs).

The delegates to the Stabilisation and Association Parliamentary Committee (SAPC) were appointed in May 2023, and the Parliamentary Committee held a full session in October 2023. Bosnia and Herzegovina should continue ensuring the proper functioning of the SAPC, notably with the adoption of recommendations, in line with Opinion key priority 3.

Entity parliaments met regularly, making considerable use of urgent procedures. In 2022, the Parliament of the Federation entity adopted 6 laws by urgent and 19 by shortened procedure, out of 38 (66%). In 2022, the assembly of the *Republika Srpska* entity adopted 65 laws, of which 25 (38.5%, down from 62%) by fast-track procedures, including the 2023 budget. The Brčko District Assembly adopted 46 laws, of which only one (2%, down from 16%) by urgent procedure.

There are 9 party groups in the state-level House of Representatives, 10 in the Federation entity House of Representatives, and 11 in the *Republika Srpska* National Assembly.

There are no specific standing committees on oversight and control of the government in either entity and the assemblies do not follow up on the work of administrative bodies. Such a committee is in place in the Brčko District.

By the end of 2022, the terms of office of two judges of the state-level Constitutional Court expired due to age limits. The entity assemblies have not yet replaced them, thus impairing the Court's decision-making. Both entity assemblies should complete appointment procedures and ensure the full composition of the Constitutional Court.

In October and November 2022, the Federation House of Peoples finally appointed four entity-level constitutional judges to the vacant judgeships. Since 2019, the Federation entity's constitutional court had operated with only five judges out of nine, which seriously impaired its decision-making. The appointment restored the functioning of the court's panel on 'vital national interest'. The House of Representatives of the Federation entity has failed to replace a constitutional judge whose term expired in August 2022; he will continue to serve until replaced.

The Federation Parliament has not filled the vacancies on the steering board of the public broadcaster FTV, nor has it appointed a director of FTV since 2013.

### *Governance*

New executive bodies took office in early 2023 after the October elections. The Council of Ministers took swift action to bring forward the reforms required to address the Opinion key priorities, notably by adopting several strategies and draft laws, which now need to be approved in Parliament. The Presidency was marred by continued lack of consensus on key issues, including foreign policy and regional cooperation. The executives have little capacity for coordination and policy planning. Coordination of EU matters needs to be strengthened, including the role of the Directorate for European Integration (DEI). The Council of Ministers still needs to improve the functioning of the coordination mechanism and to develop and adopt a national programme for the adoption of the EU *acquis* (Opinion key priority 2). The Council of Ministers needs to urgently appoint the National IPA Coordinator (NIPAC) under IPA III.

The new Presidency took office in November. For the first time since 1995 it included a woman, who served as its chair for the first 8 months. Presidency members continued to take

opposite stances, most notably on foreign policy, thus failing to provide a clear political direction. In June 2023, the Presidency Chairwoman raised a vital entity interest veto on Bosnia and Herzegovina joining the three regional mobility agreements.

The outgoing Council of Ministers had a minimal legislative output, adopting only three draft laws and three strategic documents by end 2022.

The new Council of Ministers, appointed in late January, took some significant steps to adopt EU reforms following the granting of candidate status. A state budget for 2023 was adopted in March. The Council of Ministers adopted a strategy on organised crime, an updated risk assessment and accompanying action plan on anti-money laundering and combating the financing of terrorism, as well as the strategies and action plans on migration and on terrorism. It also appointed a supervisory body for the implementation of the national war crimes processing strategy. The contact point with Europol finally started operations in June 2023, after a 5-years long delay. The Council of Ministers also endorsed a set of draft laws, notably on integrity in the judiciary; torture prevention (designating the Ombudsman as national preventive mechanism); on foreigners, and freedom of access to information. These laws were adopted by Parliament in August and September 2023. Besides the political criteria, the Council of Ministers also adopted draft amendments on service in the armed forces and a strategy on climate change, and appointed the directors of several institutions and bodies (Intelligence and security agency, Service for foreigners, Railway regulatory board); other vacancies remain pending, including for the boards of the Central Bank and of the Communication Regulatory Agency. The Council of Ministers urgently needs to appoint the National IPA Coordinator (NIPAC).

Besides the chairwoman, there is only one woman out of nine ministers in the Council of Ministers, in charge of civil affairs (previously two, in charge of foreign affairs and defence).

Entity and cantonal governments worked regularly, adopting their own budgets.

The Federation government completed the whole 2018-2022 mandate in a caretaker capacity; in early April the outgoing prime minister was convicted in first instance for abuse of office. There were further delays in the appointment of a new Federation entity government after the October 2022 elections and the electoral changes imposed by the High Representative. In late April, the High Representative intervened once again by suspending the Federation entity constitution to ensure the appointment of a new government, supported by the same parties as the state-level ruling coalition.

The new Federation government includes 4 women ministers out of 17, with portfolios covering traditionally soft policy areas (education and science; culture and sport; transport and communications; environment and tourism). The 2015-2023 Federation government included 3 women ministers, including the deputy prime minister in charge of finance.

The new government of the *Republika Srpska* entity, in office since December 2022, adopted legislative initiatives aimed at restricting fundamental freedoms and the space for civil society, including amendments to re-criminalise defamation and a draft law targeting NGOs as foreign agents. The entity government again proposed legislation on immovable property, defying constitutional jurisprudence that had clarified that it had no competence to do so, and legalised the non-implementation of the rulings of the Constitutional Court in the entity.

Following the October election, eight cantons out of ten appointed new governments. The Brčko District assembly reshuffled its government in March 2023.

No steps were taken to develop and implement a common action plan of socio-economic

reforms in line with Commission recommendations and with the joint conclusions of the economic and financial dialogue. Formulating and enacting this package of socio-economic reforms requires good coordination among executives at all levels.

The **policy dialogue** with the EU resumed during the reporting period: the sixth cycle of sectoral subcommittees under the SAA, opened in 2020, was completed by the SA Committee in June 2023 and SA Council in July 2023. The Council of Ministers should urgently take measures to facilitate policy dialogue within the SAA bodies, including by simplifying procedures, empowering the Directorate for European Integration (DEI) to submit preparatory documents to the Commission without unnecessary and lengthy political adoption, and appointing permanent delegates to sectoral subcommittees. No action has yet been taken on the recommendations which the European Commission addressed to the Council of Ministers at an extraordinary meeting of the SA Committee in May 2022.

The Council of Ministers and the DEI should step up their coordinating role in EU matters, including by providing comprehensive assessment of the countrywide level of alignment with the EU *acquis* and by ensuring proactive follow-up to the Commission's recommendations with the competent authorities, including at political level where needed, ensuring accountability in case of non-performance. This is key to improving the quality of input for policy dialogue, including in view of the Commission's annual enlargement package.

Coordination on EU matters, including in the development of countrywide sector strategies, is essential to ensure harmonised alignment with the *acquis* and to access EU financial assistance and EU programmes. This requires the effective use of applicable legislation on coordination of EU matters and commitment of the coordination mechanism structures at political level (collegium and ministerial conferences).

As a key priority and outstanding obligation under the SAA, Bosnia and Herzegovina needs to develop and agree with the Commission a **national plan for the adoption of the *acquis*** (NPAA) that reflects the role that all levels of government play in aligning with and enforcing the EU *acquis*. The programme for EU integration, prepared by DEI and still pending approval by the Council of Ministers, is only a first step towards the necessary NPAA. The action plan on the 14 key priorities is also still pending agreement by the Council of Ministers.

Bosnia and Herzegovina adopted a number of protectionist measures that are in violation of SAA obligations, commitments and procedures, including a wood export bans and cantonal lists of medicines, and failed to address long outstanding breaches, e.g. on excise duties on beer. These actions marked a clear step backwards in the implementation of the SAA.

For the second year in a row, Bosnia and Herzegovina also submitted its **economic reform programme** (ERP) with a 2-month delay.

Authorities across the country have little capacity for coordination and policy planning, including on EU matters. The *Republika Srpska* entity adopted a strategy on **local self-government** in February 2023; such a strategy remains pending in the Federation entity.

#### *Civil society*

The Opinion's key priority 11 on ensuring an enabling environment for civil society still needs to be addressed, notably by upholding European standards on freedom of association and freedom of assembly. Meaningful and systematic consultations with civil society have yet to be ensured as part of an inclusive policy dialogue. A framework for the transparent funding of civil society organisations still needs to be adopted. The reintroduction of criminal

penalties for defamation in the *Republika Srpska* entity, which entered into force in August 2023, severely impacts the environment for civil society. Legislative initiatives in parliamentary procedure in the *Republika Srpska* entity to target civil society organisations as foreign agents, if adopted, would mark a regrettable and undeniable major step backwards.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by public institutions. While the overall legal and regulatory framework governing the establishment and functioning of civil society organisations is broadly in line with the EU *acquis*, much remains to be done for public institutions to ensure an enabling environment for civil society, including on freedom of association and of assembly, in line with Opinion key priority 11. The space for civil society is particularly under threat in the *Republika Srpska* entity, due to continued attacks by the political leaders, which have led to instances of physical assault, as in March 2023 in Banja Luka. The *Republika Srpska* entity also reintroduced criminal penalties for defamation in July 2023. The legislative initiative targeting civil society organisations as foreign agents, if adopted, would severely curtail civil liberties in the entity. (See also Chapter 23 – *Fundamental Rights*)

The legislation on public consultations is uneven across the country, and meaningful and systematic consultations must be ensured. The e-consultation web platform is underutilised and is not in use at entity or cantonal level, where most legislation of public interest is developed and adopted. Some six years after its adoption in 2017, the Council of Ministers still needs to enact its charter on cooperation with civil society organisations.

Grassroot civil society organisations proactively advocate for policy changes. Activists dealing with issues perceived as sensitive (anti-corruption, women’s rights, rights of LGBTIQ persons, migrants, the environment) continued to be subject to threats, abuse and physical attacks. A framework for the transparent and impartial distribution of public funds to associations is needed across the country. Civil society organisations that provide services to disadvantaged groups, in place of public authorities, should receive appropriate public funding. Women’s associations in particular play a key role in reaching out to the most vulnerable, including victims and survivors of domestic and gender-based violence. In some instances, the authorities abused the tax framework to intimidate civil society groups. There is no state-level legal framework on volunteering, which is regulated by the entities and Brčko District.

#### *Civilian oversight of the security and intelligence sector*

The Parliamentary Assembly’s joint committee on defence and security held 3 sessions in 2022 (6 in 2021, 10 in 2020). The joint committee for the oversight of the Intelligence-Security Agency (OSA) did not meet in 2022. A new OSA director was appointed in February 2023. The legislation on the OSA has not yet been amended to address the procedural shortcomings identified by the Constitutional Court in June 2017, 6 years ago. The Military Commissioner, who oversees the protection of the human rights and freedoms of defence personnel, opened 62 proceedings in 2022, completing 55 of them.

#### **2.1.2. Public administration reform**

Bosnia and Herzegovina is at an **early stage of preparation** and made **some progress** in public administration reform (PAR). Some positive steps were taken by (i) adopting the PAR coordination arrangement (‘common platform’), including a political decision-making body; (ii) implementing the comprehensive and countrywide public finance management strategy, (iii) improving capacity for public consultation at state level and on regulatory impact assessment in the *Republika Srpska* entity, (iv) adopting a strategy on human resource management in the

Federation entity, (v) improving the professional development and performance appraisal in the Federation entity and at state level, and (vi) adopting a Law on freedom of access to information, aimed at fostering pro-active disclosure and transparency. Some five years after adoption, the PAR action plan has been implemented only to a limited extent. Civil service laws are still not harmonised with each other and merit principles are not enshrined in recruitment procedures. The monitoring of human resources is not effective in detecting irregularities. The political decision-making body included in the ‘common platform’ still needs to become operational to steer reforms effectively. The capacity of entity-level PAR coordinators remains weak. In line with key priority 14 of the Commission Opinion, Bosnia and Herzegovina needs to complete essential steps to improve the overall functioning of the public administration by ensuring a professional and depoliticised civil service and a coordinated, countrywide approach to policymaking. Last year’s recommendations were partially implemented.

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

- adopt and start implementing the revised action plan on the PAR strategic framework 2023-2027 at each government level, while prioritising activities on digitalisation of services and adopting the outstanding legal framework for sectoral strategic planning at state level;
- establish a functioning coordination structure with a political decision-making body and upgrade the staffing and skills of PAR coordinators to steer the implementation of public administration reforms across all levels of government;
- ensure a professional civil service system by amending state and entities’ civil service laws in line with merit principles and establishing performance-based monitoring for transparent human-resource management at all levels of government to detect irregularities.

### Strategic framework for public administration reform

The 2018-2022 **strategic framework** on public administration reform and the related 2020-2022 PAR action plan were extended. However, the action plan still needs to be revised and made more credible and realistic in its costing and in achieving tangible results, in particular on digital services. Some 5 years after its adoption in 2018, a first monitoring report showed that only 14% of the overall PAR action plan activities were implemented. Insufficient **political support** and weak PAR coordinator’s capacities at entities level continue to hinder effective steer of reforms. The political decision-making body foreseen in the ‘common platform’ still needs to become operational to steer the agenda on public administration reform. The **financial sustainability** of the reform is not guaranteed, and recent action plans on PAR remained donor-driven with very limited domestic budgetary contributions.

### Policy development and coordination

The **policy-making system** in Bosnia and Herzegovina continues to be fragmented. The legislative framework on medium-term policy planning is unevenly developed and regulated through different laws. The Council of Ministers needs to expedite as matter of urgency the adoption of a valid regulatory framework on strategic planning based on the concept note developed by the Department of Economic Planning. There was no progress in developing methodological guidance for country-wide sectoral strategic planning at state level. The quality control functions at all centre of governments needs to be strengthened and capacities improved to coordinate policy-planning processes in the annual and medium term. Sectoral costs are not always reflected in strategies and no progress has been made in linking these to a medium-term budgetary framework. Some quality criteria for sectoral policies are in place, but they do not contain information on progress and objectives. Bosnia and Herzegovina has

not yet developed its first **national programme for the adoption of the *acquis* (NPAA)**, as required by the SAA, for which the proposed programme of EU integration is only a start.

The legal framework for **inclusive and evidence-based policy development** is in place but is implemented inconsistently. Some progress was noted in this area in *Republika Srpska* entity, by introducing regulatory impact assessment to be conducted also for draft secondary legislation. However, regulatory impact assessments are not used to prioritise policy proposals and are not used as planning tool. Collection and use of administrative data for policymaking are not ensured. The legal framework on **public consultations** needs to be consistently applied at all levels of government. The *Republika Srpska* entity government adopted new guidelines for consultations in order to improve transparency early in the legislative planning.

State level government undertook some efforts to improve capacities of various public bodies in using the e-consultation platform. However, entities' line ministries need to upgrade those and improve the oversight function to ensure their quality.

The regulatory framework for standards for monitoring and reporting on key government planning documents at all levels is in place. Some efforts were undertaken to improve sectoral monitoring by adopting a new Decision on annual work planning and method of monitoring and reporting at state level. However, regular sectoral monitoring reports remain unpublished, as is also the case for implementation reports of government annual working plans. All of this hampers **public scrutiny of government work**.

#### Public financial management

All levels of government in Bosnia and Herzegovina started implementing the comprehensive strategy for the reform of **public financial management (PFM)**, progressing with 40% of activities planned at each level. PFM monitoring reports for 2022 have been adopted at state and entities' level and a comprehensive 2022 PFM monitoring report is pending adoption. A functional and regular budget planning cycle needs to be in place for an effective public finance system. The credibility of the medium-term budget frameworks needs to be enhanced by (i) improving the links between annual strategic planning and annual budget process and (ii) strengthening capacities and regulation to improve public investment management at all levels of government. All levels of governance should establish the necessary IT pre-conditions in order to implement the law on programme budgeting and medium-term budget planning and adopt similar legislation at state level and in the *Republika Srpska* entity. Institutions at all levels need to improve the public internal financial control, and public procurement process as well as monitoring of fiscal risks related to public companies. Particularly, publicly available registers of public companies need to be established for better transparency.

Bosnia and Herzegovina has not yet achieved sufficient **budget transparency**. The lack of harmonisation of the charts of accounts at state and entity level makes it difficult to access consolidated data. In-year reporting still needs to improve at all levels of government. Available budgetary information is still incomplete and assessing the overall budgetary and fiscal policy is difficult.

#### Public service and human resources management

The **merit-based recruitment, promotion and dismissal** of civil servants using objective criteria is not fully ensured, particularly in the entities and the Brčko District. Civil service laws have not yet been amended to provide a clear and comparable scope of the civil service across the government levels. The laws do not clarify which institutions are included in the

civil service, which positions belong to civil servants, and what the senior and middle management categories are. These differences undermine the mobility of civil servants across government levels. Suitable coordination mechanism for human resources and civil service is needed to support that cooperation, and particularly so between the Federation and cantonal level government.

The recruitment process needs to become more transparent and better ensure the professionalisation of the civil service. The digitalisation of state-level recruitment is ongoing and e-application is being applied. The procedures for staff transfers in the case of competencies transfer to the State-level institutions have improved, with better specified. However, entity-level laws on civil service leave excessive discretion and do not require the best candidate to be appointed, allowing political appointees to influence recruitment, particularly for senior positions. As a result, at cantonal level, the final selection may depend on ethnic background rather than merit. Additionally, excessive use of acting positions should be constrained, especially in *Republika Srpska* entity. State-level senior managers should not remain in their posts after their mandate comes to an end, and regular open recruitments for such positions need to be organised. The system needs to offer the right incentives so that more professional candidates apply for public sector positions. Selection commissions should be free from political influence in order to guarantee that the best qualified candidates are recruited. Constitutional rules on the general representation of the population in the public administration should not be interpreted as requiring strict ethnic proportionality in the civil service, and the legislation should make sure that ethnic criteria do not prevail over professional criteria in recruitment.

The criteria for dismissals, disciplinary procedures and appeals set out in the legislation are still insufficiently applied. The appeal boards in the Federation entity face a significant backlog of civil servants' complaints and need to improve capacities. All levels of government need to improve the collection of data on gender equality in public administration and systematically promote the adoption of institutional policies on gender equality and sexual harassment.

**Human resources management** (HRM) remains highly fragmented. Pursuant to the common HRM policy framework, the Federation entity adopted the 2022-2027 strategy for the development of HRM in the civil service structures, including cooperation with the cantonal level. State level government and *Republika Srpska* entity need to do so as well, in coordination with each other. Transparent monitoring of HRM performance and related capacity and data on HRM are weak across all levels of government and there is a consistent lack of data. Bosnia and Herzegovina needs to revise the state-level civil service law in order to provide a legal basis for the human resource management information systems (HRMIS) and make it functional throughout the civil service. All levels of government should publish HRM monitoring reports and ensure interoperability of HRMIS with payroll databases.

Civil servant **remuneration** remains inconsistent across public institutions and lacks transparency. This is due to the differences across the country in salary legislation, job classification, pay grades, and the lack of job evaluations, all of which hinder fairness. Furthermore, criteria to award salary supplements are unclear, and there is no information published at any level of government on average salary levels by job category. The state budget adopted in March 2023 provides for some improvement and an increase in the salary base of state-level civil servants.

Civil service agencies need more resources for training and **professional development**. Some progress was made, as the Federation entity established the new online training management system that is now interoperable with the Human Resource Management Information System

for civil service. Overall, although a performance appraisal system is in place, it is not used properly and systematically to justify promotions or to distinguish good from bad performance.

There is no systemic and consolidated data on the **integrity of civil servants**. Measures to promote integrity in the public service are only partially in place and are not applied systematically. Additionally, there has been no legislative development at Federation level with regard to whistle-blower protection, and declaration of assets at *Republika Srpska* entity.

#### Accountability of administration

No progress was made on setting out in legislation the different functions of administrative bodies at all levels of government or the conditions for establishing, merging or abolishing them. There is still no clear supervision or reporting lines between ministries and subordinate institutions and delegation of decision-making to senior civil servants or middle management is lacking.

The level of parliamentary scrutiny varies across levels of government. No progress was made in improving the uptake of recommendations from oversight mechanisms such as parliamentary scrutiny and from independent institutions – such as Ombudsmans and State Audit Institutions, in the public administration, compromising **citizens' rights to good administration**.

Legislation on the **right to access information** remains fragmented. In August 2023 the Parliament adopted a Law on freedom of access to information, intended to improve the proactive disclosure of information and the transparency of state-level institutions. The independence of the appeal process still needs to be brought in line with international and European standards. Rules on data protection and access to information are still interpreted in a way that protects private rather than public interests and such rights are inconsistently ensured across government levels. The number of Ombudsman recommendations on access to information have slightly increased in 2022 compared to 2021.

The varying efficiency of courts across the country make citizens' rights to administrative justice uneven. No progress was made in putting in place effective remedies for the protection of rights to judgment within a reasonable time at any level of government and the situation remains particularly problematic in the Federation entity. There is also no systemic collection of data on the **citizens' right to seek compensation** for damage caused by unlawful actions or omissions of the public administration.

#### Service delivery to citizens and businesses

The legal framework for a **user-oriented administration** varies substantially across the country. A comprehensive countrywide policy on service delivery and clear institutional functions at any level of government together with a catalogue on e-service are lacking. There is a need to establish an inventory on administrative burden in service provision, while simplifying procedures and aligning sectoral laws with the Law on general administrative procedures. The lack of electronic signature infrastructure for citizens, impedes further digitalisation. Digitalisation has only advanced in taxes and customs, although slowly. Encouraging a user-oriented administration, including through the completion of a coherent legal framework, would enable an interoperable e-signature system across the country and facilitate the creation of a single digital market.

## 2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

### 2.2.1. Chapter 23: Judiciary and fundamental rights

*The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.*

Bosnia and Herzegovina has **some level of preparation** to implement the EU *acquis* and European standards in the area of judiciary and fundamental rights. **Limited progress** was made during the reporting period to address the related Opinion key priorities and the findings of the Expert Report on rule of law issues ('Priebe Report')<sup>11</sup>.

#### Functioning of the judiciary

Bosnia and Herzegovina is **in between an early stage and some level of preparation** in the area of the judiciary. **Some progress** was made in addressing Opinion key priority 6 on the functioning of the judiciary. Persistent and evident signs of deterioration continue to require urgent measures to strengthen integrity and regain public trust in the judiciary. The poor functioning of the judicial system continued to undermine citizens' enjoyment of rights and the fight against corruption.

In September 2023, Bosnia and Herzegovina amended the Law on the HJPC with the aim of establishing a system to verify the asset declarations of judges, prosecutors and HJPC members. Compared to the version on which the Venice Commission were consulted, the system of verification of assets provided for by the amendments that were adopted has been weakened as regards the right of the HJPC to request additional information from natural and legal persons. In addition, under the adopted amendments external experts tasked with monitoring the functioning and enforcement of the asset declaration system are not allowed to access personal data contained in asset declarations and supporting documents. These provisions hamper the effectiveness of the asset-declaration system and therefore need to be amended, to ensure that the HJPC and the external experts can effectively access all information that is necessary to exercise the functions provided for them in the law. All institutions in the country must now cooperate constructively and in good faith with the HJPC to fully implement the law and ensure the effectiveness of the integrity checks. Any issues that may impede the implementation of the law need to be addressed at the latest in the new comprehensive Law on the HJPC. The Council of Ministers also appointed a supervisory body to oversee the implementation of the national war crimes strategy.

The Constitutional Court suspended and then quashed several legal and political acts adopted by the *Republika Srpska* entity. By the end of 2022, the terms of office of two judges of the state-level Constitutional Court expired due to age limits. The entity assemblies have not yet proceeded to replace them, thus impairing the Court's decision making. The *Republika Srpska* entity assembly called on state-level constitutional judges to resign and legalised the non-implementation of the rulings of the Constitutional Court, in breach of the constitutional and legal framework of the country. While the High Representative annulled these laws, *Republika Srpska* entity authorities determined to enforce them anyway.

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

→ urgently appoint constitutional judges from both entities to all vacant positions and thus

<sup>11</sup> <http://europa.ba/wp-content/uploads/2019/12/ExpertReportonRuleofLawissuesinBosniaandHerzegovina.pdf>

ensure the full composition and functioning of the Constitutional Court; and for the courts in general, consistently appoint judges based on merit, without prevalence of ethnic criteria, and appraise the performance of judges based on quality criteria;

- revise and implement the integrity-related provisions of the Law on the HJPC to ensure the effectiveness of integrity checks in line with European standards, including by enabling the HJPC and external experts to access all information that is necessary to properly perform their functions; finalise and adopt the new Law on the HJPC and the new law on the Courts of Bosnia and Herzegovina, in line with the Opinion of the Venice Commission;
- adopt a new justice sector reform strategy and increase efforts to effectively implement the revised national war crimes strategy;

### Strategic documents

Bosnia and Herzegovina still needs to adopt a new Justice Sector Reform Strategy for 2021-2027 and the related action plan. The new strategy must include all key reforms recommended in the Commission Opinion and analytical report, in the Experts' Report on Rule of Law issues in Bosnia and Herzegovina ('Priebe Report'), and, where relevant, the activities included in the 2021-2023 HJPC reform programme and beyond. The strategy should be supported by sufficient budgetary allocations and an efficient mechanism of governance, monitoring and reporting on its performance, with the possibility to adopt corrective actions.

### Management body

The High Judicial and Prosecutorial Council (HJPC) is the single judicial self-governance body. In the reporting period, it appointed the state-level Chief Prosecutor and the President of the Court of Bosnia and Herzegovina. The Council still struggles to regain public trust, including in the professional community, as it continued to adopt inconsistent and inadequately reasoned decisions on appointment decisions. The 2021-2023 HJPC reform programme has had little impact on merit-based appointments, accountability, efficiency and transparency, in the absence of an efficient monitoring mechanism and of a set of qualitative and quantitative indicators to monitor trends in organised crime and corruption cases. The HJPC has to step up its oversight role and assume responsibility for substantial reforms. More tangible results are expected, notably in the area of fighting corruption and nepotism in the judiciary. The HJPC should increase its own accountability by providing thorough and transparent reasoning of its final decisions, especially on appointments, in line with European standards. The HJPC has a communication strategy, its action plan, and a communication plan on ethics, integrity and prevention of conflict of interest. Training sessions for representatives of the media and the judiciary were organised by the HJPC in November 2022.

The HJPC should implement a smaller but better targeted number of result-driven activities to improve the quality of justice. Its secretariat has been further strengthened with more permanent staff. The HJPC must urgently improve its monitoring of the judicial management structures and ensure the accountability of court presidents and chief prosecutors in cases of poor performance.

### Independence and impartiality

The **independence** and **impartiality** of the judiciary did not improve, despite the newly introduced amendments to the HJPC rules of procedure aiming at improving appointments. Executive and legislative authorities failed to adopt additional safeguards. The HJPC, as well

as all courts and prosecutor's offices, should undertake more efforts to restore public trust in the independence of the judiciary.

The HJPC strived to improve its appointment policies, most notably by amending the relevant rules of procedure to ensure that appointments are based on pre-determined, objective and accessible criteria. These amendments have yet to have a tangible impact. The duration of appointment procedures remains too long (8 to 10 months). The re-opening of vacancies, often without good reasons, can extend this period further. The amendments provide for obligatory processing of applications online, which has the potential to shorten procedures. However, rules on appointments, disciplinary responsibility, career advancement and conflict of interest of judges and prosecutors continue, in practice, to be applied inconsistently and with overly broad discretion. The adopted integrity-related amendments to the Law on the HJPC should be applied effectively so as to contribute to improvements in this regard.

A new comprehensive Law on the HJPC should provide for a single annual entry examination to join the judiciary, and more stringent appointment criteria. The HJPC has to provide for expedient testing procedures and improve the quality of first access to the judicial career by establishing a preparatory programme in line with the recommendations of the Priebe report.

The adopted integrity-related amendments to the Law on the HJPC introduce binding rules on conflict of interest for the entire judiciary and the HJPC. The random case allocation system remains vulnerable to abuses, which affects **impartiality**. Deviations have been reported from the automated random allocation of cases, and some even sanctioned. Any reallocation should only be possible for exceptional reasons and even then only when documented and explicitly justified. Such an exceptional procedure must be precisely and transparently documented to rule out personal and political influence. Court presidents and chief prosecutors in coordination with the HJPC need to take action to increase transparency and provide justification for reallocating cases manually. Undue external pressures have increased, especially by political leaders who publicly target certain judicial office holders and their decisions, notably the prosecutors in the case *Novalić et al.* on public procurement fraud of COVID-19 medical equipment. The threat reporting mechanism and subsequent public reactions of the HJPC must be reviewed to ensure consistency.

The Constitutional Court suspended and then quashed several legal and political acts adopted by the *Republika Srpska* entity. In June 2023, the *Republika Srpska* entity legalised the non-publication of decision of the High Representative and the non-implementation of the rulings of the Constitutional Court, in breach of the constitutional and legal framework. The High Representative annulled such laws in July. Entity authorities determined to enforce them anyway. By the end of 2022, the terms of office of two judges of the state-level Constitutional Court expired due to age limits. The entity assemblies have not yet replaced them, thus impairing the Court's decision-making.

### Accountability

In September 2023, Bosnia and Herzegovina amended the Law on the HJPC with the aim of establishing a system to verify the **asset declarations** of judges, prosecutors and HJPC members. Compared to the version on which the Venice Commission were consulted, the system of verification of assets provided for by the amendments that were adopted has been weakened as regards the right of the HJPC to request additional information from natural and legal persons. In addition, under the adopted amendments external experts tasked with monitoring the functioning and enforcement of the asset declaration system are not allowed to access personal data contained in asset declarations and supporting documents. These

provisions hamper the effectiveness of the asset-declaration system and therefore need to be amended, to ensure that the HJPC and the external experts can effectively access all information that is necessary to exercise the functions provided for them in the law. All institutions in the country must now cooperate constructively and in good faith with the HJPC to fully implement the law and ensure the effectiveness of the integrity checks, which shall be under close external supervision. Any issues that may impede the implementation of the law need to be addressed at the latest in the new comprehensive Law on the HJPC. The HJPC should ensure the security for documents and correspondence of the special verification department within the HJPC Secretariat. In 2022, only 16% of all judicial office holders published their asset declarations voluntarily (221 declarations), including 31% of all managers (30 declarations from court presidents and chief and deputy chief prosecutors). The adopted amendments now oblige all judicial office holders to publish their asset declarations.

**Integrity** plans are in place in almost all courts and prosecutor's offices, yet with limited results. An improved and comprehensive ethics and integrity training is needed, including for newly appointed judges and prosecutors. In April 2023, the HJPC introduced a new system to evaluate candidates, notably for promotions, taking into account their disciplinary records. This system must be applied consistently.

**Disciplinary procedures** continue to have little dissuasive effect, despite their number being high compared to the European average. In 2022 the Office of the Disciplinary Counsel (ODC) registered 840 complaints (9.2% less than registered in 2021), of which 76 were initiated *ex officio* against judicial office holders (7% more than in 2021) and filed 41 disciplinary charges, including six against chief prosecutors and court presidents. The HJPC disciplinary commissions completed a total of 48 disciplinary proceedings (of which 24 registered in 2022). A total of 33 procedures led to disciplinary measures, including seven against managerial judicial office holders (court presidents, chief prosecutors), resulting in two demotions, 23 cases of salary reduction and six temporary suspensions. Disciplinary and criminal convictions or pending disciplinary proceedings have to be taken into account in the procedures for transfer, promotion and performance appraisal. To this end, the HJPC has to apply consistently the criteria of suitability of candidates for judicial posts laid down in the newly amended rules of procedure, and in line with Commission recommendations. Disciplinary hearings and decisions need to reach the wider public more effectively.

There has been no progress in addressing the shortcomings concerning composition and potential conflict of interest in the formation of disciplinary panels in the HJPC. Rules and training on evidence gathering before disciplinary panels should be improved in line with Commission recommendations, as should the evaluation of ethical standards. Introducing an inspectorate service or vesting an existing body with similar functions should be seriously considered.

### Professionalism and competence

**Appointments** and career advancement of judges and prosecutors are core prerogatives of the HJPC. Although appointment rules are based on merit, exceptions based on ethnicity and other considerations continue to prevail. As a consequence, appointments significantly deviate from merit-based ranking, casting doubts as to fairness. This was again evident in a March-April 2023 appointment to the *Republika Srpska* entity Prosecutor's Office, where the HJPC appointed a candidate ranked last, on the pretext of ethnic balance. Trust in the appointment system is at its lowest, including within the professional community. In addition, there is a concern with continued delays in appointments, which results in courts being unable to appoint panels for cases, endangering the effective delivery of justice, especially in

cases of recusal. This further affects the courts' performance. The HJPC must urgently find methods to curtail delayed vacancy procedures, which are detrimental to its main function, namely, the merit-based, transparent, and timely appointment of judges and prosecutors.

While awaiting legislative reforms to introduce judicial review of HJPC decisions, the HJPC should provide clear reasoning for each appointment, strictly abiding by the amended rules of procedure and online application system.

**Performance appraisals** require reform to balance quality and quantity criteria, which should apply equally to all judges and prosecutors. Once the legislation allows for it, quality-based performance appraisal should be reintroduced as it is a European standard.

### Quality of justice

**Training** for judges and prosecutors is handled by the entity-level judicial and prosecutorial training centres, which are coordinated by the HJPC. The respective responsibilities of the HJPC and of the entity training centres remain unclear, leading to inconsistencies. The provisions on establishing training centres and their operation need to be clarified and the coordination role of the HJPC needs to be strengthened. Educating judges and prosecutors is crucial for the quality of the justice system. Selecting competent trainers, devising training programmes, assessing trainers and evaluating the impact of trainings conducted should be closely monitored and improved where needed. The total budget for training in 2022 was EUR 767 710 (EUR 645 616 in 2021), a 19% increase compared to 2021.

The national **case management system** (CMS) produces reliable, detailed statistics and reports at different levels (judges, courts, national) including on case flow, human resources, and duration of the pending cases. However, the information generated from this system is not being fully utilised for decision-making by the HJPC, court presidents and chief prosecutors. According to the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ), the CMS index for Bosnia and Herzegovina is higher than the Western Balkans average (3.0 for civil or commercial cases, 3.5 for administrative cases, and 3.0 for criminal cases). Bosnia and Herzegovina delivers good quality and reliable judicial data in a timely manner to the CEPEJ Dashboard Western Balkans project. The HJPC needs to step up its oversight and management on the basis of reliable statistical data on the performance of the judicial system, including on case reallocations. In 2022, the cases reallocated manually by heads of courts and prosecution offices in courts in 2022 were 496 828 (91% of those unresolved cases were reallocated for "other reasons"). One chief prosecutor has been subjected to a disciplinary procedure for potential misuse, one has been removed from their managerial post and another one is subject to an ongoing disciplinary procedure.

The appraisal system needs specific indicators aligned with clear goals, targets and benchmarks. To address this issue, the HJPC needs to establish clear protocols and guidelines for decision making within the judiciary, and to regularly monitor performance data and crucial areas (anti-corruption, organised crime and electoral fraud). The quota system for courts has helped to reduce the cases backlog in courts by more than 50% since the start of its usage. Introducing an automatic case-weighting system and time limits as performance measures should also be considered, in order to improve the system. Furthermore, developing a fully inclusive and efficient justice sector monitoring mechanism with EU assistance will be key to ensuring effective implementation of the justice reform.

The justice system still lacks **transparency**, but some efforts for improvement were undertaken. The HJPC started to improve the communication of judicial institutions with media and citizens, notably through media and web toolkits, a media action plan, and

guidelines on social media for judicial office holders, whose effect should be closely monitored. Appropriate training on public outreach and communications for courts and prosecutors' offices remains necessary.

Regarding the **harmonisation of jurisprudence**, the case-law portal created in 2021 by the HJPC in coordination with the four highest judicial instances in Bosnia and Herzegovina now allows access to over 10 540 judicial stances, court decisions and legal interpretations. The issues as regards legal status and effectiveness of judicial harmonisation panels remain unresolved. Ultimately, as noted in the Opinion key priorities, Bosnia and Herzegovina needs to establish a judicial body capable of ensuring the consistent interpretation of the law and harmonisation of case-law across the country.

The 2022 **budget** for the judiciary, including the HJPC, is EUR 156.3 million (0.67% of GDP), slightly above 2021 (EUR 135.6 million). In 2022, EUR 118.7 million was allocated to courts and EUR 34.3 million to prosecutors' offices (compared to EUR 103.9 million and EUR 29.1 million in 2021). The budget is now the same as the Western Balkans' median. The funds remain insufficient to cover investments and to improve the judicial infrastructure, as only 1.7% of the budget was spent on this line and over 81.5% on salaries and compensations. The highly complex system of financing judicial institutions is fragmented with significant budget inequalities. It requires interaction with all levels of government and difficulties in the process of preparing the budget persist. While the budget of the judiciary has continuously increased over the last few years, the coordination of its implementation between the HJPC and certain levels of government still needs to be harmonised, with the HJPC taking a more active role in ensuring sufficient funds among judicial institutions. The budgeting system for prioritising prosecutorial resources was digitalised. The HJPC budget planning and fund allocation competences for all courts and prosecutors' offices in the country should be strengthened.

In 2022, Bosnia and Herzegovina had 1 000 full-time judges (23 per 100 000 inhabitants) and 358 full-time prosecutors (11 per 100 000), including 79 court presidents and 18 chief prosecutors. According to CEPEJ, the European averages are 22.2 judges and 11.8 prosecutors per 100 000 inhabitants. A total of 61% of judges and prosecutors and 56% of managers are women.

### Efficiency

The **length of court proceedings** in first-instance cases (not for utility bills) further decreased to 378 days in 2022 (409 in 2021, 434 in 2020), but is still high. The clearance rate increased to 104% in 2021 (99% in 2021). Nevertheless, the still excessive length of proceedings hampers the citizens' right to trial within a reasonable time. A law to protect that right was adopted at state level in June 2022, but is yet to be introduced in the Federation entity. Civil and criminal procedural codes have to be revised to make judicial proceedings more efficient. Court presidents and chief prosecutors continue to manage poorly procedural discipline for trials, ignoring concrete recommendations issued by the HJPC. They need to take a more active role in managing their institutions under the strategic guidance of the HJPC.

There is a **backlog** of over 2 million pending court cases, of which some 1.7 million are cases of unpaid utility bills, which continue to hinder efficiency. The backlog of non-utility cases decreased slightly by 5% compared to 2021. Relevant authorities still did not follow the Commission's recommendations to transfer the enforcement of small and uncontested claims from courts to professional bailiffs. Entity and cantonal governments did not secure sufficient funds for enforcement departments in courts or for access to information on debtor's

properties. Entity-level laws and regulations on enforcement have to be amended urgently to increase efficiency.

The changes to the prosecutorial quota did not deliver positive outcomes and the performance of the prosecutorial system has not been satisfactory. Specifically, according to HJPC data, there has been an 8% decrease in the number of indictments in 2022 as compared to 2021. The HJPC needs to assess the impact of the previously amended prosecutorial quota on the overall number of indictments and convictions compared to dismissals and revise prosecutorial quotas accordingly.

#### Domestic handling of war crime cases

Bosnia and Herzegovina cooperates constructively with the International Residual Mechanism for Criminal Tribunals (IRMCT-Mechanism). The Prosecutor's Office of Bosnia and Herzegovina and the Office of the Prosecutor of the Mechanism continue to collaborate closely. In 2022, 40% of all requests for assistance from the region to the Mechanism's Prosecutor came from Bosnia and Herzegovina (90% in 2021). The number of indictments for war crimes increased in 2022, with 38 indictments against 90 defendants (21 against 56 in 2021).

War crime convictions by the International Criminal Tribunal for the former Yugoslavia and its successors are still not entered into domestic criminal records. To this end, the Ministry of Justice should maintain close cooperation with the IRMCT-Mechanism Registry.

The revised National War Crime Strategy (NWCS) continued to be implemented effectively. The HJPC, within its mandate, monitored the work of prosecutors and judges to that end, until March 2023, when the Council of Ministers finally appointed a new supervisory body to oversee implementation of the strategy.

Regional judicial cooperation in processing war crime cases has improved slightly. The bilateral protocols on cooperation related to war crimes, crimes against humanity and genocide between the Prosecutor's Office of Bosnia and Herzegovina and its counterparts of Serbia, Croatia and Montenegro have helped to reduce judicial impunity but must still be used systematically. Cooperation with Serbia continued to improve, with 6 indictments transferred to Serbia, resulting in 2 convictions so far (one each in 2018 and 2020). The prosecutor's offices of the two countries have signed a cooperation agreement to provide support for war crimes witnesses, injured parties and victims. Cooperation with Croatia continues to face a number of impediments on judicial assistance; two indictments and one investigation were transferred to Croatia, while other investigations have not yet led to indictments. The protocol with Montenegro is enhancing cooperation, with investigations conducted using transferred evidence.

Out of 237 cases by the end of 2022 (including 103 in main trial phase), 91 proceedings (against 99 individuals) are pending as the indicted persons are not available. Holding multiple citizenships, these individuals are often residing in neighbouring countries. This enables them to escape justice by taking advantage of prohibitions against extradition of own nationals for the criminal offences of genocide, crimes against humanity and war crimes. They also benefit from the lack of progress of neighbouring jurisdictions in addressing the crimes in question. Serbia still fails to enforce the final sentence handed down in Bosnia and Herzegovina in 2014 against Novak Djukić, despite the availability of the basic international judicial cooperation tools. A number of international arrest warrants (Interpol Red Notice) filed by Bosnia and Herzegovina for indicted war criminals remain unanswered. Similarly, Duško Kornjača – indicted for crimes against humanity in 2015 – and Tomislav Kovač –

indicted for genocide in 2018 – are freely residing in Serbia. Sakib Mahmuljin fled to Türkiye after a final sentence for command responsibility in war crimes; Türkiye has not responded to Bosnia and Herzegovina’s March 2023 request for extradition.

The backlog in *war crime cases* continues to diminish; however, it is likely that the revised deadline to complete their processing by the end of 2023 will not be met. The new supervisory body has to propose updated realistic deadlines. From an estimated 1 210 cases in July 2013, unresolved war crime cases have been reduced to 395 (-67.5%) by the end of 2022; around 261 of these are complex cases (66%). An estimated 152 cases against 357 individuals (38.5% of the backlog) are pending as the suspects are not available. Reinforced regional cooperation is key to addressing the latter issue. In 2021, the number of confirmed indictments increased slightly, but conviction rates decreased in the entities and the Brčko District with 16 indictments confirmed (13 in 2021) and a 67% conviction rate (85% in 2021). At state level, there is some progress with 22 indictments confirmed (15 in 2021), although with a decrease of the conviction rate to 57% (86% in 2021). An additional 12 less complex cases were transferred to entities and the Brčko District in 2022 (25 in 2021), completing this process. The Prosecutor’s Office may now focus only on the most complex cases, improving the quality of investigations and indictments leading to convictions.

### **Fight against corruption**

Bosnia and Herzegovina is in **between an early stage and some level of preparation** in the fight against corruption. **No progress** was made in addressing Opinion key priority 7, the 2022 recommendations, and the findings of the Expert Report on Rule of Law issues. The Ministry of Justice is yet to submit a draft state-level law on the prevention of conflict of interest in line with European standards to the Council of Ministers for adoption. Selective and non-transparent judicial follow-up in corruption cases of public resonance is a cause of significant concern, alongside pressure and intimidation. Legislation is not harmonised across the country. Some indictments for high-level corruption were raised during the reporting period. The track record on preventing and repressing corruption (including at high level) remains insignificant, due to operational inefficiency and political interference. The number of final convictions in high-level cases remains very low. Unlike in other cantons, the Sarajevo Canton authorities continued corruption prevention activities, but there was a lack of efficient follow-up by the prosecution and judiciary. An efficient application of conflicts of interest rules and verification of asset declarations is only present in the Sarajevo Canton. Targeted risk assessments and dedicated measures to address corruption are needed, in particular in the most vulnerable sectors. Recommendations of the previous year have largely not been implemented and remain therefore valid.

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

- adopt the Law on the prevention of conflict of interest in state-level institutions, in line with European standards, and harmonise the legislation of entities and Brčko District with international standards and best European practices; complete the legal framework and step up implementation on the protection of whistle-blowers;
- demonstrate progress towards establishing a track record on preventing and repressing high-level corruption; improve cooperation between the police and the prosecutors’ offices;
- prepare and adopt a new state-level anti-corruption strategy and action plan.

### Track record

Efforts remain insufficient to establish a track record on proactive investigations,

prosecutions and final convictions for corruption. In particular, progress in tackling high-level corruption remains insignificant and needs to be seriously stepped up. It is imperative for the law enforcement agencies and the judiciary in Bosnia and Herzegovina to take a more proactive stance in combating organised crime and corruption.

In **high-level corruption cases**, in 2022 there were 23 ordered investigations (15 in 2021), 11 suspended investigations (6 in 2021), 18 filed indictments (12 in 2021), 5 final verdicts (3 in 2021), 3 convictions and 2 acquittal. This trend shows that there continues to be an alarmingly low number of final convictions in high-profile cases.

In 2022, the **State Investigation and Protection Agency (SIPA)** initiated 100 investigations (34 ex officio and 66 by order of the competent Prosecutor's Office) into cases of corruption, of which 52 were finalised (193 initiated and 20 finalised in 2022). Thirty-five reports against 57 individuals were sent to the competent prosecutors' offices. The trend at state level shows that only a few investigations have been finalised.

In 2022, Prosecutors' offices issued 314 orders to conduct investigations into corruption, leading to 188 indictments countrywide (317 and 229 in 2021); 175 indictments were confirmed (211 in 2021), including indictments from the previous period, while the number of convictions was 192 (143 in 2021), of which 132 were suspended sentences (98 in 2021). A total of 119 persons were convicted based on a plea bargain (134 in 2021). Sanctions are not sufficiently effective, dissuasive or proportionate. Plea bargain agreements are frequent and lenient sanctions are too often applied without sufficient justification. Prison sentences are often suspended or even converted into fines with little dissuasive effect. Reduced sentences are frequent in cases in which the severity of the violation of the protected property significantly exceeds the minimum amount necessary for the existence of a criminal offence. Most of the convictions were for abuse of office or authority. The prosecution does not use effectively the available mechanisms to confiscate criminal proceeds. Financial investigations are rare and indictments frequently fail to include relevant information or evidence related to the illegal gain.

The state-level commission on **conflicts of interest** established in July 2020 remains ineffective: it held a single session in 2022, and has only dealt with a few cases. The commission received 2 reports and acted *ex officio* in 8 cases. It determined that 5 public officials were in conflict of interest (3 in 2021). All cases concerned incompatible involvement of close family members in public companies or private companies benefiting from the public budget. In 2 cases, the commission imposed temporary salary reductions as a sanction, while in the other 3 it confirmed conflict of interest but did not impose a sanction as persons were no longer officials. As regards **asset declarations**, about 600 state-level officials are required to submit their financial reports for verification, out of whom only 212 submitted their financial reports in 2022 (291 in 2021). In 2022, no proceedings for failure to submit declarations or inaccuracies were initiated, no reports were checked and no sanctions were imposed. The mandate of the state-level commission expired in October 2022 and following the elections, a new commission was appointed in March 2023. In the *Republika Srpska* entity, around 4 000 office holders are obliged to submit financial reports, out of whom only 129 submitted financial reports in 2022 (990 in 2021). The *Republika Srpska* entity commission established conflict of interest in 13 cases, but did not impose any sanction. There is a dual system of asset declarations at state level. Elected officials, executive officeholders and advisors must submit regular financial statements and disclose their assets and interests to the commission on conflict of interest. In addition, elected officials at all levels must submit declarations of their assets to the Central Election Commission. Asset declarations of elected officials are made public through its website,

although the CEC has no obligation or means to check their accuracy. Rules on conflicts of interest are still not enforced in the Federation entity.

The Brčko District adopted a law on preventing conflict of interest in March 2021 and appointed a related commission in June 2021. In 2022 it established conflict of interest in 36 cases, set up public databases for asset declarations, and initiated 11 proceedings for inaccurate or incomplete data over 156 asset declarations received. In the Sarajevo Canton, office holders' asset declarations are published on the cantonal anti-corruption office website. Other cantons should introduce similar measures.

In the Sarajevo Canton, the positive trend continued. The cantonal Law on prevention of corruption entered into force in January 2023. In 2022, 1 194 asset declarations were submitted to the cantonal anti-corruption office (1 380 in 2021) and 47 office holders who failed to submit declarations were sanctioned with misdemeanour fines, of which 16 orders were appealed in court. In all cases, the courts finally imposed sanctions lower than the minimum provided by law; such judicial practice must be further scrutinised in light of the principle of dissuasiveness and efficiency of sanctions.

The Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) granted administrative protection to **whistle-blowers** in one case out of two requests in 2022, compared with two in 2021. In the *Republika Srpska* entity, three requests for protection to whistle-blowers were filed in 2022 (zero in 2021, one in 2020), granted in one case with two cases ongoing. There is still no legislation on whistle-blower protection in the Federation entity. A new law on whistle-blower protection, entered into force in the Sarajevo Canton in January 2023. In the first quarter of 2023, the cantonal anti-corruption office received six requests and granted protection in all six cases. In 2022, the Brčko District anti-corruption office received four requests and granted protection in all four cases. Legislation at all levels of government needs to be aligned with the EU *acquis*.

## Institutional framework

### *Corruption prevention*

The functioning of corruption prevention bodies and their coordination, including with APIK, continued to be ineffective. APIK faces challenges in ensuring its independence, including in the selection of its management. APIK should play a much more proactive role in implementing GRECO recommendations and aligning with international standards. The new parliamentary commission supervising the work of APIK was appointed in March 2023. APIK must exercise its legal competence as the main coordination body for corruption prevention and as the central point for anti-corruption activities in Bosnia and Herzegovina.

The independence of corruption prevention bodies at entity and cantonal levels and their human and material resources need to be significantly strengthened. The anti-corruption office of the Sarajevo Canton continued to make good progress and remains a good example among cantonal bodies. In 2022, the office processed 753 reports of corruption, most related to corruption in employment, of which 531 were sent on to the competent authorities for further investigation and action (919 and 83 in 2021, respectively) and 47 reports were referred to the Prosecutor's Office of the Sarajevo Canton. In two cases, the Prosecutor's Office filed an indictment. In 6 cases, there was a decision not to conduct or to suspend the investigation. The cantonal anti-corruption office continued increasing transparency standards, establishing in 2022 a register of vacancies in the public sector and an interactive map of building construction and forest cutting in the Sarajevo Canton. The anti-corruption office of Tuzla Canton started work in July 2022 with a director and two employees; it started

collecting asset declarations of public officials, but has not yet made them public. The Una Sana Canton is yet to establish the body that will implement the legislation on reporting and verifying asset declarations of public officials, which entered into force in February 2021. Canton 10 adopted a decree establishing an anti-corruption Office in October 2022.

Bosnia and Herzegovina needs to introduce a comprehensive and effective system for electronic public procurement to improve transparency and reduce the abuse of public resources. An enhanced monitoring and inspection control system remains necessary to tackle corruption and irregularities in public procurement procedures.

The audit department of the Central Election Commission needs more capacity to monitor compliance with political party financing laws.

### *Law enforcement*

The criminal justice policy and the institutional and legislative frameworks across the country are largely ineffective and inadequate for the fight against corruption. This is in part due to insufficient law-enforcement capacity to investigate, and to penalties that do not sufficiently ensure deterrence. Deep legal fragmentation and frequent conflicts of jurisdiction leading to transfers of cases slow down proceedings and reduce efficiency. The police is not proactive in launching investigations and investigations are slow. In 2022, no law enforcement agency, including SIPA, submitted any report on high level corruption to the Prosecutor's Office of Bosnia and Herzegovina. The highly formalistic manner in which SIPA is enforcing actions aimed at obtaining evidence, including in high-level corruption cases, is a cause of serious concern. Systemic shortcomings in the operational cooperation of law-enforcement agencies and the very limited exchange of intelligence remains a persistent challenge. In the few high-level corruption cases reported, selective judicial follow-up and legal mistakes, negligence, abuse of procedures, political pressure, questionable court decisions and verbal attacks on the prosecution continued to take place, including at state level. Pressure, interference and verbal attacks on judicial office holders, especially in high-level cases, continued without a systemic and efficient response by the HJPC and remain a major concern.

In the reporting period, the limited cooperation of law-enforcement agencies with prosecutor's offices and lack of effective monitoring by the prosecutors over the work of police continued to seriously hamper the effectiveness of investigations. The selective unwillingness of the police, including at state level, to cooperate with prosecutor's offices, notably in high-level corruption cases, is a cause of serious concern, calling into question their independence and professionalism. Following the investigations of the Prosecutor's Office of Bosnia and Herzegovina, 15 employees of police and security agencies, including a judge and a lawyer, have been in custody and are being prosecuted, mainly for corrupt activities and aiding organised criminal groups. Diverging views regarding the authority of state-level prosecution offices to issue instructions directed at entity prosecution offices hamper the efficiency of investigations and proceedings in high-level corruption cases. Such conflicting legal views must be remedied immediately. The competent authorities of Bosnia and Herzegovina have not addressed the failure of Serbia to respond to repeated requests of the Prosecutor's Office of Bosnia and Herzegovina for international legal assistance since 2016, in a corruption case involving a high-level politician.

Special anti-corruption departments within prosecution offices were established at state level and in the *Republika Srpska* entity. However, their effectiveness in fighting corruption remains very weak. These specialised departments must start to deal effectively with high-level corruption cases and their independence must be significantly strengthened. Specialised departments at the Federation entity Prosecutor's Office and Supreme Court have not yet

been set up.

After very poor management of the trial, resulting in extensive and unjustified delays, in April 2023 the Court of Bosnia and Herzegovina reached a first-instance sentence in the *Novalić et al.* case related to public procurement fraud, finding three of the four accused, including the then-acting Prime Minister of the Federation entity, guilty of abuse of office and forging of documents, with sentences from 4 to 6 years.

The Prosecutor's Office of Bosnia and Herzegovina initiated two additional high-level corruption investigations, and the Sarajevo Canton Prosecutor's Office initiated one related case. In May 2023, the former mayor of Sarajevo was arrested and charged with criminal offences, including abuse of office and counterfeiting official documents. These cases were widely reported in the media and investigations are ongoing. It is essential that prosecution and judicial services ensure an independent, effective and impartial judicial follow-up in these cases, which are of great public resonance and raise concern about the state of corruption in the country.

The Prosecutor's Office of Bosnia and Herzegovina made good progress in efficiently investigating SKY ECC related cases, establishing a team of 12 prosecutors to cover them. It is conducting eight investigations, with four indictments submitted and three confirmed by the court. Prosecutors are expected to demonstrate firm determination to prioritise and efficiently finalise investigations of mid and high-level corruption cases arising out of the SKY ECC communication service tool. Efficient judicial follow up in those cases must be ensured.

With regard to transparency in the health sector, the Zenica Cantonal Hospital has been the first health care institution in the country to introduce the automatic creation and public disclosure of patient waiting lists, and new anti-corruption internal acts in the segments of public procurement, conflict of interest, human resources management and financial management. In addition, 15 health institutions throughout the country adopted new rulebooks introducing anti-corruption internal acts in the areas of public procurement in the health sector, conflict of interest, human resources management and financial management.

### Legal framework

The lack of harmonisation of legislation across the country continued to hamper the fight against corruption. After a draft law on conflict of interest was rejected in Parliament in May 2022, the Ministry of Justice of Bosnia and Herzegovina is yet to submit a draft state-level law on the prevention of conflict of interest in line with European standards to the Council of Ministers for adoption. The Federation entity Parliament needs to adopt legislation on conflict of interest and on the effective protection of whistle-blowers that was adopted by the entity government in August 2022. In August 2022, the Sarajevo Canton adopted a Law on prevention, suppression and the fight against corruption. This is another step towards establishing a comprehensive legal anti-corruption framework at cantonal level in the absence of a uniform regulation at entity level. The Brčko District needs to maintain efforts to implement effectively the law on the prevention of conflict of interest adopted in March 2021 and further align with best European practices. The *Republika Srpska* entity also needs to align its conflict of interest legislation with international standards. Rules on conflicts of interest are still not enforced in the Federation entity.

Both entities are implementing the strategies adopted in 2021 to develop internal financial controls in the public sector. Lack of transparency seriously hinders the fight against corruption. The legislation on political party financing urgently needs to be aligned with

international standards, particularly with pending GRECO recommendations. In August 2023 the Parliament adopted a Law on freedom of access to information to improve the pro-active disclosure of information and the transparency of state-level institutions; the independence of the appeal process remains to be ensured. Legislation on freedom of access to information at state and entity level needs to be aligned with international and European standards. Data protection laws continued to be interpreted in a way that protects private rather than public interests, hindering the prevention and repression of corruption (*see also Chapter 23*). There is no legislation to effectively prevent and address corruption in the private sector and no regulation of lobbying. Barely 1 of 15 GRECO recommendations has been satisfactorily implemented in the 4<sup>th</sup> evaluation round. The authorities need to ensure appropriate legislative and institutional follow-up to fulfil the outstanding recommendations, notably on political party financing and conflict of interest.

### Strategic framework

The state-level strategy on anti-corruption expired at the end of 2019 and the Council of Ministers has not adopted a new strategy since, further hampering a harmonised strategic approach across the country. This should be remedied as a priority. The Council of Ministers did not adopt the strategy for the 2022-2024 period, which had been drafted as an interim solution by the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) and instructed APIK to draft a new strategic document for 2024-2028. New strategic documents need to be adopted and harmonised across the country, and their implementation should start without delay. Sufficient funding should be provided and strong monitoring mechanisms set up to ensure their implementation.

### **Fundamental rights**

The legislative and institutional framework on fundamental rights is largely in place. Limited efforts were made to address Opinion key priorities 5 and 9-13 on fundamental rights. In August 2023 the Parliament amended the Law on the human rights Ombudsman, designating the institution as national preventive mechanism against torture and ill-treatment. There was backsliding in guaranteeing freedom of expression. The reintroduction of criminal penalties for defamation in the *Republika Srpska* entity in July 2023 severely impacts the environment for civil society, restricting freedom of expression and of the media and represents a major step backwards in the protection of fundamental rights. In September 2023, the entity assembly adopted in first reading a draft law targeting civil society groups as foreign agents; if fully adopted, would mark another regrettable and undeniable major step backwards. Freedom of assembly remains restricted in large parts of the country. The country needs to urgently finalise the pending constitutional and electoral reforms. These reforms should be advanced as an utmost priority. Significant reforms are needed to ensure that all citizens are able to effectively exercise their active and passive voting rights and thus bring the country's constitutional and legislative framework into line with the *Sejdić-Finci* case-law of the ECtHR. Divided education needs to end in order to ensure non-discriminatory, inclusive and quality education for all, including by overcoming the practice of 'two schools under one roof'. Gender-based violence, ill-treatment of detainees and the insufficient protection of minorities, including the Roma, continue to cause concern. The gender action plan was adopted in October 2023. The action plan on women, peace and security needs to be finalised and adopted. The country still needs to develop a comprehensive strategic framework on human rights and on the protection of minorities, including on transitional justice. Recommendations from previous years have not been implemented and remain valid.

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

- implement court rulings to end divided education;
- ensure full respect, protection and promotion of freedom of assembly, association and expression, and refrain from further actions that adversely impact their exercise;
- harmonise and improve legislation against domestic and gender-based violence to meet international standards and align laws across the country to the Gender Equality Law to increase the public and political participation of women.

Bosnia and Herzegovina has ratified all major European and **international human rights instruments**, most of which are included in its Constitution. No significant progress was made towards addressing most of the 204 accepted recommendations from the November 2019 Universal Periodic Review. Despite not having expressed interest in seeking observer status to the EU Agency for Fundamental Rights (FRA), Bosnia and Herzegovina is encouraged to replicate the Agency's data collection methodology.

In the reporting period, the **European Court of Human Rights (ECtHR)** delivered nine judgments that Bosnia and Herzegovina had violated rights guaranteed by the European Convention on Human Rights (ECHR) in six cases (10 in 2022). These violations concerned the right to a fair trial, the protection of property, and the general prohibition of discrimination. In the reporting period, there were 303 new applications allocated to a decision body of the ECtHR, bringing the total number of applications pending before the Court to 130. There are five cases under enhanced supervision by the Committee of Ministers. The *Sejdić-Finci*, *Zornić*, *Šlaku*, *Pilav* and *Pudarić* ECtHR rulings on electoral rights require constitutional amendments to ensure equality among all citizens; they have still not been implemented and remain under enhanced supervision. The August 2023 ECtHR ruling in the *Kovačević* case further extends the *Sejdić-Finci* case law to cover active voting rights too. Bosnia and Herzegovina lodged an appeal in September 2023 to the European Court of Human Rights against the verdict in the *Kovačević* case.

Bosnia and Herzegovina still lacks a comprehensive policy framework on the **promotion and enforcement of human rights**, including countrywide strategies on human rights, non-discrimination, and the protection of minorities. Consequently, the protection of human rights continues to be uneven across the country.

The tripartite composition and consensual decision-making of the Ombudsman institution needs to be revised in the mid-term to ensure its effective functioning. Its independence needs to be strengthened and it should continue its efforts to act more proactively. The Ombudsman registered 2 850 complaints in 2022, a similar number to previous years, and issued 359 recommendations, of which only 129 were fully implemented. The follow-up to these recommendations needs to be prioritised as there is often no reaction from the respondent authority. The Ombudsman has not opened any minor offence proceedings for non-compliance with its recommendations in the past 8 years, despite having the power to do so, nor has it initiated or intervened in administrative or judicial proceedings.

As regards **torture and ill-treatment**, Bosnia and Herzegovina still needs to ensure compliance with Article 17 of the Optional Protocol to the Convention Against Torture (OPCAT). In August 2023, the Parliament amended the Law on the human rights Ombudsman to strengthen the independence and effectiveness of this body and designate it as a national preventive mechanism against torture and ill-treatment – an international obligation of the country. The country needs to ensure the effective handling of reports of ill-treatment. So far, only a few officers have been sanctioned. Following its September 2021 visit, the Council of Europe's Committee for the Prevention of Torture reported numerous allegations of physical ill-treatment of detained persons by police officers and notes a lack of

effective action and progress in addressing previous recommendations. In 2022, the Ombudsman made 10 visits to the places of detention and deprivation of liberty and issued one recommendation.

No progress was made towards adopting a state-level framework law clearly defining countrywide criteria on the rights of civilian victims of wartime torture to meet Bosnia and Herzegovina's pending obligations under the Convention against Torture. Entity-level laws on victims of wartime torture needs to be improved. No substantial steps were taken to address the August 2019 decision of the UN Committee against Torture (UNCAT) on providing all forms of redress to victims of wartime torture through an effective reparation scheme, including by providing compensation and issuing a formal apology to the victim. The *Republika Srpska* entity government has not yet taken measures to waive court fees for victims of wartime torture to which statutes of limitations were applied in the past: as a consequence, victims continue to face repossession of property for defaulting on payments, which is worrying.

The continued absence of a countrywide strategy on the **prison system** and the lack of progress in improving detention conditions is a concern. The laws need to be harmonised across the country and brought in line with European and international standards. The Federation entity took no steps to adopt legislation to enable the transfer of prisoners between entities, staff professionalisation and a parole system. Digitalisation, reintegration programmes, and coordination with healthcare and social services still need to be improved. The country should further expand the use of alternatives to detention, in particular in the *Republika Srpska* entity. While the new state prison is now working at full capacity, several detention facilities in the country remain in need of infrastructural improvement. Prison regimes also require modernisation. The Ombudsman received 77 complaints from persons deprived of liberty in 2022 (91 in 2021).

Bosnia and Herzegovina still lacks a countrywide policy framework for dealing with the legacies of the past, including a countrywide strategy on transitional justice. Political leaders continued to engage in historical revisionism, including genocide denial and glorification of war criminals, also contesting established facts and the independence or impartiality of international and domestic tribunals. The Parliament should discuss and amend the criminal code to regulate genocide denial and glorification of war criminals in line with the 2008 EU Council framework decision on combating racism and xenophobia. No indictments have been made since the entry into force of the law criminalising denial of genocide and glorification of war criminals, imposed by the former High Representative Inzko in July 2021. The criminal designation in the *Republika Srpska* legislation for describing the entity or its peoples as aggressor or as genocidal continues to have a chilling effect on freedom of expression in the entity. Bosnia and Herzegovina is expected to act in a sovereign manner to promote an environment conducive to reconciliation in order to overcome the legacies of the war (Opinion key priority 5). Positive steps were taken at local level. The Brčko District unveiled a joint memorial for all civilian war victims in February 2023, the second in the country. In May 2023 the city of Mostar renamed six streets to remove references to officials from the *Ustasha* regime.

The continued unresolved issue of *missing persons* is a matter of concern. 7 600 persons are still missing as of June 2023 as a result of the 1990s conflict, of which 111 were identified in 2022, and 44 more in the first half of 2023. However, the Missing Persons Institute and Prosecutors' Offices at all levels assisted by the International Commission on Missing Persons are making steady progress in identifying the remaining 7 600 missing persons. In 2022, the authorities conducted 109 exhumations and over 1 500 terrain reconnaissance

operations. Further efforts are needed on a regional scale to solve the issue. There was no progress in establishing a support fund for the families of missing persons, as provided for by the law, and improving the work of the Missing Persons Institute and forensic capacity at state level.

No progress was made in aligning legislation with the EU *acquis* on **data protection**, notably the General Data Protection Regulation (GDPR). Protocol 223 to the Council of Europe Convention on the automatic processing of personal data was ratified in August 2022. No steps were taken to increase the independence and the human and financial resources of the Personal Data Protection Agency. The Agency needs to better balance the protection of privacy with the general public interest, notably media freedom, electoral integrity, and the fight against corruption. The exceptions are being exploited by public institutions in order not to disclose documents. The Agency conducted 95 procedures *ex officio* in 2022 (84 in 2021). It received 206 complaints, conducted 75 inspections and issued 14 minor offence orders (respectively, 183, 79 and 9 in 2021). The administrative proceedings against decisions of the Agency pending before the Court of Bosnia and Herzegovina were 15 (19 in 2021). While the state Parliament must consult the Agency on legislative proposals, other legislative assemblies are still not required to do so.

**Freedom of thought, conscience and religion** continue to be generally upheld but cases of discrimination, hate speech and hate crimes on religious grounds continue to occur. The Serbian Orthodox Church left the Inter-Religious Council in February 2023. The Islamic Community of Bosnia and Herzegovina still does not have an agreement (*concordat*) with the state. Incidents targeting religious sites also continue, particularly in minority and returnee areas, as highlighted by incidents involving Bosniak returnees to Višegrad in March and April 2023, and Serb returnees to the Mostar area. The partisan memorial cemetery in Mostar suffered large-scale vandalism in June 2022 and again in May 2023. Bosnia and Herzegovina is encouraged to promote Holocaust remembrance, education and research, in cooperation with the local Jewish community, in order to fight against antisemitism.

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## Freedom of expression

There is **some level of preparation** on freedom of expression. There was **backsliding** in addressing Opinion key priority 12 to guarantee freedom of expression and of the media and the protection of journalists. This key priority requires ensuring the appropriate judicial follow-up to threats and violence against journalists, including cases involving women journalists and media workers, and also ensuring the financial sustainability of the public broadcasting system. Political pressure, intimidation and harassment towards journalists, including physical and verbal attacks, continued during the reporting period, and there was no appropriate institutional follow-up. No steps were taken to align the legislative framework with European and international standards or to fully enforce it. Political influence over public broadcasters persists, and their financial sustainability remains in question. The Law on the public broadcasting system remains unimplemented and entity-level legislation is still not harmonised with this law. The reintroduction of criminal penalties for defamation in the *Republika Srpska* entity, adopted by law in July 2023, severely impacts freedom of expression and of the media and represents a major step backwards in the protection of fundamental rights. The Sarajevo Canton government endorsed a draft law that would introduce sanctions for online ‘fake news’; if adopted, it could be abused to restrict online communications and intimidate reporters. Any such norms must fully respect freedom of expression standards. Last year’s recommendations were not implemented and thus remain

valid.

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

- ensure the protection of journalists and systematic institutional follow-up of threats and violence against them;
- ensure the financial sustainability and political independence of public broadcasters, and harmonise entity legislation with the state-level law on the public broadcasting system;
- adopt legislation on media ownership transparency and criteria for public advertising.

### Intimidation of journalists

There continue to be serious concerns about political pressure, intimidation and threats against journalists. The polarised political climate, constant verbal attacks and nationalist rhetoric have created a hostile environment for media freedom. High-level politicians continued their public attacks and disparaging remarks against journalists, analysts and media workers, particularly against women. The authorities continue to downplay the issue with no public statements on these issues, and institutional follow-up is weak. No official countrywide data is collected on threats and attacks against journalists and media workers and their judicial follow-up. These statistics should also be disaggregated by sex.

The *BH Novinari* journalists' association recorded 73 cases of journalists' rights being violated in 2022 (70 in 2021, 69 in 2020). 31 cases of attacks (including two physical attacks), threats and intimidation of journalists were reported on the SafeJournalists platform, 40% more than in 2021. In 2022, the Ombudsman received 12 complaints (9 in 2021, 11 in 2019) and issued one recommendation, which was not implemented. In 2022, the Online Media and Press Council received 101 complaints about hate speech against journalists, compared to 509 in 2021. Authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against the media, including by ensuring effective police investigations and judicial prosecution leading to final convictions of the perpetrators.

### Legislative environment

Although defamation had been decriminalised since 2002, politicians and public officials continue to use civil lawsuits to intimidate journalists. The reintroduction of criminal penalties for defamation in the *Republika Srpska* entity, adopted by law in July 2023, severely impacts free speech and freedom of expression and of the media. To prevent an environment that forces journalists into self-censorship, courts should step up their efforts to ensure expedient processing of defamation cases and consistency of case-law on damages awarded. Legislation on free access to information and hate speech remains fragmented. In August 2023, the Parliament adopted a Law on freedom of access to information applying to the State-level institutions, intended to improve the pro-active disclosure of information and the transparency of state-level institutions. The independence of the appeal process still needs to be brought in line with international and European standards.

### Implementation of legislation/institutions

The Communications Regulatory Agency (CRA) still lacks full political and financial independence. The procedure to appoint its management does not guarantee pluralistic representation of interested stakeholders and full independence from the regulated sector and from political influence. It must be amended to improve the public's perception of it as a neutral and independent body. The mandate of the CRA Board expired at the end of 2017; the Parliament has not appointed a new board for the whole 2018-2022 term. Legal provisions on

data protection and access to information are still interpreted in a way that protects private rather than public interests.

#### Public service broadcaster

The state-level public service broadcaster *Radiotelevizija Bosne i Hercegovine* (BHRT) remains in serious danger of shutting down, following years of deprivation of stable funding as a result of the non-enforcement of the 2003 Law on the public broadcasting system and of lengthy litigation in entity courts over the substantial debts of *Radio Televizija Republike Srpske* (RTRS) to BHRT (over EUR 31.5 million). These issues pose a serious threat to the financial independence and sustainability of the public broadcasting system. Bosnia and Herzegovina risks become the only country in Europe without a state-level public service broadcaster.

State and entity public broadcasters remain exposed to political influence, in particular through politically controlled steering boards. There is a continued worrying trend of self-censorship, heightened in the context of Russia's war of aggression against Ukraine. The Federation Parliament has not filled the vacancies on the steering board of the public broadcaster FTV nor appointed a director of FTV since 2013. *Republika Srpska's* RTRS public channel spreads Russian and Serbian disinformation, including on Russia's aggression on Ukraine and on Bosnia and Herzegovina's EU accession path. Banja Luka-based provider M-tel continued to carry the signal of the RT and Sputnik channels, despite Bosnia and Herzegovina's alignment with EU sanctions on Russia prohibiting the broadcasting of content from these Russian state-sponsored media outlets. (*See also Chapter 10 – Digital transformation and media*)

#### Economic factors

No steps were taken to adopt legislation on media ownership transparency (including on the prevention of hidden media concentration), legislation on advertising or criteria for the distribution of subsidies. The advertising practices of publicly owned businesses, such as telecom companies, and of advertising agencies linked to political parties continue to harm media integrity. Local broadcasters that receive funding from local authorities remain subject to political pressure and influence. The high number of strategic lawsuits against public participation (SLAPP) further fuels self-censorship. Two such cases were reported in 2021, with extremely high compensation claims threatening the financial survival of the media.

#### Internet

Online platforms are used to spread hate speech and disinformation, as self-regulation of online media has a limited effect. However, the trend is declining. The Press and Online Media Council received 566 complaints in 2022 (1 073 in 2021), almost all related to online content. Criminal prosecution is limited to the incitement of religious and ethnic hatred on the internet or social networks. In April 2023, the government of Sarajevo Canton endorsed a draft law defining the internet as a public space and introducing disproportionate sanctions for the online dissemination of undefined 'fake news'; if adopted, this provision could be abused to restrict online communications and intimidate reporters. Any such norms must fully respect freedom of expression standards.

#### Professional organisations and working conditions

Journalism in Bosnia and Herzegovina remains a precarious profession, with low wages and little job security. Labour rights are barely respected, unionisation is low, and there are no branch collective agreements for media workers. Consequently, many journalists receive a

salary significantly lower than average while also working overtime. Women journalists find themselves in a worse situation than men. The Press and Online Media Council's media code remains the basis of self-regulation, but compliance is inconsistent.

#### Freedom of artistic expression

Freedom of artistic expression is guaranteed by legislation and generally respected. No official data on intimidation of artists is collected. Although authorities have not formally introduced restrictions, the environment for reconciliation-related themes is challenging. For instance, in June 2023 the entity broadcaster RTRS withdrew support to the National Theatre of Republika Srpska due to its cooperation with Sarajevo's SARTR theatre.

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Laws on **freedom of assembly** are still not harmonised across the country and are not in line with European standards, in particular as regards grounds for restriction and responsibility of organisers. The 2020 Brčko District law on freedom of assembly, largely in line with European standards, should be used as a model in other jurisdictions. The fourth Sarajevo Pride march took place without incidents in June 2023. The exercise of freedom of assembly remains restricted in the *Republika Srpska* entity, where in March 2023 the local police banned an LGBTIQ event.

**Freedom of association** continues to be generally respected. However, human rights defenders dealing with issues perceived as sensitive (e.g. anti-corruption, women's rights, LGBTIQ persons' rights, migrants, the environment) continue to be subject to threats, harassment, verbal abuse and even physical attacks. The authorities have failed to promptly and systematically condemn and properly investigate such attacks. In September 2023, the *Republika Srpska* entity adopted in first reading a legislative initiative on a special registry and transparency of work of non-profit organisations, which would impose excessive and unwarranted restrictions on civil society organisations and targeting them as 'foreign agents'. If fully adopted, this draft law would adversely affect civil society, including in engaging with stakeholders without fear of repercussions. This draft law should be abandoned, in line with the joint opinion of ODIHR and Venice Commission. Additionally, civil society organisations in the Herzegovina-Neretva Canton face continuous pressure from the authorities with repetitive and excessive inspections. As a key priority, the authorities need to promote a conducive and enabling environment for civil society, and ensure effective consultation on legislative developments on freedom of association.

*Labour and trade union rights issues are covered in Chapter 19 – Social policy and employment.*

As regards **property rights**, the apportionment of property between the State and other levels of government remains one of the open issues under the '5+2' agenda for the closure of the Office of the High Representative. This requires the adoption of a state-level law, in line with jurisprudence of the Constitutional Court. Entities and cantons have legislation which is not in line with the constitutional and legal framework. There are no strategic documents that address this issue. No steps were taken to update and interconnect the entity-level cadastral and land registry databases and no solution was found to pending repossession cases. The Commission for real property claims of displaced persons and refugees is inoperative. There is no legislative framework on restitution claims, which are handled case by case. The Federation entity needs to amend its legislation, in line with several ECtHR cases on occupancy rights over military apartments, which are still pending implementation (*Đokić, Mago, Alekšić* cases).

Concerning **non-discrimination**, there was no progress towards adopting countrywide human rights and anti-discrimination strategies. The 2009 law on the prohibition of discrimination, which aims at full alignment with the EU *acquis*, is still not applied effectively due to a number of problems, including insufficient use of available legal remedies such as collective lawsuits, divergent court practice, excessive length of proceedings, and lack of a unified data collection system on discrimination cases. In 2022, the courts received 979 discrimination cases; 455 cases were completed.

Discrimination continues to be under-reported, particularly at the workplace, and judicial practice has shown lack of uniform application of burden of proof, excessive length and non-enforcement of final decisions. The Ombudsman registered 208 cases of discrimination in 2022 (173 in 2021, 288 in 2020), of which the most frequent concerned discrimination at the workplace, ethnic discrimination and discrimination on the basis of social position and gender. The Ombudsman issued 75 recommendations for these cases in 2022, compared to 26 in 2021. Disputes over education continue, while systemic solutions for ensuring inclusive and non-discriminatory education are not in place. The common core curriculum is not completed, nor is it applied throughout the country, and the availability of teaching in the national groups of subjects remains limited. No progress was made in eliminating the practice of ‘two schools under one roof’, which is in breach of 2014 and 2021 rulings by the Federation entity Supreme Court concerning the Herzegovina-Neretva and the Central Bosnia Canton. Despite Constitutional Court decisions, the name of the Bosnian language is still not recognised in schools in the *Republika Srpska* entity, leading to recurrent school boycotts.

Legislation on hate crimes is harmonised across the four criminal codes in the country. Entity-level legislation criminalises hate speech only when causing national, racial and religious hatred and it still needs to be aligned with the EU *acquis*. Failure to identify acts as hate crimes and the high burden of proof still make it difficult to establish intent, leading to few indictments and convictions. 157 ethnic-related hate incidents were recorded in 2022, and six convictions were handed down in 2022 (134 and eight in 2021, 119 and three in 2020). 15 trials are ongoing. The case-law on hate crimes is not consistent. The authorities have not taken any measures to counter hate speech, which remains present in official discourse. There is no monitoring or enforcement of the prohibition of hate speech in online media. 56 reports were filed and eight rulings, of which six convictions, were handed down for hate speech in 2022, compared to 70 reports and eight convictions in 2021. The Council of Europe Convention on cybercrime and its additional protocol is only partially implemented.

Legislation on **gender equality** is still not harmonised across the country or effectively enforced. The new gender action plan was adopted in October 2023. The new action plan on women, peace and security needs to be finalised and adopted, so that activities may resume at full speed. An effective mechanism of monitoring and accountability systems, and sufficient funding from the budget for implementing the action plans remain priorities in this area.

Despite being prescribed by law, gender impact assessments are still not being carried out. While Bosnia and Herzegovina has developed a partial index of gender equality, work on data collection needs to proceed to enable the development of sound policies targeting key gender gaps, providing relevant data on gender-based violence.

During the reporting period, a number of cases of **gender-based violence** leading up to the murder of women (femicide) garnered public attention and sparked protests across several cities in Bosnia and Herzegovina. These incidents exposed existing systemic shortcomings of the institutional response to gender-based violence. Improvements are particularly needed on

issuing and enforcing protective measures, continuous and comprehensive victim support, legal aid, and safe accommodation. The country needs to introduce urgent legislative changes to ensure the transposition of remaining obligations stemming from the Istanbul convention, including by amending its criminal legislation. The Federation entity still needs to harmonise its criminal code with the Istanbul Convention by opening the process for public consultations and involving women's rights organisations. Furthermore, it needs to finish developing and adopt legislation on protection against domestic violence. The Brčko District should allow for criminal prosecution of offenders. The *Republika Srpska* entity needs to implement legislation in this field and recognise the role of specialised civil society organisations contributing to the protection of victims. Bosnia and Herzegovina still needs to address the August 2020 decision of the UN Committee on the Elimination of Discrimination against Women (CEDAW) on providing all forms of redress to victims of wartime sexual violence. It further needs to accelerate the prosecution of crimes of sexual violence, secure witness protection and provide reparation to women victims of war crimes. The gender pay gap remains significant, at around 25%. Maternity, paternity and paternal leave continues to differ among entities and cantons. (See also Chapters 19 and 28; on women victims of trafficking, see Chapter 24)

As regards the **rights of the child**, no steps were taken by Bosnia and Herzegovina to develop and adopt a new action plan on child protection to replace the one for 2015-2018. In 2022, the Ombudsman received 219 complaints on children's rights (190 in 2021, 190 in 2020). There were 1 103 children without parental care in 2020 (1 623 in 2019), many of whom are children with disabilities. Transition towards community-based care needs to accelerate. To ensure the best interest of the child and avoid institutionalisation, measures are required to prevent family separation, provide foster care and alternative solutions, and support children leaving care institutions at the age of 18. Child exploitation and child begging remain a serious concern; no measures have been taken to address them despite the urgency. Violence against children continues to be under-reported. Some children are without compulsory health insurance, which needs to be addressed. Marginalised groups, such as the Roma, face multiple forms of discrimination; this affects girls and women in particular. The authorities have not taken any measures to collect precise and consistent data on violence against children and on child poverty. Bosnia and Herzegovina has ratified all key international instruments on child labour. The minimum age for work across the country is 15. However, this is not applied in practice with regard to children who are working without a formal employment relationship. Child begging is also not prohibited as a hazardous occupation for children. Roma children are particularly vulnerable to the worst forms of child labour. Unaccompanied migrant children face specific challenges, such as accessing safe accommodation and asylum procedures. 1 878 unaccompanied migrant children were identified in 2021 (351 in 2020, 533 in 2019). 817 were appointed a legal guardian, as provided for by law (987 in 2020, 304 in 2019). Alternatives must urgently be found to the detention of irregular migrant families with children, and the issue of registering births of children of undocumented migrants must be addressed.

Bosnia and Herzegovina needs to strengthen the implementation of child-friendly justice including for children belonging to minorities, migrant children and children with disabilities. Entity-level laws on **juvenile justice** have still not been fully implemented or harmonised with each other. There are no separate units for juveniles during pre-trial detention and in police stations, a serious breach of international law that urgently needs to be remedied. The use of alternative measures needs to be stepped up to ensure detention is only used as a measure of last resort. Only limited reintegration measures are available to juveniles upon release. As of July 2022, there were 29 minors in prisons (22 as of September 2021, 39 as of

December 2021).

**Persons with disabilities** are among the most vulnerable groups. No steps were taken to address concerns regarding deprivation of legal capacity, status-based discrimination, and accessibility. While the legal and institutional framework for persons with disabilities is in place, the lack of dedicated budgetary funds hampers implementing measures that would improve their position. The law continues to allow persons with disabilities to be deprived of their legal capacity through a judicial process, in violation of international conventions. The country needs to move from a status-based approach (with war veterans and civilian victims of war enjoying priority) to one based on needs, with a uniform definition of disability, and harmonised eligibility criteria, rights and standards of social protection across the country. Persons with disabilities continue to face hurdles in accessing education, healthcare and social assistance. The Council for Persons with Disabilities needs to be further engaged in all relevant processes. The authorities also need to improve data collection, including sex-disaggregated data.

Children with disabilities remain one of the most marginalised and excluded groups, facing stigma and discrimination along with inadequate services, especially in health and education. Many continue to be placed in residential institutions, which is a severe violation of their rights and international conventions. This needs to be urgently addressed. Bosnia and Herzegovina needs to urgently develop and adopt a deinstitutionalisation strategy to move towards community-based care. Both entities and the Brčko District have started developing their own roadmaps in cooperation with UNICEF.

In July 2022, the Council of Ministers adopted the action plan on the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons** which was developed in 2020. Active and persistent engagement is needed to achieve its objectives. While legislation includes provision on hate crimes on grounds of sexual orientation and gender identity, the prosecution of hate crimes and hate speech against LGBTIQ persons remains insufficient. No steps were taken to recognise and ensure the enjoyment of same-sex couples' social and economic rights, including the right to a family life. The social inclusion of intersex and transgender persons, who continue to be particularly marginalised, has yet to improve. In March 2023, the local police prohibited an LGBTIQ pride event in Banja Luka and did not protect activists from physical attacks, nor were the perpetrators prosecuted. Harmful comments by high-level politicians and public figures against the LGBTIQ community contributed to these developments. The fourth Sarajevo Pride march took place in June 2023. The Sarajevo Open Centre documented 13 hate incidents against LGBTIQ persons in 2022, including cases of domestic violence.

The **procedural rights** of suspects, accused persons, witnesses and victims are generally upheld, although access remains uneven across the country, particularly for witnesses and victims. The four criminal procedure codes have yet to be further harmonised, and their enforcement is inconsistent. Bosnia and Herzegovina needs to ensure the right to immediate access to a lawyer while in police detention, which is an essential procedural right. A state-level law to protect the right to be tried within a reasonable time was adopted and entered into force in June 2022; a similar law is still pending adoption in the Federation entity. This is key to addressing systemic violations of the right to a fair trial and ensuring the right to an effective remedy, in line with Constitutional Court rulings and European standards. The country has not aligned with the EU *acquis* on victims' rights and compensation to victims of crime, but has taken some steps through the provision of related services, in particular victim support and the development of referral mechanisms for long-term physical, psychological and practical assistance.

Without comprehensive coverage and clear minimum common standards, the right to legal aid continues to be upheld unevenly, to the detriment of the most vulnerable. The framework needs to be completed by adopting laws in the Federation entity and the Central Bosnia Canton, as well by as putting into operation the legal aid office of the Herzegovina-Neretva Canton. Conducting a needs assessment would help identify and address the main gaps and ensure effective equal access to justice for all, irrespective of place of residence. The budget implemented for legal aid in 2022 amounted to EUR 8 442 077 (up from EUR 7 073 171 in 2021).

The participation in political and public life of persons belonging to national **minorities** remains low. No progress was made towards adopting a countrywide strategy on national minorities. The authorities still need to comply with the recommendations of the fourth review cycle under the Framework Convention for the Protection of National Minorities from November 2017 to condemn statements of politicians and public figures inciting ethnic hatred and to take measures promoting intercultural dialogue and understanding. The national minorities' councils should become more active in developing practical, political and legislative initiatives. In 2022, the Ombudsman received 12 complaints concerning rights of persons belonging to minorities (compared to three in 2021 and two in 2020) and issued two recommendations. Minorities and unaffiliated citizens, remain barred from running for the Presidency and House of Peoples. This has been repeatedly condemned by the ECtHR since 2009 (*Sejdić-Finci* case law). Pending constitutional and electoral reforms are of utmost importance to ensure equality for all.

The **Roma** are the most vulnerable and disadvantaged minority. Anti-Roma stereotypes and prejudices, discrimination and anti-gypsyism still hinder their social inclusion.

Roma women in particular face multiple forms of discrimination. They often lack resources, access to services, awareness about their rights and information on protection mechanisms. Roma women's rights are also violated in cases of domestic violence, early marriages, trafficking in human beings and labour exploitation of children.

As one of the 17 officially recognised national minorities, the Roma are protected by the anti-discrimination law. The country allocated EUR 700 000 for 2023 for the implementation of the 2021-2025 countrywide action plan for the social inclusion of Roma men and women, compared to EUR 1 million for 2020, the last year a budget was allocated. As the action plan encompasses a broad scope of measures, it requires appropriate funding from all levels of government, reversing the downward trend, as well as constant monitoring, including by the Roma Advisory Board (Roma Committee). A total of 15 local communities have revised their local Roma action plans.

Upon completion of the mapping and assessment of the needs of the Roma in Bosnia and Herzegovina in December 2022, 47 cities and municipalities identified issues related to informal settlements and housing units. No progress was made in developing a methodology for data collection nor in developing a policy for the legalisation of informal economy practices concerning the Roma. Discrimination in employment remains rampant, with very high unemployment rates. Compulsory education enrolment rates have increased, but the number of school drop-outs is still very high. While classes or schools are not segregated, there is no teaching in and of the Romani language, and the awareness of Roma culture among the rest of the population is very limited. Around two thirds of Roma have access to healthcare; children outside education and elderly Roma face the biggest hurdles. The process of civil registration is well advanced; a roadmap to end statelessness has been developed. No step was taken to remove administrative obstacles, including residence requirements for birth

registration and for access to healthcare and education, and to recognise documents for children born abroad.

Bosnia and Herzegovina hosts around 90 000 **refugees and internally displaced persons**, following the conflict in the 1990s, of which 990 families (3 351 persons) still live in one of the 45 collective centres across the country and in alternative accommodation. The authorities need to address their housing needs with sustainable solutions. Minority returnees are among the most common targets of ethnically driven hate speech and hate crimes. The 2010 revised strategy for the implementation of Annex VII to the Dayton Peace Agreements has not yet been fully implemented. To complete the process of return and fulfil its obligations to allow closure of Annex VII, Bosnia and Herzegovina should ensure full cooperation among all levels of government so as to ensure the enjoyment of the rights of returnees and harmonise their access to services and resources. The country also needs to provide adequate humanitarian assistance and protection (including shelter, food and medical assistance) and effective access to the asylum procedure for asylum seekers and migrants. Arbitrary limitations to their human rights, including restrictions of movement introduced during the pandemic, should be removed.

### 2.2.2. Chapter 24: Justice, freedom and security

*The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. Member States also cooperate with Bosnia and Herzegovina in the fight against organised crime and terrorism, and on judicial, police and custom matters, all with the support of the EU justice and home affairs agencies.*

Bosnia and Herzegovina has achieved **some level of preparation** to implement the EU *acquis* in this area. **Some progress** was made, notably on the fight against organised crime (Opinion key priority 7) by finally putting into operation the Europol contact point, and on managing migration and asylum (Opinion key priority 8) by adopting a new 2021-2025 strategy and action plan on migration and asylum. The Parliament adopted a Law on foreigners in September 2023. Proactive engagement is required to fully take over responsibility for managing migration, which should be supported by all levels of government. Bosnia and Herzegovina is satisfactorily implementing the integrated border management strategy for 2019-2023. The next strategy and the action plan for 2024-2029 are broadly aligned with the EU *acquis* and need to be adopted in good time. The Council of Ministers adopted a new four-year strategy and the related action plan for countering terrorism and preventing and countering violent extremism, and an updated risk assessment and accompanying action plan on anti-money laundering and combating the financing of terrorism. Further steps are needed to adopt an action plan on drugs and to establish a drug observatory and an early warning system. While broadly aligned with the EU *acquis*, legislation is often not harmonised across the country, and institutional cooperation and coordination remain weak, leading to uneven and unsatisfactory implementation. Last year's recommendations remain broadly valid.

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

→ urgently adopt and start implementing legislation on anti-money laundering and combating the financing of terrorism (AML/CFT) in line with the EU *acquis*, to avoid the possibility of again being listed as a jurisdiction under increased monitoring for strategic AML/CFT deficiencies by the Financial Action Task Force (FATF) after evaluation of the regional body, the Committee of Experts on the Evaluation of Anti-Money

Laundering Measures and the Financing of Terrorism (MONEYVAL);

- draw up concrete plans for transition to increased responsibility of domestic authorities in managing migration, including taking over the management of reception centres; implement the strategy on migration and adopt the action plan; ensure effective coordination of border management and migration management capacity, including the fair distribution of reception capacity among all entities and cantons; and guarantee more efficient access to asylum procedures;
- adopt the action plan on drugs; improve civilian oversight mechanisms over police, at all levels; consistently appoint police directors on a merit basis; align with EU visa policy, in particular with regard to third countries presenting irregular migration or security risks to the EU.

### **Fight against organised crime**

Bosnia and Herzegovina **is in between an early stage and some level of preparation** in the fight against organised crime. **Some progress** was made on the fight against organised crime, notably by finally putting into operation the Europol contact point and by concluding some relevant operations supported by Europol (Opinion key priority 7). The country has several strategies in place, notably the recently adopted strategy on organised crime, trafficking in human beings and integrated border management. However, the legal framework is not harmonised across the country. There are systemic shortcomings in the operational cooperation of law enforcement agencies due to non-harmonised criminal legislation, weak institutional coordination and very limited exchange of intelligence. Criminal organisations operating in Bosnia and Herzegovina take advantage of legal and administrative loopholes. The police are vulnerable to political interference. Financial investigations and asset seizures are largely ineffective. A proactive approach is essential to stop criminal infiltration in the political, legal and economic systems. Last year's recommendations remain broadly valid.

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

- implement the national strategy on trafficking in human beings and improve referral to appropriate support to victims;
- strengthen institutional cooperation among law enforcement agencies and with prosecutors' offices and courts, notably by establishing specialised multi-agency investigation teams for complex cases; improving mutual / standardised access to databases and the secure / timely exchange of information; strengthening financial investigations; and adopting standard operating procedures to run financial investigations;
- sign an agreement on operational cooperation with Eurojust, and establish a firearms focal point; urgently adopt legislation on the possession of weapons by civilians, harmonised and further aligned with the EU *acquis*, including on marking and deactivation standards.

### Institutional set-up and legal alignment

There are multiple law enforcement agencies in the country, out of which 15 have investigative powers. The police had 438 police officers per 100 000 inhabitants in 2021, compared with an EU average of 335.3 (Eurostat, 2019-2021). Data for 2022 are not available.

**Police legislation** needs to be further aligned with the EU *acquis*. There was limited improvement and harmonisation of police legislation at all levels, which hampers effective police accountability, integrity and cooperation. The professionalism, integrity and

accountability of law enforcement agencies needs to be significantly improved. A comprehensive policy to ensure transparent appointments is needed. Police oversight mechanisms via parliamentary independent boards need to be strengthened. There was progress in ensuring merit-based, standardised and transparent appointments and promotions by some independent boards. Political interference remains a concern, notably for key managerial positions as well as for parliamentary independent board members. While the participation of women in police bodies has improved, women are still under-represented in positions of command and have limited promotion opportunities. Failure to comply with the rule of law and democratic principles, including political influence, remain a major concern. In the Herzegovina-Neretva Canton, amendments to the legislation led to ethnic criteria prevailing over merit in recruiting police; this is of concern for its independence and professionalism.

The legal framework on the **fight against organised crime** is only partially aligned with the EU *acquis*. Bosnia and Herzegovina adopted a strategy on the fight against **organised crime** for 2023-2026. All competent authorities need to implement the strategy through their own action plans. It is of particular concern that, since 2010, despite several legislative initiatives, Bosnia and Herzegovina has not developed capacity for asset management at state level. Extended and third-party confiscations are possible, but they are rarely used. Bosnia and Herzegovina should establish or designate an asset recovery office in charge of identifying and tracing criminal assets to improve effectiveness and facilitate operational cooperation with EU Member States.

The legislation on **trafficking in human beings** needs to be further aligned with the EU *acquis*, notably on sanctions. A 2020-2023 strategy is in place and being implemented. The implementation of the strategy should be evaluated and a strategy for the following period should be developed. Bosnia and Herzegovina has intensified anti-trafficking operations but few victims and suspects have been identified. It should improve the early identification of victims and their referral to adequate support, assistance, protection services and possible compensation.

Bosnia and Herzegovina needs to further align its legislation on **cybercrime** with the EU *acquis*. It is party to the Budapest Convention on Cybercrime, and it should sign its second additional protocol on enhanced cooperation and disclosure of electronic evidence. The country needs to complete the strategic framework on fighting cybercrime; a strategy is only in place in the *Republika Srpska* entity.

Legislation on the **possession of weapons by civilians** needs to be harmonised and further aligned with the EU *acquis*, including on marking and deactivation standards. New legislation should be modelled on the Una-Sana Canton's 2021 law on weapons, which is broadly in line with the EU *acquis*. The legislative framework on explosives for civil use and the transport of dangerous goods remains fragmented and needs to be completed and aligned with the EU *acquis* across the country.

Legislation should urgently be adopted on **anti-money laundering and countering the financing of terrorism** (AML/CFT), in line with the fourth and fifth EU directives on AML/CFT. Bosnia and Herzegovina adopted an updated risk assessment and accompanying action plan on AML/CFT. If these necessary steps are not taken as a matter of urgency, there is a real possibility that Bosnia and Herzegovina will again be listed as a jurisdiction under increased monitoring for strategic AML/CFT shortcomings by the international standard-setting body, the Financial Action Task Force (FATF), after evaluation by the regional body MONEYVAL. Moreover, Bosnia and Herzegovina should align its criminal legislation with

the latest *acquis* on combating money laundering.

Bosnia and Herzegovina should demonstrate results in implementing the 2021-2024 strategy and action plan for the control of **small arms and light weapons** (SALW) Bosnia and Herzegovina is aligned with the actions within the EU Action Plan on firearms trafficking, which correspond with the goals of the Regional Roadmap to better control SALW in Western Balkans and progressed well on activities to improving firearms detection capacities and destruction of firearms. More efforts should be done to investigate firearm-related crimes, in particular establishing the firearms focal point, which is still at an impasse.

#### Implementation and enforcement capacity

In 2022, there were 39 investigations into **organised crime** with 336 suspects, 14 indictments with 58 accused, 20 convictions with 92 convicted, 38 with a conditional sentence, and 16 acquittals. This represents a drop compared with 2021 (735 suspects, 28, indictments with 190 accused and 22 sentences with 134 convicted). In 16 cases, plea bargain agreements were concluded with 58 individuals (90 in 2021). There were 138 orders to conduct investigations against 166 individuals for cybercrime including for online child sexual abuse in 2022, (181 investigations against 198 individuals in 2021), with 54 indictments against 65 individuals (45 and 41 in 2021). The number of convictions in 2022 is still very low, with 48 convictions for 58 individuals (43 and 51 in 2021) of which 27 convictions for 35 individuals resulted in suspended sentences (50%). In 2022 extended confiscation was proposed in five cases (seven in 2021) and three first-instance decisions and no second-instance decisions were delivered by courts. Confiscation of property from third parties was proposed in six cases (10 in 2021), and one first-instance court decision and no second-instance court decision were delivered.

The capacity to effectively dismantle criminal organisations is seriously hampered by the lack of harmonised criminal legislation, which is exacerbated by the systemic lack of capacity and institutional coordination. While there is some progress in carrying out joint operations tackling serious crimes, there is still limited exchange of intelligence. Some progress was made in the cooperation and exchange of criminal data between law enforcement agencies in Bosnia and Herzegovina and counterparts in the region. The absence of a register of beneficial owners, which competent authorities may access without restriction, contributes to these shortcomings. The country should also step up the fight against transnational organised crime networks.

There is no overall policy for carrying out timely and systematic **financial investigations** In 2022, the State Investigation and Protection Agency (SIPA) carried out financial investigations in four cases and submitted six reports to the Prosecutor's Office of Bosnia and Herzegovina. While there is no information on the follow-up by the prosecution, the number of financial investigations remains very low. The High Judicial and Prosecutorial Council issued guidelines for chief prosecutors on the mandatory launch of financial investigations in corruption, organised crime and money laundering cases. These need to be followed up and implemented effectively. In 2022, there were 89 investigations into money laundering (61 in 2021) involving 145 individuals, 48 confirmed indictments against 66 suspects (respectively 49 and 66 in 2021), and 39 convictions against 51 defendants (respectively 55 and 70 in 2021). In 50 cases, a criminal report was filed by police authorities. For money laundering as a stand-alone crime, in 2022 there were 49 investigations against 71 individuals (33 and 36 respectively in 2021), 34 confirmed indictments against 47 individuals, 54 convictions against 72 individuals (41 and 42 respectively in 2021), out of which only six individuals were sentenced to prison; additionally, there were 24 fines against 30 individuals.

The Financial Investigation Unit within the SIPA needs to fulfil its responsibilities more efficiently. In 2022, SIPA submitted 28 reports against 59 individuals (12 and 25 respectively in 2021) and nine legal entities to the prosecutors' offices on suspicion of financial crimes, including money laundering, in the amount of EUR 18 million (5.5 in 2021). For money laundering as a stand-alone crime, in 2022 there were 49 investigations against 71 individuals (33 and 36 respectively in 2021), 34 confirmed indictments against 47 individuals, and 54 convictions against 72 individuals (41 and 42 respectively in 2021), out of which only six individuals were sentenced to prison.

The tools for **freezing, managing and confiscating criminal assets** are not effective enough. Confiscation of criminal assets needs to be stepped up in the fight against organised crime, terrorism and high-level corruption. Criminal assets need to be systematically frozen and their management need to be improved. Law enforcement authorities need to collect and analyse data on asset seizure and confiscation as a tool to improve the effectiveness of these sanctions. The value of asset confiscations pursuant to first-instance and final court verdicts in 2022 amounted to over EUR 9 million compared with EUR 4 million in 2021 and over EUR 11.5 million in 2020.

Proactive investigations that start with **intelligence-led policing** remain rare. The insufficient systematic cooperation between law enforcement agencies continues to seriously affect the quality of investigations despite some successful operations carried out in 2022 and 2023. Criminal justice needs standardised systems and processes to respond swiftly to serious and organised crime, corruption and new security threats. Operational cooperation with Europol is growing, with some room for improvement. Cooperation with Interpol needs to improve.

The tools for enhanced and practical **cooperation between prosecutors' offices and the police** are in place, but require structural improvements to guarantee more effective judicial follow-up, prevent procedural delays, and introduce good practices. Ineffective cooperation between police and prosecutors continues to hinder trials. The quality of reports, the collection, analysis and sharing of data, and the capacity of specialised joint investigation teams should be further improved. Continuous efforts should be undertaken on communication, coordination and sharing of information to further strengthen the operational and strategic effectiveness of police bodies.

The electronic data exchange system from the records of police authorities and prosecution offices needs to be fully functional and ready for use by all signatories of the 2009 agreement. Forensic capacity remains fragmented. There is no operational countrywide DNA database, and DNA-profiling capacity is limited. There is no swift exchange of forensic data with other countries. The creation of a new automated fingerprint information system (AFIS) is long overdue. Although required by law, there is no effective, coordinated and consistent countrywide approach to using undercover investigators. The use of special investigative measures needs to improve. Suitable equipment and sufficient staff are also needed.

There has finally been progress in implementing the 2017 agreement on operational and strategic cooperation with **Europol**. In June 2023, the contact point was put into operation and a liaison officer was deployed in July 2023 by Bosnia and Herzegovina to Europol in the Hague. This is an important step. Until then, exchange of information with Europol continued to take place through a unit in the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, whose mandate had expired, and with which the *Republika Srpska* entity had suspended operational cooperation. Making the Europol contact point fully operational enabled the resumption of direct cooperation between Europol and all police bodies in Bosnia and Herzegovina, allowing the latter to make use of Europol's services and operational tools.

Messages were exchanged through the Secure Information Exchange Network Application (SIENA) system. The roll-out of SIENA across the country should continue. In 2022, the number of new cases opened based on cooperation with Europol was 1 165 (1 022 cases in 2021). Messages exchanged through the Europol channel in 2022 amounted to 8 573 (4 721 received and 3 852 sent). Bosnia and Herzegovina's use of Europol products and services has been very limited during the reporting period, but is expected to grow with the start of operation of the Europol contact point.

Bosnia and Herzegovina participates in the European Multidisciplinary Platform against Criminal Threats (EMPACT). In 2023, the country committed to participating in 12 operational actions (eight in 2022). Bosnia and Herzegovina also appointed the Europol contact point coordinator as national EMPACT coordinator. Bosnia and Herzegovina continued to participate in EMPACT joint action days.

Bosnia and Herzegovina has not yet signed the agreement between the parties to the Police Cooperation Convention for Southeast Europe on the automated exchange of DNA, dactyloscopic and vehicle registration data, nor its implementing agreement.

Legislation on **trafficking in human beings** needs to be further aligned with EU *acquis*. The prosecutors and the police lack sufficient and trained staff to efficiently address trafficking. The establishment of a specialised department in the Prosecutor's Office of Bosnia and Herzegovina dedicated to trafficking has further improved the referral mechanism and quality of evidentiary and court processes. In 2022, 38 potential victims of trafficking in human beings (56 in 2021) were detected (29 children and nine adults, compared with 49 and seven in 2021). Nine perpetrators were convicted in 2022 (26 in 2021), following eight investigations involving 11 suspects (50 and 60 respectively in 2021).

Bosnia and Herzegovina still has no fully functional referral mechanism for trafficking victims. The task force against trafficking, established by the Council of Ministers, continued to ensure coordination, including with the regional monitoring teams at entity and cantonal level. The authorities should better detect and identify victims and perpetrators by standardising and improving evidentiary proceedings and further training practitioners in the judiciary and police. Despite efforts on increased property and damage compensations, Bosnia and Herzegovina still needs to introduce an appropriate compensation scheme for victims of crime, in particular of trafficking. The authorities should more systematically order financial investigations in connection with cases of trafficking in human beings and further improve international cooperation, notably through more intensive information exchange, participation in joint investigation teams and enhanced cooperation with EU task forces and agencies, including Europol.

**Witness protection** continued to improve, notably out-of-process protection. Specialised and regular training in EU and international practice and standards remains essential.

The authorities' capacity to effectively tackle **cybercrime**, including online child sexual abuse, and respond to cybersecurity threats should be enhanced. Law enforcement authorities make efforts to strengthen cooperation in the fight against sexual abuse of children through participation in the EMPACT activity on cybercrime child sexual abuse and exploitation, focused on the Western Balkans .

On **arms control**, a total of 1 234 weapons, 49 889 pieces of ammunition, 31 pieces of other mine-explosive devices and 10.8 kg of explosives were seized in 2022 (against 1 396, 14 009 and one in 2021). 2 609 pieces of weapons and weapons parts were destroyed (compared to 1 792 in 2021, 1 864 in 2020 and 3 479 in 2019). In 2022, there were 236 orders to

investigate firearms related criminal offences – illegal production, possession, and trafficking - (317 in 2021) involving 273 suspects (340 in 2021). 208 indictments were filed in 2022 against 233 accused (respectively 276 and 298 in 2021), leading to 217 convictions (223 in 2021), 35 prison sentences (23 in 2021), 22 fines (32 in 2021) and 160 suspended sentences (168 in 2021) with 235 convicted (239 in 2021). Bosnia and Herzegovina still needs to establish a focal point for firearms. The criminal codes are not yet aligned with the UN Firearms Protocol. Bosnia and Herzegovina stands out with the relatively high number of voluntarily surrendered firearms. The SEESAC<sup>12</sup> armed violence reporting platform recorded 506 incidents (567 in 2021) related to firearms in 2022.

Since 2021, Bosnia and Herzegovina needs to revise the working arrangement for cooperation with the EU Agency for Law Enforcement Training (CEPOL). The contact point was replaced in October 2022, but not much interaction has taken place ever since. Bosnia and Herzegovina has full access to the CEPOL exchange programme as well as to the free-of-charge electronic learning system of CEPOL. CEPOL has recommended designing, preparing and organising targeted training to address firearms trafficking and environmental crime as priority topics.

## **Cooperation in the field of drugs**

### Institutional set-up and legal alignment

Bosnia and Herzegovina has a 2018-2023 strategy on supervision of narcotic drugs, prevention and suppression of the abuse of narcotic drugs, but there is no action plan to implement it. The strategy needs to be implemented and its implementation be evaluated. An action plan for 2023 and beyond, in line with EU standards, should be adopted. The *Republika Srpska* entity has its own strategy and action plan on drugs that is outdated. The entities need to adopt action plans aligned with the state-level strategy. The Commission for the suppression of the abuse of narcotic drugs was completely ineffective: it was inaugurated in July 2022 and its mandate expired in October 2022.

The legal framework is only partly in line with the EU *acquis*, notably on minimum rules on drug-related criminal offences and sanctions. The legislation provides for the entire quantity of drugs seized to be preserved as material evidence for court proceedings, rather than just a sample, which creates risks.

Bosnia and Herzegovina cooperates with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and should designate by law a correspondent for cooperation. It should establish a national drug observatory to provide factual, objective, reliable and comparable information on drugs, drug addiction and their consequences. It should improve coordination among the competent agencies and align data reporting on epidemiological trends with the EMCDDA treatment indicators. Bosnia and Herzegovina should also adopt legislation on new psychoactive substances, establish a focal point for drug issues for the entire country and introduce an early warning system.

There is no early warning system on new psychoactive substances (NPS). The Ministry of Security facilitates the exchange of information on NPS; entity coordinators should be appointed.

### Implementation and enforcement capacity

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<sup>12</sup> South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons.

Track record of enforcement continued to be built in 2022. In 2022, there were a total of 3 166 (2 451 in 2021) reported crimes related to drug abuse and 2 033 (2 171 in 2021) orders issued to conduct an investigation. There were 1 337 indictments filed (1 409 in 2021), 1 804 confirmed (2 023 in 2021), 468 indictments with a criminal warrant (587 in 2021) and 7 indictments with plea agreement (6 in 2021). There were 32 acquittals (33 in 2021), 5 judgments rejecting charges (6 in 2021) and 1 678 convictions (1 967 in 2021), of which 1 conviction without a sanction (none in 2021); 86 fines (89 in 2021); 28 court reprimands (24 in 2021); 1 034 suspended sentences (1 304 in 2021); and 517 prison sentences (550 in 2021).

Bosnia and Herzegovina remains a transit country and a final destination for drugs. Bosnia and Herzegovina has not updated the list of criminalised psychoactive substances since 2011, in line with the recommendations of the Commission for the suppression of abuse of narcotic drugs. As a result, several psychoactive substances circulate freely. A more flexible mechanism is needed to regularly update this list. Professional capacity and cooperation with civil society needs to be improved. More funds are needed for harm reduction programmes and the social reintegration of addicted persons. In July 2022 the Council of Ministers extended the mandate of the Commission for the destruction of drugs. No drugs were destroyed in 2022. The lack of secure storage of drugs before destruction is still a concern.

## **Fight against terrorism**

### Institutional set-up and legal alignment

Anti-terrorism legislation is mostly aligned with the EU *acquis* and with international law. Criminal legislation needs to be amended to ensure stricter sanctions for the offence of training and travelling abroad for terrorist purposes as well as for publishing and sharing terrorist content online. A new law on anti-money laundering and terrorism financing in line with the EU *acquis* (fourth and fifth AML/CTF directives) needs to be urgently adopted. Laws on the protection of critical infrastructure (only present so far in the *Republika Srpska* entity) should be developed and adopted at all levels of government.

A new 4-year strategy for countering terrorism and preventing and countering violent extremism was adopted in November 2022 after a 2-year gap. This marks a step forward. Now, the authorities need to implement the strategy, including by addressing all forms of radicalisation and violent extremism (political, ethno-nationalist and religious). A 2021-2026 action plan was adopted in August 2023.

Policy dialogue on counter-terrorism with the EU takes place regularly. In April 2023, the country submitted the 5<sup>th</sup> report on the implementation of the bilateral arrangement in the framework of the Joint Action Plan on Counter Terrorism. Some progress was made, but many objectives still need to be implemented.

### Implementation and enforcement capacity

Shortcomings still exist in implementing counter-terrorism laws, and cooperation between security agencies at all levels of government needs to become more structured and efficient. The high-security state prison is fully functional. Very limited assistance is available, in prison or upon release, for disengaging from violent extremism. Much more work is needed to prepare inmates for release, including former foreign terrorist fighters.

Around 160 citizens of Bosnia and Herzegovina, including women and children, are estimated to remain in Syria and Iraq. In August 2022, Bosnia and Herzegovina adopted a plan for the repatriation, reintegration, rehabilitation and resocialisation of its citizens in Syria and Iraq. In December 2022, the Presidency instructed competent institutions to coordinate

the safe return of citizens of Bosnia and Herzegovina located in the conflict zone of Syria and Iraq. None were repatriated in the reporting period.

In 2022, 10 investigations were initiated for terrorism-related offences; no final conviction was delivered. Authorities should improve preparations for the release of terrorist offenders who have served their sentences, in coordination with local authorities and law enforcement agencies.

The capacity and effectiveness of the counter-terrorism task force and the counter-terrorism section of the state-level Prosecution Office need to be significantly strengthened. Bosnia and Herzegovina's capacity to investigate and prosecute the financing of terrorism and to counter terrorist content online needs to be further developed. An asset recovery office and a beneficial ownership register of legal persons have yet to be established. Coordination, cooperation and intelligence-sharing between security agencies need to be improved, e.g. on identifying a firearms focal point or collaborating with the EU internet referral unit at Europol to deal with terrorist content online. The entry into operation of the Europol contact point should facilitate cooperation and exchange information on terrorism as well.

Civil society and the institutions responsible for labour, social welfare, education, youth and health at various levels of government need to be more effectively included in preventive efforts. Bosnia and Herzegovina is participating in implementing the Western Balkan counter-terrorism initiative as part of integrative internal security governance.

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

The legislative framework for mutual legal assistance in civil and criminal matters is in place but is not always applied effectively. The number of requests for judicial cooperation in criminal matters increased, while the number of requests for judicial cooperation in civil matters dropped. In 2022, the Ministry of Justice recorded a total of 2 891 requests for judicial cooperation in civil matters, 70% of them from EU Member States (primarily Austria, Croatia, Germany and Slovenia). In 2022 there were 3 920 requests for judicial cooperation in criminal matters, 70% from EU Member States (primarily Austria, Croatia, Germany and Slovenia). The statistics on enforcement of foreign judgments in criminal matters (transferring convicted persons and taking over enforcement of criminal sentences) have remained stable. There were 71 requests in 2022 (71 in 2021), of which seven were granted and four rejected. 70% of these requests originated from EU Member States. Completion averaged between 3 months and 1 year.

Bosnia and Herzegovina needs to undertake concrete action to accede to certain instruments developed under the Hague conference on private international law, including the 1996 Hague convention on child abduction and the 2007 Hague maintenance protocol.

Bosnia and Herzegovina has decided to open negotiations with the Commission for an international agreement on judicial cooperation in criminal matters with Eurojust. The draft agreement has been sent and the first round of negotiations is scheduled for October 2023. An accelerated approach to finalising a cooperation agreement is to be encouraged. As a prerequisite for the agreement to enter into force, Bosnia and Herzegovina needs to adopt a new Law on personal data protection in line with the EU *acquis* and ensure the full operational capacity of the Personal Data Protection Agency. Bosnia and Herzegovina has three contact points for relations with Eurojust and Eurojust-led projects. In 2022, it was involved in 11 cases supported by Eurojust.

In June 2023, the Presidency endorsed opening negotiations with the European Commission for an international agreement on cooperation with Eurojust and gave its consent to the

Prosecutor's Office of Bosnia and Herzegovina to sign a working arrangement with the European Public Prosecutor's Office (EPPO). The country was involved in two EPPO cases in 2022.

## **Legal and irregular migration**

### Institutional set-up and legal alignment

Some positive steps have been taken in this area. The legal framework on migration, including the Law on foreigners, is broadly aligned with the EU *acquis*. In August 2023, the Parliament adopted a new Law on foreigners. The principle of *non-refoulement* is ensured in the new law. Human rights safeguards should be sufficiently defined and guaranteed, including for minors and unaccompanied minors. The Council of Ministers adopted the new 2021-2025 strategy on migration and asylum in December 2022, and the related action plan in March 2023.

Bosnia and Herzegovina has concluded **readmission agreements** with the EU and with Schengen associated countries, as well as implementation protocols to the EU Readmission Agreement with 16 EU Member States. Their implementation is satisfactory overall. Accelerated readmission procedures with neighbouring countries are still to be fully and effectively implemented. Bosnia and Herzegovina has also concluded readmission agreements with all the Western Balkan partners, Türkiye, Russia, Moldova and Pakistan, as well as implementation protocols with 16 EU Member States. Their implementation is satisfactory overall<sup>13</sup>. The readmission agreement with Pakistan has been in force since July 2021.

Bosnia and Herzegovina participates in the regional Anti-Smuggling Operational Partnership with the Western Balkans launched in November 2022 to support law enforcement and judicial cooperation against criminal smuggling networks and to increase border management capacities.

### Implementation and enforcement capacity

In 2022, the numbers of persons irregularly entering Bosnia and Herzegovina considerably increased compared with the previous year. In 2022, the authorities detected 27 429 arrivals (15 740 in 2021). 25 709 persons expressed their intention to seek asylum (14 688 in 2021). The top three declared countries of origin were Afghanistan, Burundi and Bangladesh. In 2022, a total of 48 051 migrants were registered staying in the five EU-funded **temporary reception centres** in the Una-Sana and Sarajevo cantons, and none estimated as staying outside the centres. In 2022, Bosnia and Herzegovina had capacity to host over 4 500 persons at any time, which is sufficient for the needs. The number of migrants accommodated in reception centres was the highest in October 2022 (3 300) and the lowest in February 2023 (below 700). The average stay of migrants in Bosnia and Herzegovina has dropped considerably to 7 days in May 2023, compared with 58 days in May 2022 and 103 in May 2021.

The Ministry of Security has continued to step up efforts to improve migration management and coordination between the State and local authorities. Despite constant EU advocacy and support, responsibility for hosting asylum seekers and migrants across the entire country is

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<sup>13</sup> To note that the Commission recommended Bosnia and Herzegovina in its sixth report under the Visa Suspension Mechanism to resolve in particular issues in readmission cooperation reported by 2 Member States.

not fairly shared. Most of the responsibilities continue to fall upon the Una-Sana and Sarajevo cantons. The Ministry of Security has continued efforts to take over responsibility for managing migration, which should be supported by all levels of government. The lack of political responsibility make it difficult for the authorities to provide the necessary assistance. The plan to progressively transfer management of reception centres to the authorities started in November 2021 with the direct management of the multi-purpose reception and identification centre in Lipa. The drawing up of a detailed transition plan on the transfer of responsibilities from international partners to the state has been delayed. The Ministry of Security continues efforts to boost regional and international cooperation on migration, hosting conferences for this purpose in September 2022 and June 2023.

The Sector for Immigration, the service for Foreigners' Affairs and the Border Police remain significantly understaffed and partly underequipped, which hampers their efficiency. Bosnia and Herzegovina needs to adopt or assign a budget for migration management. Only limited public funding is available to manage migration; this also impacts the state's effectiveness in developing a policy. More efficient information exchange is needed, including biometric data exchange between relevant stakeholders in migration management policy.

Bosnia and Herzegovina demonstrated a limited level of organisation and coordination in managing the influx of **Ukrainian refugees**, present in low fluctuating numbers. The country determined their legal status and the rights they would enjoy when entering the country. In 2022, 49 974 Ukrainian nationals entered and 48 051 exited Bosnia and Herzegovina. Very few stayed until the end of 2022.

The multi-purpose **reception and identification centre in Lipa**, near Bihać, established with EU support in 2021, is operational. Bosnia and Herzegovina needs to strengthen capacity and to manage the centre effectively, fully respecting fundamental rights, domestic legislation and international standards, including for screening and registration, the protection of vulnerable persons and detention.

Despite shortage of staff, the Service for Foreigners' Affairs demonstrated satisfactory management and coordination capacity. As additional reception places became available, the authorities intensified efforts to relocate migrants from informal settlements to these reception centres, with good coordination between the Service for Foreigners' Affairs, local police and other partners. The Una-Sana Canton maintains in place discriminatory and disproportionate restrictions of movement, including for migrants to use public transports as well as a restriction on the maximum number of migrants in the canton. Humanitarian partners continued to provide key assistance and to ensure respect for international standards. There has been some progress in providing essential services to refugees and migrants in cooperation with humanitarian partners. The authorities should step up efforts to protect the human rights of vulnerable persons, especially minors. The most vulnerable persons need to be identified and referred to adequate assistance in line with international standards. Only the Una-Sana and Sarajevo cantonal authorities provide access to legal guardianship and facilitate access to education for unaccompanied children. However, there are no accommodation facilities available to minors outside of the cities where reception centres are located. Assigning legal guardianship and access to education for all unaccompanied minors in Bosnia and Herzegovina remains a challenge. In 2022 the authorities registered 2 443 unaccompanied minors in the country (109 in 2021 and 351 in 2020; the increase is due to the upgrading of the Information System for Migration which previously only gave data for unaccompanied minors registered in government-run centres).

On **voluntary and forced return**, the return of persons not in need of international

protection needs to be improved in terms of both legal framework and implementation procedures, also as it is mostly based on donors' assistance. There was an improvement in the mechanisms for collecting, sharing and analysing **statistics** on migration in the information system for migration. However, biometric data collection requires further improvements. Cooperation with neighbouring countries is necessary to ensure the efficient management of the external borders, respecting fundamental rights and international obligations.

Cooperation on identification and return procedures needs to improve. Bosnia and Herzegovina should increase efforts to establish readmission agreements with countries of origin and further improve the mechanisms for assisted voluntary return and reintegration. Ensuring return and readmission remains challenging. In 2022, 103 foreigners were returned to neighbouring countries following readmission agreements (77 to Serbia, 26 to Montenegro and none to Croatia), compared with 89 in 2021. The number of third-country nationals returned to Bosnia and Herzegovina in 2022 under various readmission agreements amounted to 838, compared with 570 in 2021 and 686 in 2020. In 2022, 128 foreigners returned to their countries of origin via assisted voluntary return with support from the EU and the International Organisation for Migration (IOM), compared with 206 in 2021 and 232 in 2020. In 2022, seven minors, potential victims of trafficking of human beings, were repatriated from Bosnia and Herzegovina in line with their expressed wish and following the required security and humanitarian risk assessment. In 2022, Bosnia and Herzegovina carried out seven forced returns. Carrying out non-voluntary returns remains a challenge due to the absence of cooperation frameworks with countries of origin, the lack of documentation to establish the identity of migrants and the lack of diplomatic representation of various countries of origin in Bosnia and Herzegovina. A number of positive steps have been taken in this regard, including the operationalisation of the readmission agreement with Pakistan leading to the first returns under this agreement, identification missions from Bangladesh resulting in the issuance of travel documents, and planned returns and enhanced dialogue with the Moroccan authorities.

Bosnia and Herzegovina has one **immigration detention centre** in East Sarajevo (Lukavica) for those awaiting expulsion from the country, with a maximum capacity for 120 persons. In 2022, the immigration centre held a total of 714 persons, including 16 children. Representatives of the UNHCR and non-governmental organisations are granted access to the detainees on a regular basis to ensure that their rights are respected. A detention facility was also built adjacent to the Lipa centre, in line with domestic legislation and international standards.

## **Asylum**

### Institutional set-up and legal alignment

The institutional framework and legislation on asylum are broadly in line with the EU *acquis* and international standards and practices. The Law on asylum adopted in January 2016 should be further aligned with recent EU *acquis*, notably in relation to procedural safeguards to ensure standardised procedures for examining applications for international protection and systematic access to procedural guarantees, as well as on strengthening the asylum and reception systems in line with the Common European Asylum System (CEAS) and EU standards. Cooperation with the EU Agency for Asylum (EUAA) should continue to be further strengthened, including by adopting a 2024-2025 roadmap. Inter-agency cooperation and coordination needs to be further improved, particularly in the exchange of biometric data.

### Implementation and enforcement capacity

The Sector for Asylum of the Ministry of Security has very limited **human resources** and operational capacity, with 75% of its posts filled (21 out of 28) and only five officers registering and assessing asylum claims for the entire country, which is clearly insufficient to ensure access to asylum. The lack of staff significantly hampers access to asylum, primarily registration and identification. There are insufficient interviewers and registration sites. The Sector for Asylum remains dependent on external support, including by the EU, to conduct registrations and examinations. No performance targets have been set for registration and examination officers. More staff, including interpreters and cultural mediators, are needed so as not to only rely on international support. The age assessment procedures for minors require further improvements. The overall capacity of the Sector for Asylum should be further strengthened. Cooperation and sharing of responsibilities in managing asylum with other institutions should improve.

Bosnia and Herzegovina should swiftly adopt the second-generation roadmap for cooperation with EUAA 2023-2025. The previous roadmap 2020-2022 was implemented only to a limited extent. Bosnia and Herzegovina is strongly encouraged to implement the pending recommendations, especially on the information of the country of origin, assessment of evidence and interview techniques for minors. The contact officers handling minors require appropriate trainings and resources, notably supporting guidance and technical solutions for more efficient family tracing processes.

There are still obstacles to ensuring effective access to asylum procedures. Inter-agency cooperation and coordination needs to be ensured. The processing time of asylum requests improved in 2022 with an average time to reach a decision of 247 days during the second semester (350 days during the first semester), reduced to 205 days in the first semester of 2023, according to UNHCR. However, the processing of asylum cases remains too lengthy. The Service for Foreigners' Affairs and the Border Police do not have enough staff or facilities to register asylum claims made upon entry in Bosnia and Herzegovina. This has been an issue since 2018. Access to asylum procedures and mechanisms should be strengthened to ensure faster processing of their claims and to ensure that people in need of international protection receive it.

Asylum seekers are not guaranteed the same rights evenly across the country, as their access to services varies depending on where the reception centres are located. As the authorities have not yet fully taken over legal responsibility for all reception centres in the Una-Sana Canton, these centres are not recognised as valid residential addresses for asylum applications; applicants are thus in a legal limbo, which increases their vulnerability. The system for collecting and storing biometric identifiers requires additional improvements, especially for inter-agency information exchange. Access to information for potential asylum seekers has improved through more intensive facilitation efforts and cooperation with international partners. Authorities are encouraged to improve contingency planning capacity on reception procedures.

In 2022, out of 25 709 persons who expressed their intention to claim asylum in Bosnia and Herzegovina, only 149 applied for international protection. 41 asylum requests were pending from 2022. Of them, none were granted refugee status, 46 persons were granted subsidiary protection, 25 individual applications were rejected on merit, and 22 asylum applications of 27 persons were closed as the applicants left or attempted to leave the country or failed to show up for an interview. In the first six months of 2023, 61 persons filed an asylum application in Bosnia and Herzegovina, with 36 requests completed, compared to 90 and 12 respectively in the same period the previous year.

The **asylum centre** in Delijaš near Sarajevo, which provides decent reception conditions and adequate access to rights, has 154 beds (which can be expanded to 300) but remains underutilised, primarily due to its remote location. As of June 2023, the centre did not host any asylum seekers. Living conditions and the provision of services at the centre have improved, such as possibility for daily educational activities for both adults and minors.

Cooperation with EUAA should continue and intensify.

## **Visa policy**

Bosnia and Herzegovina continues to meet the visa liberalisation criteria and retains a visa-free regime with the EU. The Commission's sixth report under the visa suspension mechanism of October 2023 concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks<sup>14</sup>. To ensure a well-managed migration and security environment, Bosnia and Herzegovina needs to be fully aligned with the EU's visa policy. Bosnia and Herzegovina still has visa-free agreements with the following countries whose citizens require visas for the EU: Azerbaijan, Bahrain, China, Kuwait, Oman, Qatar, Russia, Saudi Arabia and Türkiye. While it introduced a visa-free regime with Saudi Arabia for the summer tourist season 2023, Bosnia and Herzegovina terminated the visa-free arrangement with Bahrain from September 2023. Bosnia and Herzegovina maintains a policy of not issuing visas on the state border; exceptions are few (7 cases in 2021 and 27 in 2022). Bosnia and Herzegovina must improve its technical capacity and infrastructure in its diplomatic offices for the introduction of biometric visas.

**Travel documents policy** still requires additional state control mechanisms related to the procurement and manufacturing of biometric travel documents. Security features, application and issuing processes for travel documents, notably biometric passports, are fully aligned with EU and international standards.

The **visa-free regime** with the EU continued to be smoothly implemented. In 2022, 2 210 applications for international protection were submitted by nationals of Bosnia and Herzegovina in EU Member States, 18% less than in 2021 (2 695). The recognition rate (including humanitarian protection) increased from 5% in 2021 to 8% in 2022.

In 2022, the number of nationals from Bosnia and Herzegovina found to be irregularly staying in EU Member States rose by 19%, with 4 775 irregular stays in 2022 compared with 4 005 in 2021. The number of refusals of entry slightly increased in 2022 (by 5%), from 4 995 cases in 2021 to 5 260 in 2022.

Bosnia and Herzegovina continued good cooperation on readmission of its own and third-country nationals on the basis of the readmission agreement with the EU and implementing protocols, which are implemented in an efficient manner. The number of return decisions issued to nationals of Bosnia and Herzegovina (2 635 in 2022 against 2 785 in 2021) dropped by 5%, while the number of people returned (1 250 in 2022 against 900 in 2021) marked a rise of 40%. The return rate increased from 32% in 2021 to 47% in 2022, and stood at 42% for the first quarter of 2023 (275 out of 650). Attention should continue to be paid to the successful reintegration of returnees.

## **Schengen and external borders**

### Institutional set-up and legal alignment

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<sup>14</sup> COM(2023) 730 final.

The **legal framework** for border control is partly aligned with the EU/Schengen *acquis*. Bosnia and Herzegovina should urgently adopt the new Law on border control aimed at improving the efficiency of integrated border management.

Bosnia and Herzegovina is satisfactorily implementing the **integrated border management (IBM)** strategy for 2019-2023. The draft strategy and action plan for 2024-2029 are broadly aligned with the EU *acquis* and need to be adopted in good time.

Training was improved to align it with the common core curriculum of the European Border and Coast Guard Agency (Frontex). The Border Police, despite its limited resources, showed operational flexibility in border management operations with the support of other law enforcement agencies.

Bosnia and Herzegovina took initial steps to establish the **Advanced Passenger Information/Passenger Name Record (API/PNR)** systems, a necessary condition for the establishment of a future national coordination centre (NCC). The risk analysis process has been further improved.

#### Implementation and enforcement capacity

The state-level **Border Police** has around 25% vacancy rate (562 out of the planned 2 646 staff), mostly police officers for border surveillance operations.

Following the increased influx of refugees and migrants since 2018, the authorities have redeployed available border guards. However, the response remains inadequate. The Border Police remains understaffed. Additional police should be trained.

The implementation of the **integrated border management strategy** for 2019-2023 is satisfactory and the coordination body overseeing implementation of the strategy manages the process in a satisfactory manner. Border infrastructure and technical capacity have improved. Further improvement is needed, in particular in the area of border surveillance, inter-agency cooperation and capacity management.

Further improvements of **infrastructure and equipment** are needed at a large number of border crossing points. Despite the significant quantity of donated equipment, **border surveillance** still needs to improve, to respond to migratory challenges. Border patrol operations have been fully restored but are not sufficient to detect irregular border crossings, in particular on the border with Montenegro.

The Border Police and the Service for Foreigners' Affairs further significantly improved their risk analysis capacity. Frontex-certified trainers have trained 73 members of their staff in line with the most recent Common Integrated Risk Analysis Model (CIRAM) 2.0. Data access and exchange issues remain to be further improved.

**Inter-agency law enforcement cooperation** was satisfactory overall. The Border Police continued to rely on the support of other law enforcement agencies to patrol borders. In 2022, the Border Police handed over 213 criminal cases to other law enforcement agencies for further processing (130 in 2021), significantly improving implementation of this pillar of integrated border management. Cooperation in the fight against smuggling of migrants and trafficking of human beings should improve.

As the leading investigative and coordination component of the Border Police, with executive powers across the country, the central investigation office intensified its activities in the fight against migrant smuggling and trafficking in human beings. There was a higher detection rate, in particular on smuggling (59 compared with 26 in 2021) and forgery of documents

(183 compared with 144 in 2021). **International cooperation** should improve. Bosnia and Herzegovina has a number of agreements with neighbouring countries.

The Border Police cooperates satisfactorily with Frontex and Interpol. Bosnia and Herzegovina participates in the Western Balkan risk analysis network led by Frontex.

Bosnia and Herzegovina still needs to appoint a lead negotiator, negotiate and conclude a Frontex status agreement with the EU. Bosnia and Herzegovina initialled a status agreement in January 2019 which was not signed nor ratified. With the adoption of the new European Border and Coast Guard Regulation (EU) 1896/2019 and model status agreement, a new status agreement may be negotiated on the basis of the new Frontex mandate. This would enable Frontex to deploy its standing corps to both Bosnia and Herzegovina's EU and non-EU borders. Bosnia and Herzegovina has, however, still not responded to the January 2023 invitation by the Commission to initiate negotiations. Bosnia and Herzegovina should sign an upgraded working arrangement with Frontex for operational cooperation and deployment of Frontex personnel without executive powers. Cooperation with the European migrant smuggling centre of Europol has started to improve, with Bosnia and Herzegovina being actively involved in one regional operational task force established together with Slovenia and Croatia targeting the Western Balkan migratory route.

Negotiations on border agreements with Serbia and Croatia are on hold, and an agreement on border demarcation should be reached with Montenegro. The joint police cooperation centre in Trebinje continued to facilitate the exchange of police data with Serbia and Montenegro. Local border traffic agreements and joint patrols with neighbouring countries have been restored and are being satisfactorily implemented.

*All aspects of customs cooperation are covered under Chapter 29 – Customs union.*

## 2.3. ECONOMIC CRITERIA

| <i>Table 6.1:</i>  | 2014-19 | 2020 | 2021 | 2022 |
|--|---------|------|------|------|
| <b>Bosnia and Herzegovina - Key economic figures</b>                   | average |      |      |      |
| <b>GDP per capita</b> (% of EU-27 in PPS) <sup>1)</sup>                | 31      | 33   | 34   | 35   |
| <b>Real GDP growth</b>   | 3.2     | -3.1 | 7.4  | 4.0  |
| <b>Economic activity rate of the population aged 15-64 (%)</b> , total | 54.5    | 58.2 | 59.1 | 59.1 |
| <i>female</i>  | 42.7    | 46.1 | 46.7 | 46.3 |
| <i>male</i>  | 66.2    | 70.4 | 71.4 | 71.8 |
| <b>Unemployment rate of the population aged 15-64 (%)</b> , total      | 23.1    | 16.2 | 17.5 | 15.5 |
| <i>female</i>  | 26.4    | 19.0 | 22.2 | 19.9 |
| <i>male</i>  | 21.0    | 14.4 | 14.5 | 12.7 |
| <b>Employment of total population</b> (annual growth %) <sup>*</sup>   | 3.3     | -1.2 | 0.9  | 2.3  |
| <b>Nominal wages</b> (annual growth %)                                 | 1.6     | 4.0  | 4.4  | 11.7 |
| <b>Consumer price index</b> (annual growth %)                          | 0.0     | -1.1 | 2.0  | 14.0 |
| <b>Exchange rate against EUR</b>                                       | 1.96    | 1.96 | 1.96 | 1.96 |
| <b>Current account balance</b> (% of GDP)                              | -4.6    | -3.2 | -2.4 | -4.5 |
| <b>Net foreign direct investment, FDI</b> (% of GDP)                   | 2.3     | 1.8  | 2.3  | 2.5  |
| <b>General government balance</b> (% of GDP)                           | 1.1     | -5.2 | -0.3 | -0.4 |
| <b>General government debt</b> (% of GDP)                              | 37.4    | 36.1 | 34.0 | 29.3 |

*Notes :*

1) Eurostat

\* There is no comparable time series for the age group 15-64

Source: Eurostat, national sources

*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.*

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

Bosnia and Herzegovina is at an **early stage** of establishing a functioning market economy and there was **no progress** in this area. After a strong rebound in 2021 from the pandemic-induced crisis, economic growth slowed down to about 4.0% in 2022, reflecting a deteriorating international environment and accelerating inflation. The labour market was resilient and unemployment fell, but it nevertheless remained very high, while labour out-migration persisted. Driven by high inflation, budget revenues increased strongly and the public debt ratio fell. However, the quality of public spending remained weak, while the public sector remained inefficient and oversized. The current account deficit increased but its financing was ensured. The financial sector remained stable. The business environment continued to be negatively affected by Bosnia and Herzegovina's fragmented internal market and a large informal economy. The rule of law and the functioning of the internal market deteriorated further, with recent disputes on the validity of constitutional court ruling for the whole country and traffic blockages at inter-entity boundary lines. Political stalemates and lack of cooperation among the various levels of government continued to hinder necessary structural reforms. Russia's war of aggression against Ukraine so far had mainly indirect effects, through higher import prices and uncertainty as well as weaker third-country external demand.

The implementation of last year's recommendations was very limited. The 2022 recommendations remain fully valid.

To improve the functioning of the market economy, Bosnia and Herzegovina should in particular:

- strengthen country-wide regulatory and supervisory institutions, reinforce country-wide analytical and policy-formulation capacity and publish complete and consistent country-wide data in a timely manner, in particular in the area of public finances;
- improve the business environment by simplifying business registration and licencing procedures and by harmonising and mutually recognising licences and certificates between entities;
- increase the transparency and efficiency of the public sector, in particular by establishing an appropriate institutional and regulatory framework for better, de-politicised governance and improving the efficiency and governance of publicly owned enterprises to reduce their burden on government spending; furthermore, improve the efficiency of tax collection by ensuring the effective exchange of taxpayer information between the country's tax authorities, and in particular clarify the constitutional competence for establishing a central (i.e. country-wide) registry of bank accounts of private individuals, in line with the EU acquis.

### Economic governance

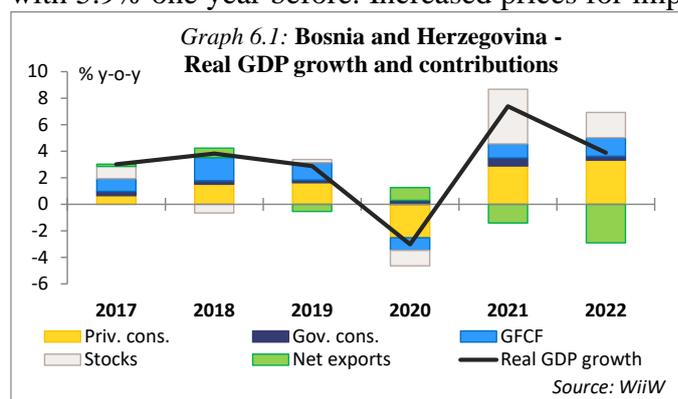
**Economic governance did not make progress during the last year, resulting from a legislative recess in autumn in the run-up to the October 2022 general elections and time needed for the subsequent government formation.** Bosnia and Herzegovina's short and medium-term track record in adopting and implementing overdue structural economic reforms remains very limited, in particular with respect to countrywide measures. The main reasons for this are lack of political commitment and insufficient cooperation among key stakeholders together with highly politicised decision-making processes and institutional fragmentation. The 2023-2025 Economic Reform Programme, an important element for Bosnia and Herzegovina's participation in the economic and financial dialogue with the EU, was again submitted with a significant delay and its quality was once again low, suffering from a lack of internal consistency and insufficient commitment towards country-wide reforms. Furthermore, the country failed to participate sufficiently in other EU meetings which try to prepare candidate countries for their integration into EU procedures. Russia's war of aggression against Ukraine affected Bosnia and Herzegovina mainly through indirect channels, leading to higher import prices and a slowdown in import demand from trading partners. In response to the higher cost of living the authorities increased public sector wages and pensions and raised social transfers.

**Implementation of the policy guidance jointly adopted at the economic and financial dialogue with the EU in May 2022 was limited.** The authorities took steps to cushion the effects of external shocks and to improve the countrywide public finance management system. However, in most other areas, in particular in improving the functioning of country-wide institutions, no progress was achieved.

### Macroeconomic stability

**Economic activity slowed down in 2022, reflecting a deteriorating international environment and accelerating inflation.** Annual output growth slowed from 7.2% in 2021 to 4% in 2022. To some extent this slowdown reflects a base-year effect after the strong rebound in 2021 and early 2022, which however also led to increasing price pressures. The main drivers of growth in 2022 were exports, gross investment (in particular inventories) and private consumption. In 2023-Q1 economic activity slowed down further, with weaker

private consumption and investment bringing year-on-year output growth to 1% compared with 5.9% one year before. Increased prices for imported energy and primary commodities as

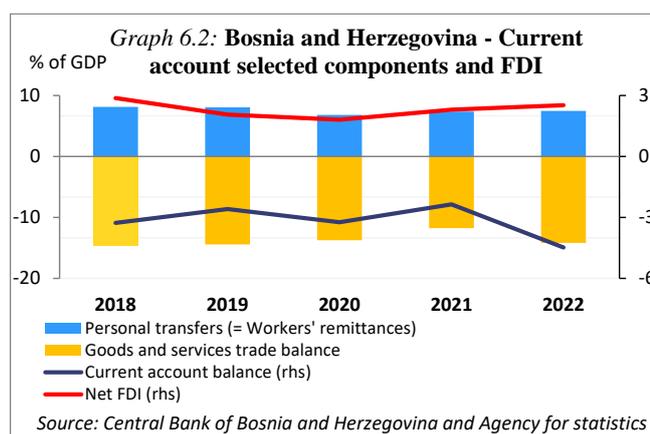


a result of Russia's war of aggression against Ukraine further contributed to inflationary pressures. At the same time, external demand decelerated, although from a high level. During 2018-2022, average growth was around 3%, with exports and private consumption as the main drivers of growth. Real GDP per capita in purchasing power standards was 35% of the EU average in 2022, compared

with 31% some 5 years earlier. The main impediments to faster income convergence with the EU are low investment, a poor business environment and lack of reforms resulting from persistent political tensions, cumbersome licencing procedures and economic and institutional fragmentation.

**The current account deficit widened in 2022.** The current account deficit increased to 4.5%

of GDP in 2022, compared with 2.4% in 2021, largely reflecting decelerating export revenues and higher spending on imports driven by increased commodity prices. In the first quarter of 2023 the deficit dropped to 3.6% of GDP, largely due to lower spending on imports. The deficit in the balance of goods and services has been largely financed by current transfers, primarily consisting of workers' remittances, accounting for more than 10% of GDP. Net FDI inflows rose to 2.5% in 2022 and to 3.6% of GDP in 2023-Q1. A large part of these FDI inflows was reinvested earnings, while foreign greenfield investment remained. Official foreign exchange reserves, which benefited from pandemic-related financial assistance including special drawing right (SDR) allocations by the IMF, dropped at the end of 2022 to a still-solid level equivalent to about 7 months of imports, largely due to higher spending on imports. Bosnia and Herzegovina relies strongly on longer-term financing at favourable rates by international financial institutions, such as the IMF, the EIB and the World Bank. The gross external debt ratio remained moderate, at some 58% of GDP at the end of 2022. Overall, the financing of Bosnia and Herzegovina's current account appears feasible, while external vulnerabilities are moderate.

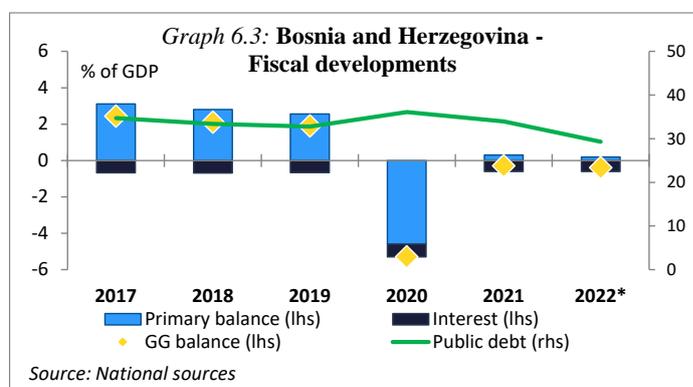


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**Inflation surged in 2022 but moderated somewhat after the autumn.** Headline inflation accelerated during 2022, especially after Russia's war of aggression against Ukraine which resulted in surging energy and food prices. Annual consumer price inflation reached a peak of 17.4% in October 2022, but moderated to 4.0% in July 2023. On average, inflation was 14% in 2022 and 8.5% in the first 7 months of 2023. Headline inflation was especially driven by increases in food prices which account for about one third of the consumption basket.

**Monetary policy continued to be anchored by the currency board arrangement.** This monetary regime has served the economy well so far as an important pillar of macroeconomic

stability. However, it also implies that the burden of adjustment to external shocks must be accommodated by other policy areas, in particular fiscal policy to manage demand, and structural reforms to improve the functioning of markets. Domestic political tensions have continued to prevent the appointment of a new board of the Central Bank, including the governor, whose mandate expired in August 2021 and which continued to operate only on a technical mandate.



**Public finances continued to benefit from strong, primarily inflation-driven revenue growth, but weak fiscal governance continued to pose challenges.**

General government revenues rose by 13.4% in 2022, in line with headline inflation. Tax revenues increased by 16.7%. In parallel, government spending was revised upward, rising by 13.6% for the

whole year. This additional revenue was used for increasing social benefits, such as pensions, extraordinary payments to vulnerable groups and an increase in public wages. In contrast to the focus on current spending, already approved funds for infrastructure investment, such as related to the energy sector, were suspended. According to preliminary data from the Central Bank, this resulted in a nominal drop of central governments' public investment by some 8% in the first three quarters of 2022. According to first estimates, the general government registered a deficit surplus of 0.14% of GDP in 2022, compared with a surplus deficit of 0.34% of GDP in 2021. Budget plans for 2023 are characterised by significantly higher spending targets for current expenditure, partly to compensate public employees and pensioners for the rapid increase in inflation, while capital spending is planned to remain subdued. The public debt ratio dropped to 29% of GDP in 2022 from 34% in 2021, driven by high nominal GDP growth. Overall, cooperation and information exchange among the various fiscal authorities has remained very limited, which facilitates tax avoidance. Bosnia and Herzegovina's tax revenues rely strongly on a single source, namely indirect taxes. Continued calls by the *Republika Srpska* entity to dismantle the state-level Indirect Taxation Authority thus pose a threat to the revenue collection system and the country's fiscal stability. Contingent liabilities pose a significant risk, in particular in the area of public enterprises. There is a high degree of non-alignment with EU public sector accounting standards, which strongly impedes the assessment of Bosnia and Herzegovina's actual fiscal position. As a result, both the deficit and debt ratio could be significantly higher than reported. Fiscal rules have been adopted in one entity only, and there is no independent fiscal institution to monitor and enforce compliance with fiscal discipline.

**Overall, Bosnia and Herzegovina's macroeconomic policy mix does not adequately address the country's main challenges.** Political disputes delay necessary reforms to improve its growth potential and fiscal policy focuses on short-term objectives, neglecting longer-term challenges. As Bosnia and Herzegovina's currency board regime limits the room for monetary policy, fiscal policy is one of the country's key macroeconomic policy tools. However, this policy tool is not used sufficiently to steer the country towards stronger growth and faster convergence with EU income levels. The effectiveness of fiscal policy for enhancing Bosnia and Herzegovina's growth potential is further severely limited by the insufficient degree of cooperation among the various fiscal policy stakeholders and the absence of an independent and competent fiscal council.

## Functioning of product markets

### *Business environment*

**The business environment suffers from Bosnia and Herzegovina's fragmentation and political uncertainty.** According to recent OECD surveys, over half of businesses in Bosnia and Herzegovina identify burdensome procedures, paperwork and cost as a major obstacle to obtaining licenses, a higher proportion than in any other country in the region and well above the regional average of 35%. Businesses that wish to operate across the entire economy still face technical and administrative obstacles, must frequently obtain the same licenses or permits in each entity or local government area and pay a range of different taxes and fees. This increases the costs of establishing a company, protects incumbent companies from competition and deters investors, hindering the functioning of an effective single economic space. Contract enforcement, in particular settling commercial disputes, remains difficult and there is a substantial backlog in court cases. Establishing and implementing property rights remains difficult in some areas, such as real estate registration. Lack of cooperation and coordination among the various stakeholders is another major impediment to establishing a countrywide level playing field, with wide-ranging negative effects on the business environment. Recently, the *Republika Srpska* entity adopted legislation contesting the application of Bosnia and Herzegovina's constitutional court rulings on the entity's territory. This ongoing dispute increases legal uncertainty and undermines the integrity of the country's single economic space. Furthermore, due to a different speed at entity level of aligning with the EU *acquis*, Bosnia and Herzegovina's economic and legal fragmentation has further deteriorated.

**The informal economy remained significant.** Despite some progress in boosting formal employment by increasing labour market controls, the informal sector is estimated to still account for up to one third of GDP. The pandemic might have increased the importance of the informal economy for livelihoods, compensating for job losses in the formal economy. Thus, informality still provides substantial (unregistered) employment and income but also distorts competition and erodes the tax base. This requires rates for taxes and social security contributions to be higher than would otherwise be necessary. It also results in lower pension benefits, increasing the poverty risk for the elderly and adds to a significant fiscal burden on labour, which in turn impedes formal employment and negatively affects Bosnia and Herzegovina's international competitiveness.

**Political leaders and judicial institutions failed to tackle widespread corruption.** Transparency International again ranks Bosnia and Herzegovina 110th out of 180 countries in its 2022 annual Corruption Perception Index, making it the worst performer in the Western Balkans after 6 years of declining performance. Just 14% of businesses surveyed in Bosnia and Herzegovina say that the fight against corruption there is effective, a lower proportion than any other country in the region, and a higher proportion of businesses than in any other Western Balkans country said that they had to make irregular payments. There was no progress on necessary reforms to strengthen legislation on anti-money laundering and countering the financing of terrorism, and Bosnia and Herzegovina risks being listed as a jurisdiction under increased monitoring by the international standard-setting body in this area, the Financial Action Task Force.

### *State influence on product markets*

**There was limited progress in reducing the still-strong footprint of the state in the economy.** During 2022, some temporary measures related to COVID-19 were discontinued. However, the impact of the public sector on the factor allocation remained high, in particular

in the labour market, for example by continuing to support the oversized public administration and poorly performing state-owned enterprises (SOEs). Ineffective service delivery and poor human resource management and accountability have major implications for efficiency, quality and access to public services. Many public companies continue to rely on state support or accumulate payment arrears to the social security systems or to private suppliers (4% of GDP according to the IMF). Public procurement represents a significant share of public spending and thus plays an important role for the private sector, but procedures are complex and administrative capacity and competition remain low. This facilitates corruption and leads to a preference for domestic suppliers which is incompatible with the EU *acquis* (see also Chapter 5 – public procurement). There is still a wide range of regulated prices.

**While recorded state aid is relatively low, significant indirect state support continues to undermine the level playing field.** Available data on official state aid points to a rather low level (1.2% of GDP in 2021, according to the latest available report). However, this dataset appears to be rather incomplete. State aid control is still hindered by only partial legal alignment with European standards and the lack of consistent enforcement of state aid rules throughout the country. The competences of the State Aid Council continue to be limited. This leaves room for unfair distortions of competition. Many of Bosnia and Herzegovina's SOEs are in poor financial shape; close to half of them experience shortfalls in liquidity and require both explicit and implicit budgetary support. Monitoring and managing fiscal risks in ministries of finance is not sufficient. The cost of supporting public companies and guarantees, which often translate into substantial contingent liabilities, is a heavy burden on public finances and thus on taxpayers. SOEs' total debts are around 26% of GDP (IMF, 2019).

#### *Privatisation and restructuring*

**No progress was achieved on privatisation and restructuring of publicly owned companies.** According to IMF estimates, there are over 550 SOEs at entity and municipal level employing around 80 000 people, accounting for around 11% of total employment (about a quarter of public sector employment). They control assets worth an equivalent of 100% of GDP. Whereas legislation partially provides for open and transparent selection procedures, appointments to SOE boards are highly politicised in practice. Ownership responsibilities are usually exercised in a decentralised manner by various line ministries, subject to no central coordination. The rationale for public ownership is not based on clearly defined policy objectives. Actual steps to restructure or dissolve public enterprises remained very limited. Vested interests are largely responsible for the slow privatisation process and attempts to sell shares in public companies were largely unsuccessful. However, there have been some initial steps towards strengthen the SOE oversight at entity level.

#### Functioning of the financial market

##### *Financial stability*

**The banking sector remained stable but the financial sector's supervisory and regulatory framework continues to be fragmented.** Key elements of banking supervision and regulation are decentralised, while the central bank's role remained limited to coordinating the local regulatory and supervisory agencies, which might be challenging for financial stability. Despite some international financial sector turbulence, the stability of Bosnia and Herzegovina's financial sector was maintained. A few days after Russia's war of aggression against Ukraine, the two entity-level banking agencies had to take over the subsidiaries of Russian-owned but EU-based Sberbank when their liquidity deteriorated

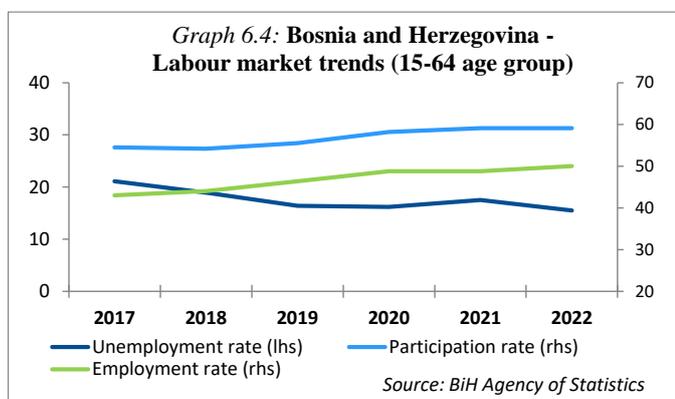
rapidly due to quickly accelerating deposit withdrawals. Banking sector profitability improved during the last year, for example with the return-on-equity (ROE) ratio reaching 15.9% in 2023-Q2. The banking system's overall capital-adequacy ratio stood at 19.5% in 2023-Q2, well above the regulatory minimum of 12%. The non-performing loans ratio decreased to 4.1% at the end of 2023-Q2, and the ratio of foreign-denominated loans to total loans also continued to decline. However, there are sizeable differences among Bosnia and Herzegovina's 21 banks, with pockets of vulnerability remaining, especially among smaller, domestically owned banks.

### *Access to finance*

**Banking intermediation was adversely affected by high inflation and increasing international interest rates.** Nominal bank loans rose by 4.2% and 4.4% on average in 2022 and the first half of 2023, which is rather low given the underlying double-digit inflation rates. Credit demand was negatively affected by declining real disposable income, the highly uncertain outlook on inflation and interest rate dynamics and rapidly increasing real estate prices. Nominal deposit growth slowed to 5.9% in 2022, but accelerated again to 7.4% in the first half of 2023. The five largest banks accounted for about 80% of the sector's assets. Private-sector debt declined to 56.5% of total debt at the end of 2022, which is markedly above Bosnia and Herzegovina's 5-year average before the pandemic. Financial literacy is limited in particular among small enterprises. The size of the non-bank alternative financing sector and of the capital markets remained small, with market capitalisation of Bosnia and Herzegovina's stock markets of about 17% of GDP at the end of 2022. The use of venture capital continued to be very limited. For many micro and small companies, gaining access to those guarantees appears to have remained difficult.

### Functioning of the labour market

**Despite a fall in unemployment, the labour market continues to be held back by lack of economic dynamism and structural problems such as skill shortages, a significant brain drain and work disincentives.** Employment growth slowed down in the second half of 2022 and the first half of 2023, to 1.3% year-on-year in both periods, compared to 2% the year before. The number of registered unemployed declined by some 3.6%



(13 000 persons) between June 2022 and June 2023. This brought the administrative unemployment rate to 29.2% in June 2023 compared to 30.0% the year before. The Labour Force Survey (LFS) registered a decline in the LFS unemployment rate from 17.5% in 2021 to 15.5% in 2022. In the first half of 2023, the average LFS unemployment rate continued to decline to 13.4%. The registered labour force continued to decline, by 1.3% in the second half of 2022 and 1.1% in the first half of 2023. Due to the high share of informal employment, in particular in trade and tourism, administrative data provides only a partial picture of Bosnia and Herzegovina's labour market dynamics. Due to methodological changes, the comparability of labour-force survey data over time is limited. Official data registered an increase in labour participation from 2020 onwards, which could potentially be explained by government measures to counter external shocks and better registration of employment. However, this is coupled with a fall in the overall labour force, partly due to

persistent labour out-migration of qualified, but also less qualified workers leaving. This has a negative impact on the country's medium-term growth potential.

Youth unemployment (age group 15-24) returned to pre-COVID-19 levels, dropping to a still high rate of 29.1% in the second quarter of 2023, reflecting structural problems. Long-term unemployment also remained high, with about 75% of the unemployed looking for a job for more than 1 year. High unemployment has persisted for years due to challenges associated with skills mismatches, the insufficient pace of job creation and a high tax wedge, both, impeding job creating, but also reducing the financial attractiveness of wages on the lower end of the scale.. A large proportion (38%) of firms surveyed by the OECD identified applicants' lack of skills as a reason for unfilled vacancies. There is also a significant gender gap, with women's activity and employment rates around 25 pps lower than those for men. Reforms to make the public employment service more client-oriented are ongoing but provided budget and human resources are very limited. The still-substantial discrepancy between unemployment data according to administrative and according to survey-based data points to the need to improve Bosnia and Herzegovina's labour market statistics.

### **2.3.2. The capacity to cope with competitive pressure and market forces within the Union**

Bosnia and Herzegovina has made **limited progress**, and is between an **early stage and some level of preparation** concerning its capacity to cope with competitive pressure and market forces in the EU. The overall quality of education remains inadequate despite relatively sizable spending on the sector. The country continues to lag behind in the energy and digital transition. However, in response to changes in global demand, some structural adjustment took place, with the focus of value-added moving towards services such as trade, IT and tourism. Economic integration with the EU remains high, but overall trade is below potential. The higher uncertainty due to Russia's war of aggression against Ukraine probably had an adverse impact on investment and thus on capital stock modernisation. The implementation of last year's recommendations has remained very limited. The 2022 recommendations remain valid.

To support long-term growth, Bosnia and Herzegovina should in particular:

- improve the quality of education and training, in particular accelerate the modernisation of curricula with a view to better alignment with labour market needs;
- increase the share of government capital spending in GDP, in particular by focusing on transport and energy infrastructure and on improving environmental standards. Improved management of public investment and accelerated implementation of investment projects that have been subject to a clear positive cost-benefit assessment are of particular importance in this respect.

#### Education and innovation

**Education continues to be of low quality and there is a continuing skills mismatch.** According to data from 2021, public spending on education accounted for some 4% of GDP. When adding private spending and support by foreign donors, the overall amount stands at nearly 5% of GDP. However, the education system fails to provide Bosnia and Herzegovina's labour force with the skills and knowledge necessary for smooth integration in the labour market. Inadequate education is one important factor for a particularly high LFS youth unemployment rate (30.1% in 2022-Q1), twice the country's overall unemployment rate. Insufficient coordination among the numerous stakeholders results in a lack of common standards for various levels of education and differences in the quality of teachers' training

and performance evaluation. Teaching curricula continue to be outdated and are still not sufficiently aligned with the country's needs. The average achievements of students in mathematics, reading and natural sciences are below the OECD average (Pisa 2018). The country has not confirmed participation in the 2025 PISA evaluation exercise. There has been little change in levels of educational attainment in recent years. There is a large share of low-skilled people in the population. Upskilling strategies to increase the skill levels of the workforce are not sufficiently developed and also lack sufficient providers. Participation in early childhood education and care is significantly lower than in the EU and elsewhere in the region. The illiteracy rate continues to be around 3%, largely as a result of a relatively high illiteracy rate among women.

**Spending on research and innovation is limited and impeded by the low degree of cooperation and coordination among the various levels of government, leading to poor efficiency of the overall system.** The lack of an efficient funding system is another factor preventing Bosnia and Herzegovina's innovation policy from achieving better results for the funds spent. However, in the area of establishing Science and Technology Parks some progress has been achieved recently. Research capacities remain limited, while brain drain continues, most notably in the health, medical, and IT sectors with no systematic measures having been introduced so far to address the issue.

#### Physical capital and quality of infrastructure

**Investment in Bosnia and Herzegovina's capital stock remained behind the country's needs, partly due to uncertainties related to COVID-19 and the impact of Russia's war of aggression against Ukraine. Persistent political stalemates and uncertainties also have a negative bearing on investment.** Gross fixed capital formation recovered from a low base in 2022, increasing by 6.6% in real terms. As a result, the investment's share in GDP rose slightly to 21.9% in 2022, but remained still below pre-pandemic levels, when it reached 23.1%. Public investment remained low, reflecting political disputes and administrative bottlenecks. Inflows of foreign direct investment (FDI) reached 2.5% of GDP in 2022, which is slightly higher than in the 5 preceding years but significantly lower than in other countries in the region. A large share of those FDI inflows continue to be re-invested earnings of foreign investors in the financial sector and in tourism. As in the case of gross fixed investment, the low level of FDI inflows is impeding Bosnia and Herzegovina's ability to achieve a higher growth trajectory. Environmental standards have remained low and are often neglected, leading to high levels of pollution, impeding the health (and thus productivity) of the labour force and constituting an additional factor supporting brain drain.

**Moving away from coal-based electricity and improving energy efficiency requires legislation and investments.** Bosnia and Herzegovina features one of the most energy-intensive output generation processes in the region and remains heavily reliant on lignite coal. Thus, the level of emissions from coal-fired power plants is a major concern. A reliable and secure energy supply is still impeded by the lack of a single regulatory framework to attract investment in a low-carbon energy sector. Adopting laws on renewable energy and energy efficiency should be a priority, as should state-level legislation on electricity and natural gas with which the entities must comply. Bosnia and Herzegovina should also design and implement a comprehensive building renovation strategy to improve energy efficiency. Lack of progress in these areas contributes to the poor business environment and will prolong the path to decarbonisation, transition to renewables and improved energy efficiency that the current energy crisis has made even more urgent.

**Bosnia and Herzegovina is lagging behind in the digital transition.** Businesses there are the least satisfied of any in the Western Balkans with the digitalisation of public services.

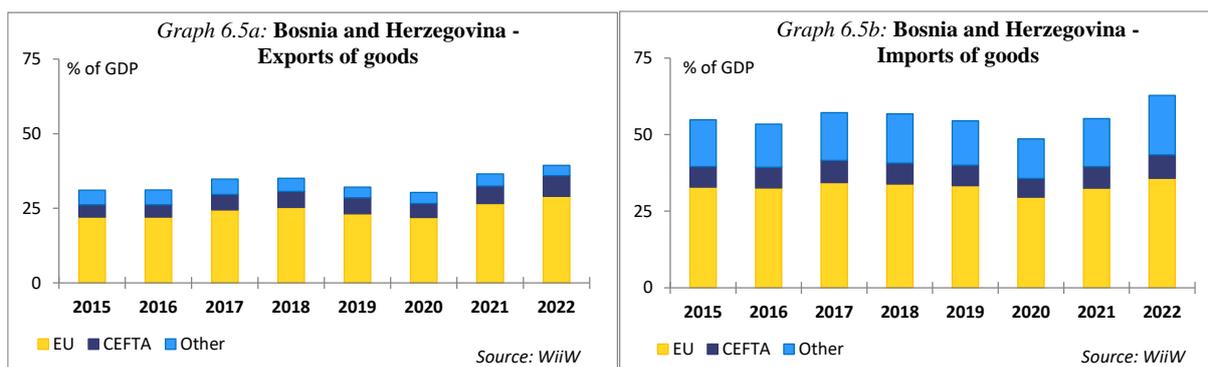
Only around 60% of small businesses have a webpage and only 18% are active in e-commerce. Economy-wide implementation of service digitalisation is still hampered by the lack of political ownership and coordination between different levels of the government, which also leads to the insufficient allocation of budgetary resources for implementation. The lack of interoperable information and domestic support systems across entities and different levels of government in Bosnia and Herzegovina is a major obstacle to developing economy-wide digital government services (OECD, 2021). Despite repeated requests, there is still no countrywide harmonisation of the e-signature and the related coordination, cooperation and data exchange between different administrations is still needed. Furthermore, Bosnia and Herzegovina has yet to adopt a new law on electronic identification and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*.

#### Sectoral and enterprise structure

**Bosnia and Herzegovina's production structure shifted slowly over the last 5 years from industrial activities towards trade, transport and IT services.** Between 2017 and 2022 the share of value-added in the trade, transport, tourism and IT sectors rose slightly from 19.9% to 20.6% and from 4.4% of GDP to 5.1% respectively, while the share of the manufacturing sector dropped, from 12.5% to 11.9%. Public administration's share in value-added dropped from 17.1% to 15.7%. Furthermore, the company structure registered some increase in the share of micro companies (0-9 employees), and medium-sized companies employing between 50 and 249 employees. However, the majority of new companies were often trading companies with lower value-added. Some 93% of all companies are in the category of small and micro businesses, i.e. those with less than 50 employees. Overall, the speed of structural change has been rather limited.

#### Economic integration with the EU and price competitiveness

**Trade and investment integration with the EU remained high but overall trade is below its potential.** The main export destinations continued to be the EU (Germany, Italy, Croatia), but also CEFTA countries, such as Serbia. Over the last 5 years, trade shifted towards the neighbouring region, in particular Croatia and Serbia. The share of exports to the EU-27 in total merchandise exports rose from some 71.4% in 2017 to 73.5% in 2022. Exports to CEFTA countries also increased their share in total exports, from 16.1% in 2017 to 18.3% in 2022. Bosnia and Herzegovina's openness to trade (exports and imports as a percentage of GDP) recovered from a pandemic-induced low of 82.1% in 2020 to 107% of GDP in 2022. Nevertheless, Bosnia and Herzegovina's openness to trade is still relatively low when taking into account the small size of its economy. The export structure is not very diversified and relies mainly on basic metals, furniture, and textiles. The integration of Bosnia and Herzegovina's financial and capital markets with the EU is also still rather low, although a large part of the banking sector is owned by European banks. About two thirds of the country's stock in FDI originates from EU countries. Annual FDI inflows largely show a similar pattern.



**Bosnia and Herzegovina's overall price competitiveness has continued to deteriorate slightly.** After a long period of gradual depreciation during 2017-2020, its real effective exchange rate started to appreciate in the second half of 2022 and the first half of 2023 by 4.7% and 0.6%, respectively. The key underlying factor was a rising positive inflation differential with its trade partners. In nominal effective terms, the currency appreciated by 1.6% and 1.5% during those two periods, mainly reflecting exchange rate movements of the Turkish lira, the Chinese yuan and the British pound against the euro, to which the Convertible Mark is pegged.

## 2.4. PUBLIC PROCUREMENT, STATISTICS AND FINANCIAL CONTROL

### Chapter 5: – Public procurement

*EU rules ensure that public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.*

Bosnia and Herzegovina has **some level of preparation** in the area of public procurement. There was **limited progress**. Bylaws to implement the amended Law on public procurement have been put in place. However, public procurement remains prone to irregularities and vulnerable to corruption. Selective and non-transparent judicial follow-up in cases of corruption in public procurement is a cause of significant concern. The country needs to ensure continued equal treatment of domestic and EU bidders in awarding public contracts in line with SAA provisions. Recommendations from last year remain valid.

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

- further align the public procurement law with the EU public procurement *acquis*, including in the area of concessions;
- adopt a new 2023-2027 public procurement strategy and an accompanying action plan that supports its implementation;
- increase staffing level and strengthen capacity in the Public Procurement Agency and the Public Procurement Review Body.

#### Institutional set-up and legal alignment

The **legal framework** is partially in line with the EU *acquis*. The Law on public procurement was amended in August 2022. Relevant bylaws were adopted in December 2022 on the procedure for awarding service contracts in line with the 2014 EU Directives. The legal framework on concessions and public-private partnerships is still highly fragmented and needs to be aligned with the EU *acquis*. A roadmap should be prepared for this purpose. All

legal and financial instruments used for public procurement and concessions, including intergovernmental agreements concluded with third countries, should comply with the principles of transparency, competition, equal treatment and non-discrimination. The authorities should increase cooperation between the respective stakeholders active in public procurement to guarantee fair competition and ensure coherent implementation of the legal framework.

The new 2023-2027 **strategy for the development of public procurement** and relevant action plan have not been adopted yet. The Public Procurement Agency is implementing the plan for integrity and the plan for the fight against corruption both adopted in 2022. The Procurement Review Body is implementing the 2023-2025 mid-term work plan to improve the processing of complaints.

The Public Procurement Agency is the body authorised to initiate, implement and monitor the public procurement policy in all sectors. The Agency's administrative capacity is insufficient, particularly for monitoring and support functions (22 employees versus 32 planned) The Agency should coordinate better with the Competition Council to avoid diverging interpretations of the legislation and to ensure the systematic application of public procurement procedures. Coordination needs to be improved with the audit and judiciary institutions.

The Agency manages the public procurement portal. Tender documents and guidelines can be downloaded from the portal. However, the exchange of information and submission of tenders is not conducted electronically, as per EU standards, but still partly in paper form. Some upgrading has started, but the e-procurement system needs to be further developed and made use of, for increased transparency. Some contracting authorities still do not publish public procurement reports, and existing tender documents are only available to registered users, not including civil society groups or the general public. Only a few ministries at state level have published their procurement reports over the last 3 years.

#### Implementation and enforcement capacity

In 2022, the **public procurement market** represented 10.65% of the country's GDP, an increase of 3.14% compared with 2021. The average number of bids per tender remains low at two in 2022.

In **monitoring the award and implementation of contracts**, the administrative capacity of the Public Procurement Agency is insufficient to fulfil its tasks. Statistics collected from contracting authorities show a decline in the use of the negotiated procedure without prior publication (6.69% in 2022 compared with 11.87% in 2021). The share of tenders with one submitted bid represented 51% in 2022. The use of price as the only award criterion remains high with 70% of public contracts. The Agency's monitoring role should be strengthened to identify potential weaknesses and irregularities in procurement procedures. In 2022, Agency monitored 629 individual public procurement procedures, initiated misdemeanour proceedings in 18 cases and submitted two criminal offences including upon initiative by civil society. The Agency has improved public awareness of the legislation governing public procurement and started preparing practical tools for the implementation of the public procurement law such as non-binding guidelines and information on best practices. However, no mechanism has been put in place to regularly and systematically coordinate the interpretation of public procurement legislation between the key institutions involved.

**The capacity to manage public procurement processes** is weak. Specialised procurement functions need to be established in each contracting authority and staffed with officials who have the relevant skills and expertise. There was no new development to improve **integrity**

**and conflicts of interest** in this area. Public procurement remains prone to irregularities and vulnerable to corruption during the procurement process and contract implementation. The courts have not penalised yet any corruption case in the area of public procurement. The Public Procurement Agency organised training on public procurement for most contracting authorities across the country and strengthened its cooperation with prosecutors and civil society to monitor violations of procurement rules.

#### Efficient remedy system

The legislation on the **right to appeal** is broadly in line with the EU *acquis*, although time limits are excessively short. The Procurement Review Body is a quasi-judicial body reviewing complaints from bidders. It has offices in three locations (Sarajevo, Banja Luka and Mostar), but no formal mechanism to coordinate them or ensure consistent decision-making and legal certainty. The functioning of the Procurement Review Body is weak due to its insufficient staffing and technical capacity. 94% of all complaints received were solved within the deadline. Only a small number of decisions have been challenged before the Court of Bosnia and Herzegovina. The transparency of the decision-making of the Procurement Review Body needs to be significantly improved.

#### **Chapter 18: Statistics**

*EU rules require Member States to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.*

Bosnia and Herzegovina is at an **early stage of preparation** in the area of statistics. **Limited progress** was made, mainly in the quality of government finance statistics. Bosnia and Herzegovina should enhance cooperation, coordination, decision-making processes and the legal basis to develop the national statistical system in key areas, increasingly applying European and international standards. In order to better support policy analysis, improvement is needed on the provision of timely, exhaustive and country-wide statistics on government finances, national accounts and the labour market. Bosnia and Herzegovina still needs to finalise the classification of regions equivalent to the NUTS classification (Nomenclature of territorial units for statistics). Last year's recommendations remain mostly valid.

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

- adopt a master plan for the production of national accounts;
- adopt a methodology, responsibilities and funding for the next agricultural census and adopt a roadmap for preparation of the next population census;
- intensify the use of administrative data sources including by establishment of a comprehensive and reliable National Statistical Business Register for precise and extensive data collection.

As regards **statistical infrastructure**, the law on statistics still needs to be aligned with the principles of the European Statistics Code of Practice. Statistics are only to some extent timely, relevant and reliable. The Agency for Statistics of Bosnia and Herzegovina (BHAS) and other data producers, including the entities' statistical offices, need to strengthen their cooperation. The statistical offices need to carry out surveys in time and according to the overall statistical programme.

The Agency for Statistics needs to have access to administrative data beyond that of the Indirect Taxation Authority. The Agency for Identification of Documents, Registers and Data Exchange (IDDEEA) has continued to cooperate to improve transport statistics.

On **classifications and registers**, the statistical business register is in place, but data received from administrative sources remains insufficient. The main statistical classifications are in place. However, the equivalent to NUTS II regions has only been provisionally defined and is accepted by the European Commission until Bosnia and Herzegovina finalises the entire classification and includes in it the definition of the equivalent to NUTS III level as well.

On **macroeconomic statistics**, the production of national accounts continues to deviate from the EU *acquis*, and a master plan needs to be agreed among the three statistical institutes. Annual accounts are compiled using production, expenditure and income approaches, while quarterly accounts are compiled only according to the production and expenditure approaches. Sector accounts are not produced.

Regarding the transition to ESA 2010 methodology, the sector classification is complete except for sub-sectors of the general government sector. Moreover, responsibility for implementation is still unclear. Bosnia and Herzegovina needs to provide the Commission with its GDP *per capita* figures, harmonised at NUTS II level. Balance of payments statistics are harmonised with current international statistical standards.

As regards government finance statistics and excessive deficit procedure (EDP) tables, Bosnia and Herzegovina should continue efforts to comply with ESA 2010, in particular to improve sector coverage, timeliness, compliance with ESA 2010 rules and coverage of transactions. Progress was made in the quality of government finance statistics and Eurostat started to publish data for Bosnia and Herzegovina in 2022. Government finance statistics and excessive deficit procedure tables are transmitted to Eurostat on a regular basis, although not fully in line with ESA 2010. Quarterly balance of payments and international investment position data were transmitted without geographical breakdown, and yearly data for the international trade in services was also provided. Foreign direct investment data are only partially compliant with EU requirements. The GDP time series by production, income and expenditure is available for 2000-2022. Bosnia and Herzegovina has also put in place adequate infrastructure for data transmission to Eurostat and the European Central Bank. The country does not transmit harmonised indices of consumer prices data to Eurostat. While data transmission is still significantly below EU requirements, visible progress has been made in recent years with 145 data sets being regularly transmitted to Eurostat. Statistical sectorisation for 2020 was published in early 2023.

On **business statistics**, short-term statistics for industry, construction and services are not fully available and will need to be established in line with the requirements of the EU *acquis*. The structure for all required datasets for short-term business indicators has been prepared and the data was sent to Eurostat. Statistics related to the production of manufactured goods (PRODCOM) are sent to Eurostat on an annual basis.

Foreign affiliates statistics are produced by the Agency for Statistics for inward statistics and by the Central Bank for outward statistics, but full compliance with regulations for these statistics needs to be ensured. Inward foreign affiliates statistics for 2020 were submitted to Eurostat. A private and business travel survey was conducted for the reference year 2021.

On **social statistics**, preparation for the next population and housing census has hardly progressed. The necessary legislation has not been agreed among the institutions involved. A new master sample frame is now available and was used not only for the household budget survey but will also be used for upcoming surveys, such as the labour force survey and a full-scale survey of income and living conditions. The labour force survey is conducted annually and on a quarterly basis, and data for the first quarter of 2023 was published by BHAS. The labour cost index is not compiled. Intensified cooperation with the institutions responsible for

monitoring migration flows is needed. Education statistics covering all levels of government are published annually. Culture statistics include 15 domains, although coverage is not yet adjusted to Eurostat requirements.

The lack of a recent agricultural census – the last one took place in 1960 – is a major limitation for **agricultural statistics**. Special attention needs to be paid to agreeing the methodology, responsibilities and budgetary aspects of a census. The continued delay in organising an agricultural census means a step back on Bosnia and Herzegovina's plans for 2023. A very limited number of statistical indicators are produced, including some experimental estimates. Supply balance sheets are not available. Statistics on crops and animal production are not in line with the EU *acquis*.

As for **energy statistics**, further work is needed to improve the quality of data in line with EU requirements, in particular annual data on renewable energy sources and basic monthly data on oil.

Regarding **environmental statistics**, the Agency for Statistics continued to publish data from the annual statistical surveys on climate change and greenhouse gas emissions from agriculture and waste disposal. The Agency for Statistics reported environmental protection expenditures to Eurostat for the first time but has yet to report environment-related taxes.

### **Chapter 32: Financial control**

*The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules protect the EU's financial interests against fraud in the management of EU funds and protect the euro against counterfeiting.*

Bosnia and Herzegovina has **some level of preparation** in this area. **Some progress** was made, notably in implementing the strategies on public internal financial control (PIFC) at state level and in both entities, producing consolidated reports while improving capacities for online reporting, and better training civil servants in charge of PIFC. Managerial accountability remains weak and no efforts undertaken to improve practices or legislative framework in this area. All central harmonisation units need to continue strengthening their capacities and monitor the effectiveness of internal control functions in the public sector, with particular attention to the risk management and internal audit functions, including for public companies. The financial and operational independence of supreme audit institutions must be ensured in practice. Bosnia and Herzegovina should improve the quality of audit reports and step-up communication efforts to reinforce public awareness. As last year's recommendations are only partially implemented, they remain largely valid.

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

- improve relevant legislation in public administration and public finance management area at all levels of government to better implement managerial accountability across public bodies;
- establish and improve the oversight function of fiscal risk of entity-level public companies and ensure data collection on PIFC of public companies at all levels of government by using the relevant IT application;
- increase the impact of the work of supreme audit institutions through adoption and implementation of 2021-2025 communication strategies at entity level.

### Public internal financial control

State-level institutions, both entity governments and the Brčko District have continued to implement the comprehensive **strategic framework** for public internal financial control (PIFC) alongside their individual 2020-2025 PIFC strategies. Annual PIFC reports for 2022 were adopted at state and entity level. Governments and parliaments should better monitor the implementation of recommendations provided by the central harmonisation units (CHU), the supreme audit institutions (SAIs) and the internal auditors, particularly those concerning risk management and internal control. The IT tool was used to produce PIFC monitoring reports for state-level institutions, the *Republika Srpska* entity and the Brčko District, while the Federation entity still needs to fully digitalise its reporting.

**Managerial accountability** is embedded in the countrywide strategy on public administration, the comprehensive public internal financial control and public financial management and the relevant legislation defines managerial responsibility for PIFC processes. The Federation entity government has adopted broader guidelines for the development of management accountability in the public sector, but these remain weakly implemented. Across the other levels of government, the delegation of authority within the public service is defined only with regard to financial and not administrative matters and remains regulated only in the legislation on internal control, while implementation remains slow. The problem lies not only in a lack of effective management responsibility on PIFC, but also in the blurry accountability lines in the public administration, as well as confused policy-making roles across various institutions and lack of adequate performance management of subordinated bodies. Policy content is not coordinated with government priorities throughout the public administration. Most public bodies have strategic plans with objectives and performance indicators. However, managers need to improve the assessment of performance. (*Also see Public administration reform*).

The legal framework for the functioning of **internal control** is largely in place at all levels of government, including rulebooks on internal control standards and risk management. However, effective implementation has not improved, and even less so over public companies. The annual PIFC reports do not include data on basic performance indicators on PIFC over public companies. More broadly, the legal provisions on internal control are still not well integrated in the general regulations on public finance management, business processes and management information systems at all levels of government and in the public companies. The PIFC IT tool needs to be used for risk assessment, risk mitigation and internal audit particularly and it needs to cover public companies.

In 2022, there was a substantial increase in the number of first-level budget spending units that submitted an internal control self-assessment report. Risk management data has been increasingly recorded in the risk register of the PIFC application. Risk registers are established in most state-level public institutions; entities need to increase the coverage of institutions in this area and particularly so in the Federation. Risk management is not yet seen as a management activity and is still not incorporated in the decision-making cycle. Budget inspection is in place at each level of government. The legal basis ensures a separation of budget inspection from internal audit function and this is maintained also in practice.

**Internal audit practice** is regulated at state and entity levels as well as in the Brčko District and is in line with international audit standards. The internal audit function across all levels needs to be improved. The internal audit manuals at all levels of government have been updated and embedded in the internal audit management module of the PIFC IT application, including quality assurance provisions. The CHUs have a methodology in place on quality reviews for internal control and internal audit. State institutions regularly conduct such reviews, whereas entities still need to do so. Despite the positive trend in filling vacancies for

internal audit for 2022, problems persist with a fragmented system of internal audit and the weak capacity of those units. The CHUs should consider the further strengthening of joint internal audit services through better coordination. Nearly all internal auditors in the public sector are certified, with a positive trend also in 2022. Internal audit certification procedures are in place and implemented at all levels of government, except in the Brčko District. Although the training plans for professional development of audit staff have improved, an upgrade in capacities in risk assessment, using IT and analytical tools is required across all levels of government.

**Central harmonisation units (CHUs)** have been established at state and entity levels and in Brčko District. Some improvement was undertaken in increasing staffing of the Federation CHU, as well as capacity to provide methodological guidance and promote and monitor PIFC reforms via the PIFC application across levels of government. The quality of the PIFC reports at entity level needs to be improved by including risk management and performance indicators for public companies for monitoring fiscal risks, as such data is lacking. Additionally, the fiscal oversight function over public companies in both entities needs to be improved. Their impact on internal control remains weak, as recommendations remain not well implemented by public bodies across all levels of government. The coordination board of CHUs met regularly.

#### External audit

Regarding the **constitutional and legal framework**, the functional, operational and financial independence is regulated in the respective laws at each level of government. However, in practice, in the Federation entity, the supreme audit institutions were unable to carry out their external audit function in two instances, as some institutions were resisting the auditing process.

The **institutional capacity** of supreme audit institutions needs to be strengthened at all levels of government. The Federation entity continues to face the particular challenge of ensuring external audit coverage of its cantonal level. All supreme audit institutions have been implementing their strategic development plans for 2021-2025. Supreme audit institutions should continue to work closely with prosecutors to address instances of possible fraud and corruption uncovered during audits. The coordination board of supreme audit institutions needs to be further strengthened in following-up effectively with audit offices on how the legal framework and related procedures for external audit can be implemented better across public bodies and at all government levels.

With regard to the **quality of audit work**, all the supreme audit institutions have a broad mandate, which covers financial, compliance and performance audit. The number of performance audits remained stable, with a slight increase in the Federation entity. The supreme audit institutions have INTOSAI-compliant methodologies and manuals. They should consider improving the quality of their audits in providing compliance assurance and increasing the number of performance audits. The supreme audit institutions need to apply comprehensive internal control assessments tailored to the audited areas, types of transactions and type of organisations.

The **impact of the audit work** of all supreme audit institutions is limited. Recommendations continue to focus mainly on formal compliance and do not address the causes of weaknesses or the likelihood of implementation. The rate of implementation of external audit recommendations remains unchanged at some 20%-40% across all levels of government, with some improvement in the *Republika Srpska* entity. The level of parliamentary scrutiny of audit reports remains weak across all levels of government. Supreme audit institutions

need to establish closer partnerships with the parliaments in making recommendations of audit institution-building for the government.

The quality of audit findings needs to be improved. The results should be better communicated in the audit reports and in the media, while showing the importance of the SAI's recommendations for a better functioning public administration. Some efforts were undertaken at the state level in the outreach activities of supreme audit institutions in the framework of the new 2022-2025 communications strategy. Both entities still need to adopt their own communication strategy.

#### Protection of the EU's financial interests

The legislation at all levels of government ensures some degree of EU **acquis alignment** as it covers many elements of the Directive on the fight against fraud to the EU's financial interests by means of criminal law. In the reporting period, no changes in this area have been made. The scope and definitions of the offences are not always in line with the Directive: for example in the case of the offence of corruption and misappropriation. Further alignment of the legislation is needed, including on the freezing and confiscation of criminal assets. Effective implementation and enforcement of the legislation also needs to be ensured.

Bosnia and Herzegovina should also set up an **anti-fraud coordination service** (AFCOS) to facilitate effective cooperation and exchange of information with the Commission, and adopt an anti-fraud strategy for protecting the EU's financial interests.

While there is no solid track record on **cooperation with the Commission** during investigations, the State Investigation and Protection Agency and the Ministry of Finance and Treasury provided adequate cooperation on an *ad hoc* basis in the reporting period. As EU funds are not managed indirectly by national authorities, Bosnia and Herzegovina does not report on irregularities to the Commission through the Irregularity Management System. Bosnia and Herzegovina should develop a track record of cooperation with the Commission on investigations.

#### Protection of the euro against counterfeiting

Bosnia and Herzegovina has not ratified the 1929 Geneva Convention for the suppression of counterfeiting currency. The level of EU *acquis* alignment for technical aspects needs to be determined. The Central Bank has a regulation in place that obliges commercial banks and other entities to withdraw all suspect banknotes and coins from circulation.

The Central Bank has continuously worked on improving professional knowledge and strengthening institutional capacities for analysing and processing monetary counterfeit data. The Central Bank also has the counterfeit registration system (CRS) application, through which all requests for the analysis of suspicious money, technical data on counterfeits, i.e. analysis results, and various statistical data related to counterfeit money are registered. However, no sanctions are imposed for failure to fulfil this obligation. There is no legal obligation for credit institutions and other payment service providers to ensure that euro banknotes and coins are checked for authenticity and that counterfeits are detected.

To enable all counterfeit banknotes and coins to be submitted for analysis to the Central Bank, in the future, the legal basis needs to be enforced and implemented. The Central Bank should sign an agreement obliging the signatory parties to exchange technical and other data on counterfeits that were the subject of their analysis with the European Commission and OLAF for counterfeit coins, as well as an agreement with the European Central Bank for banknotes.

### 3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Bosnia and Herzegovina's European integration process. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past.

Bosnia and Herzegovina maintained its involvement in a number of **regional cooperation initiatives** such as the Central European Free Trade Agreement (CEFTA), the Energy Community, the Transport Community, the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council, of which it hosts the seat<sup>15</sup>. Bosnia and Herzegovina chaired the Adriatic and Ionian Initiative from June 2022 until May 2023.

The **EU-Western Balkans Summit** in December 2022 took place for the first time in the region, in Tirana. The summit focused on support for the region in the fields of energy and migration, and on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

On the **Common Regional Market**, a political breakthrough was achieved at the Berlin Process Summit in Berlin in November 2022, where leaders adopted the three mobility agreements on higher education qualifications, on professional qualifications and on free movement with identity cards. Bosnia and Herzegovina needs to swiftly ratify the three regional mobility agreements. A number of important decisions agreed at the technical level within CEFTA remain blocked.

Bosnia and Herzegovina has continued to cooperate closely with Croatia, Montenegro and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. Under the regional housing programme, 2 790 housing units were built, purchased or reconstructed by the end of August 2023 in Bosnia and Herzegovina, able to accommodate around 8 200 persons. The completion of the programme is at risk due to significant delays in construction, particularly in the *Republika Srpska* entity. Bosnia and Herzegovina also needs to urgently secure the agreed amount of co-funding from the state budget (EUR 11.5 million). Significant challenges remain with regard to the economic and social integration and well-being of many families, which is required to ensure the sustainability of return.

The unresolved fate of **missing persons** who disappeared during the conflicts of the 1990s remains a key issue to be solved in the Western Balkans. Despite steady progress in identification (70 persons in 2021 and 127 in the first half of 2022), 7 590 persons are still missing as a result of the conflict. Further efforts are needed at the regional level through the missing persons group established in 2018 under the Berlin Process to strengthen cooperation.

Bosnia and Herzegovina generally maintains good **bilateral relations** with other enlargement countries and neighbouring EU Member States.

Relations with **Albania** are friendly and without open issues, with occasional bilateral visits. The two countries have yet to establish fully fledged embassies. Trade flows remain low.

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<sup>15</sup> Bosnia and Herzegovina also actively participates in initiatives such as the Brdo-Brijuni Process, the Central European Initiative, the Adriatic-Ionian Initiative, the EU Strategies for the Danube Region and for the Adriatic-Ionian Region, the Migration, Asylum, Refugees Regional Initiative (MARRI), the Regional School of Public Administration (ReSPA), the Regional Youth Cooperation Office in the Western Balkans (RYCO), the South East European Cooperation Process (SEECP) and the Western Balkans Fund.

There are no official relations with **Kosovo**<sup>\*</sup>, as Bosnia and Herzegovina does not recognise Kosovo's independence and the two maintain a strict visa regime. Bilateral meetings took place occasionally in the margins of regional and multilateral summits. An initiative to simplify the visa procedure for citizens of Kosovo is still pending.

Bilateral relations with **Montenegro** are good, with occasional high-level bilateral visits. The agreed border demarcation is yet to be physically marked. Three joint border crossing points remains to be set up.

Relations with **North Macedonia** are good, with occasional high-level bilateral visits. Several bilateral agreements are in place, including on cooperation on EU integration.

Relations with **Serbia** are good and stable overall, with regular high-level bilateral visits. Bosnia and Herzegovina re-initiated internal discussion on tackling outstanding issues, including on state borders. The two countries also need to reach an agreement on two dams on the Drina river and a part of the Belgrade-Bar railway which crosses into Bosnia and Herzegovina's territory. The Commission for Concessions still needs to decide on the construction of three hydroelectric power plants on the upper Drina by Serbia and the *Republika Srpska* entity. Bosnia and Herzegovina opened a consulate general in Novi Pazar in August 2022.

**Türkiye** is a strong international supporter of Bosnia and Herzegovina and exchanges at high level are frequent. The two countries reaffirmed their commitment to the construction of the Sarajevo-Belgrade highway, which Türkiye committed to finance. Bosnia and Herzegovina sent financial assistance and entities' rescue teams to the areas hit by the February 2023 earthquake.

Relations with **Georgia** are good and without open issues, with sporadic bilateral contact. The two countries enjoy the visa-free regime. Trade flows remain low.

Relation with the **Republic of Moldova** are good. The two countries have several bilateral agreements in place including on investment protection, double taxation and tax evasion. The visa-free regime is in force since 2016. While both countries are part of CEFTA, trade flows remain low. Official exchanges mainly take place at the margins of regional summits.

Bosnia and Herzegovina supports the territorial integrity and sovereignty of **Ukraine**, condemning Russia's war of aggression. Bilateral relations are generally good but have been affected by statements, by certain members of the Presidency, on Russia's role in Europe and significant hindrances, due to political contestation, in the implementation of restrictive measures against Russia. The two countries enjoy the visa-free regime. A number of agreements are in place, including on trade and on investment protection. Trade flows remain low.

Relations with **Croatia** are good overall, although affected by outstanding bilateral issues. Bilateral visits took place at high level. The two governments held a joint session in Zagreb in June 2023, discussing open issues and joint projects. Bosnia and Herzegovina opened a consulate general in Rijeka in August 2022. There are open issues concerning land and sea borders. Bosnia and Herzegovina relaunched procedures for concluding the 1999 border agreement, which has not been ratified by either side. Implementation of the 2001 succession agreement has been affected by issues on private property and acquired rights. Bosnia and Herzegovina adopted a strategy for legal protection of its interests in October 2022, and

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\* This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

reaffirmed its support for an expert and legal team to dispute Croatia's plan to build a facility for radioactive waste at Trgovska Gora near the border.

#### 4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

##### CLUSTER 2: INTERNAL MARKET

This cluster covers: the free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9), and consumer and health protection (Chapter 28).

This cluster is key for Bosnia and Herzegovina's preparations for the requirements of the EU's internal market and is of high relevance for accelerated integration and growth, including the development of the Common Regional Market. Bosnia and Herzegovina has some level of preparation in the areas of free movement of workers, company law, competition and financial services, while it is moderately prepared in free movement of capital and intellectual property. It is at an early stage of preparation on free movement of goods, services and right of establishment as well as on consumer and health protection. Unfortunately, Bosnia and Herzegovina has made no progress in any of the internal market areas. There is no clear overview of the country level alignment and implementation of the SAA. Preparing to join the EU internal market means that there cannot be separate markets within one country.

##### Chapter 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 the free movement of goods prevents these creating unjustified barriers to trade.*

Bosnia and Herzegovina is at an **early stage of preparation** in the area of free movement of goods. **No progress** was made in this area. Bosnia and Herzegovina still needs to take major steps to align its legislative framework with the EU *acquis*, in particular on technical requirements for products, accreditation, conformity assessment and market surveillance. Last year's recommendations were not addressed and remain valid.

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

- establish a list of technical regulations in force and start to repeal country-wide the domestic legislation that conflicts with EU legislation, including ex-Yugoslav standards that conflict with those aligned with European standards;
- adopt a country-wide strategy for the quality infrastructure;
- examine all existing legislation and administrative practices in the non-harmonised area to assess if they comply with Articles 34-36 of the Treaty on the Functioning of the European Union and start to plan how to address all non-compliant elements.

##### General principles

On the general principles, the legislative and institutional framework for the **production, distribution and marketing of industrial products** is still not in place. Bosnia and Herzegovina has not taken any steps to comply with commitments under the SAA or to repeal conflicting regulations at all levels of government. It does not have a coherent country-wide approach or a strategy or action plan for alignment with the EU *acquis* in this chapter.

In September 2023, the Constitutional Court annulled the RS Law on technical regulations due to lack of entity competence on the matter, which is already regulated by state-level law. Bosnia and Herzegovina should also improve access to and information on regulations and standards and conformity-relevant information for economic operators and the public on the obligations of this chapter.

#### Non-harmonised area

No steps were taken to ensure that legislation and administrative practices for the non-harmonised area are aligned with the obligations of **Articles 34-36** of the Treaty on the Functioning of the European Union. No specific body is established or empowered to fulfil the obligation of notifying technical regulations.

#### Harmonised area: quality infrastructure

While Bosnia and Herzegovina's legal bases and administrative structures to ensure technical regulations, standards, conformity assessment, accreditation, metrology and market surveillance are in place, they are not aligned with the EU *acquis* and remain uneven and fragmented. The relevant institutions exist at both state and entity levels, but coordination between them remains weak. There is still no country-wide strategy for the quality infrastructure, which is necessary for Bosnia and Herzegovina to have a coherent country-wide approach.

The Institute for **Standardisation** of Bosnia and Herzegovina is a full member of the European Telecommunications Standards Institute (ETSI) and an affiliate member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). In 2022, the standardisation institute adopted 7 050 European standards as national standards. The percentage of adopted European standards is 93.60%. However, the standardisation institute remains understaffed and conflicting mandatory ex-Yugoslav standards have still not been withdrawn in a systematic manner across the country. There is still no country-wide register of the legislation in force.

The Institute for **Accreditation** of Bosnia and Herzegovina (BATA) is the single national accreditation body and full member of the European Cooperation for Accreditation (EA) and party to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement (ILAC). The Institute remains understaffed. There are 178 conformity assessment bodies in Bosnia and Herzegovina, comprising 91 testing laboratories, 4 medical and 11 calibration laboratories, 6 product certification bodies and 66 inspection bodies. The Law on accreditation is still not aligned with the EU *acquis*. The designation of conformity assessment bodies and conformity assessment procedures are still not applied consistently throughout the country.

The Institute of **Metrology** of Bosnia and Herzegovina participates in EU technical committees, European development programmes and cooperation projects with EU metrology institutes. It became a member of International Measurement Confederation (IMEKO) in August 2022. Metrology institutes in Bosnia and Herzegovina need to cooperate and coordinate their activities when implementing the legislation. Legislation on Metrology is not applied evenly across the country undermining legal certainty and the single economic space including the adoption of a new Law on metrology in the *Republika Srpska* entity.

The **market surveillance** system is still largely based on mandatory standards and pre-market control. The legal base dates from 2009 and is not aligned with the EU *acquis*. In the reporting period, the Market Surveillance Agency, which remains understaffed, and the inspection bodies of the entities and the Brčko District carried out 221 checks as part of

proactive surveillance and 14 checks on reactive surveillance. As a result of 189 product models checked, 3 906 unsafe products were withdrawn from the market (of which 2 313 were destroyed), and 8 612 products were brought into compliance with safety requirements.

#### Harmonised area: sectoral legislation

On the EU ‘**new and global approach**’ **product *acquis***, no alignment has taken place over the past 11 years. Bosnia and Herzegovina adopted legislation designed to align with the EU *acquis* on low-voltage devices, machinery, electromagnetic compatibility, lifts, personal protection equipment, non-automatic weighing instruments and pressure equipment. However, all EU legislation apart from the EU product *acquis* on machinery were replaced between 2014 and 2019, so *de facto* the level of alignment is constantly going down. Furthermore, even legislation designed to align with the EU *acquis* is not applied across the country, as the legislative framework is fragmented and the *Republika Srpska* entity implements its legislation separately.

There is no country-wide approach to align with the EU ‘**old approach**’ **product *acquis*** or with **procedural measures**. No progress has been made since 2013 on aligning the legislation with the EU *acquis* on registration, evaluation, authorisation and restriction of chemicals (REACH), on classification, labelling and packaging (CLP), or on strengthening administrative capacity in this area. Bosnia and Herzegovina is not aligned with the EU *acquis* on motor vehicles, two or three wheeled vehicles, tractors (agricultural, forestry), or non-road mobile machinery emissions.

There were no activities noted on alignment at national level on drug precursors, firearms, crystal glass, textile labelling, mixtures and footwear. Bosnia and Herzegovina’s legislation remains to be further aligned with the EU *acquis* on the pricing of medical products. On **civil explosives**, Bosnia and Herzegovina still does not have a comprehensive legal framework for the transport of dangerous goods. Legislation on returning **cultural objects** unlawfully removed from the territory of an EU Member State is not aligned with the EU *acquis*.

As regards anti-corruption under this chapter there are no specific nor cross-cutting measures in place to monitor and analyse the transparency of public bodies when acting in the areas of market surveillance and conformity assessment.

#### **Chapter 2: Freedom of movements for workers**

*Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.*

Bosnia and Herzegovina has **some level of preparation** in the field of free movement of workers. However, **no progress** was made in the reporting period, due to the fragmentation of the country’s system of coordinating social security schemes, limited administrative capacity and lack of formal cooperation among relevant authorities. Last year’s recommendations therefore remain valid.

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

- start developing a country-wide database on vacancies;
- continue negotiating and concluding new bilateral agreements on social security, notably with EU Member States.

Regarding access to the labour market, the legislation does not differentiate between EU workers and other third-country nationals. To work in Bosnia and Herzegovina, an EU citizen must obtain a work permit and meet certain conditions (with several exceptions) as provided

by the Law on foreigners. Employment in the public administration is reserved for Bosnia and Herzegovina citizens. In 2022, 3 780 work permits were issued to third-country nationals (in 2021, 955), of which 367 to EU citizens (in 2021, 418). The main sectors are civil construction, trade, art and recreation, real estate, manufacturing and services.

The laws on the employment of foreigners of the entities and of the Brčko District still need to be fully harmonised with the state-level Law on foreigners, especially when it comes to regulating the issuance/approval of a residence permit for the purpose of work.

Bosnia and Herzegovina still lacks a country-wide database of vacancies.

As regards the **coordination of social security systems**, Bosnia and Herzegovina has 10 bilateral agreements on social security in place, of which six are with EU Member States. Another 16 agreements (of which 12 with EU Member States) are implemented on the basis of succession from the former Yugoslavia. The country's system of coordinating social security schemes remains fragmented, with limited administrative capacity and lack of formal cooperation among relevant authorities covering all levels of government.

There has been no progress on the European Health Insurance Card (EHIC).

### **Chapter 3: Right of establishment and freedom to provide services**

*EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.*

Bosnia and Herzegovina is at an **early stage of preparation** regarding the right of establishment and the freedom to provide services. **No progress** was made in this area and last year's recommendations remain valid. The existing legislation needs to be aligned with the EU Services Directive and does not provide for the mutual recognition of qualifications for regulated professions. A country-wide strategy for the development of postal services needs to be established to adopt a consistent regulatory framework that is aligned with the EU *acquis*.

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

- establish a monitoring mechanism to screen, check and align relevant legislation in force with the EU Services Directive and to identify and remove barriers to the right of establishment and freedom to provide services in the single economic space;
- adopt a country-wide law on postal services to further align the legislation with the EU *acquis*, including the Regulation on cross-border parcel delivery services, and open the postal market to competition;
- align with the EU *acquis* on mutual recognition of professional qualifications, including with the Directive on recognition of professional qualifications and with the Directive on a proportionality test before adoption of new regulation of professions.

The legislation on the **right of establishment and freedom to provide cross-border services** is not aligned with the EU *acquis*. In particular, no progress was made to develop a horizontal law that covers its principles, and no screening of sector-specific legislation took place to prepare it, due to diverging views on how to align with the Services Directive. A register of service-related legislation needs to be established to identify laws that need to be amended and to further align them with the EU Services Directive. Also lacking is a

comprehensive inventory of the administrative and technical steps needed for companies to register and/or operate country-wide. Compiling such an inventory would help abolish requirements that hamper the creation of a single economic space. No point of single contact was established. Legislative alignment in this area requires administrative capacity and strong coordination between administrative bodies at all levels of government.

The legal framework for **postal services** is partly aligned with the EU *acquis*. Further efforts are needed to prepare a state-level strategy with a timeline on the development of postal services and adopt a consistent country-wide regulatory framework aligned with the EU Postal Services Directive. The reserved area to the universal service provider is still to be abolished and the postal market needs to be gradually opened up to full competition in line with the Postal Services Directive. The institutional and the administrative capacity of the Agency for Postal Traffic needs strengthening to carry out its regulatory and monitoring functions in the postal market. There was no progress in aligning national legislation with the EU Regulation on cross-border parcel delivery services.

The legislation does not provide for the **mutual recognition of qualifications for regulated professions** as required by the EU *acquis*. The general roadmap for alignment with the EU *acquis* has not been implemented. Significant efforts are needed to establish an adequate institutional framework that includes e-government facilities and national contact points assisting citizens who request the recognition of their professional qualifications. Bosnia and Herzegovina needs to establish a list of regulated professions.

#### **Chapter 4: Free movement of capital**

*In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.*

Bosnia and Herzegovina is **moderately prepared** in the area of free movement of capital. There was **no progress** in alignment with the EU *acquis* on the free movement of capital. Last year's recommendations were not addressed and remain valid.

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

- reduce the extensive administrative requirements for short-term capital transactions and amend the legislation to comply with SAA commitments on the acquisition of real estate by EU citizens;
- adopt urgently a new law on anti-money laundering and countering the financing of terrorism, including a country-wide, central register of beneficial ownership information for legal persons and private individuals and a register of beneficial ownership information for legal arrangements, in line with the EU *acquis*;
- adopt legislation to align with the Payment Services Directive 2, the Electronic Money Directive 2 and the SEPA Regulation.

As regards **capital movements and payments**, Bosnia and Herzegovina continues to apply full current account convertibility. Long-term capital transactions are mostly liberalised, but restrictions remain for short-term capital transactions, including financial credits and loans provided by residents to non-residents and residents' payments of life-insurance premiums to non-residents. Investment rules for institutional investors are subject to limitations on investment in foreign securities. In addition, residents may only open and hold a foreign exchange account abroad for a limited amount of time, in specific cases stipulated by law and only after obtaining the prior approval of the Ministry of Finance.

Entity laws on foreign investments still provide for a cap of 49% of foreign ownership for companies operating in media affairs and the military industry unless, in case of justified interest, the entity government issues a decision to exceed 49% of the founding capital.

The state-level law on foreign direct investments does not provide for equal treatment of foreign and domestic natural persons for the acquisition of real estate. The Stabilisation and Association Agreement (SAA) requires Bosnia and Herzegovina to adjust its legislation on the acquisition of real estate so that as of 2021 nationals of EU Member States should be treated in the same manner as nationals of Bosnia and Herzegovina. However, Bosnia and Herzegovina still lags this commitment, as the possibility for foreign natural persons, including nationals of EU Member States, to acquire real estate depends on the regime applied to citizens of Bosnia and Herzegovina by their countries of origin (reciprocity) or on bilateral agreements. Moreover, agricultural land cannot yet be owned by foreign natural or legal persons.

The Central Bank of Bosnia and Herzegovina (CBBH) has operated a modern **payment system** since introducing a new current account clearing system in 2019. Although since mid-2020 all banks in the country have the required technical specifications to handle Single Euro Payment Area (SEPA) payments, Bosnia and Herzegovina needs to adopt legislation to align with the EU *acquis* (Payment Services Directive 2, the Electronic Money Directive 2 and the SEPA Regulation) before being able to adhere to the SEPA schemes for communities of banks or financial institutions outside the European Economic Area.

Payment services need to be further liberalised and modernised to benefit existing and new players on the market. The system should be open to operators other than banks, including Electronic Money Institutions. No Electronic Money Institutions have been licensed so far in either entity.

Bosnia and Herzegovina needs to adopt a new law on **anti-money-laundering and countering the financing of terrorism (AML/CFT)** in line with international standards and further align with the EU *acquis* on anti-money laundering and countering the financing of terrorism. It should in particular address customer due diligence requirements, the reporting of suspicious transactions and the transparency of beneficial ownership. Bosnia and Herzegovina should continue to improve its AML/CFT framework, including by introducing a register of beneficial ownership information for legal persons and a register of beneficial ownership information for legal arrangements, in line with the EU *acquis*. The activities envisaged in the AML/CFT action plan need to be implemented without further delay. Moneyval's evaluators will visit Bosnia and Herzegovina in February 2024, assessing its AML/CFT framework, in order to complete the 5<sup>th</sup> Round Mutual Evaluation Report. The risk for Bosnia and Herzegovina of being listed by the Financial Action Task Force (FATF) remains, and in addition, no track record on investigations, prosecutions and final court rulings has been provided.

Bosnia and Herzegovina therefore needs to improve its track record of financial investigations, prosecutions and convictions for related offences; make more consistent use of legal rules on asset confiscation; and establish an asset recovery office. Preventive measures, supervisory action and penalties in case of breaches – especially in the non-financial sector – also still need to be implemented.

## **Chapter 6: Company law**

*The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting and statutory audit.*

Bosnia and Herzegovina has **some level of preparation** in the field of company law, corporate accounting, and audit. **No progress** was made in this area. Further efforts are needed to align with the EU *acquis* on company law, on accounting and on non-financial reporting. No harmonisation of company law requirements across the country has been carried out and the different regional business registers operate independently and without any communication or coordination between them. There is still no single country-wide authority for the oversight of statutory auditors. The Commission's recommendations from last year were not implemented and remain valid.

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

- finalise the review of the existing legislation in the area of company law to identify amendments needed to further align with the EU *acquis*;
- improve the connection and coordination of business registers among entities and the Brčko District;
- review the existing legislation in the area of accounting, transparency, and statutory audit to identify the legislative amendments necessary to align with the EU *acquis*.

On **company law and corporate governance**, Bosnia and Herzegovina is aligned to a limited extent with the EU *acquis*. The existing legislation needs to be reviewed to identify the amendments needed to harmonise company law at country level. The different independent business registers among entities and the Brčko District are not connected and have no established ways of coordination. Due to the lack of coordination, different requirements exist for setting up and manage a company between the entities. Companies have to register several times to be allowed to operate throughout the country which is not in line with the EU Company Law *acquis*. Further alignment is needed with the Directive on the use of digital tools and the Directive on cross-border operations (mergers, divisions, conversions) as well as with rules on shareholder rights, including the encouragement of long-term shareholder engagement (Shareholder Rights Directive) and gender equality on boards of directors.

The legislation on **company reporting** remains partially aligned with the EU *acquis*. Bosnia and Herzegovina will need to align its legal framework with the EU *acquis* on corporate reporting in terms of financial and non-financial information and on transparency requirements for listed companies. It also needs to align with the most recent EU *acquis* on corporate sustainability reporting. The state-level Accounting and Audit Commission of Bosnia and Herzegovina acts as an expert body responsible for accounting and auditing standards, accompanying instructions and practices. The respective laws in the entities and the Brčko District prescribe the use of international financial reporting standards (IFRS) for annual and consolidated accounts of all legal entities. In December 2022, the *Republika Srpska* entity amended its Law on accounting and auditing companies on additional financial reports and on the double-entry accounting. The Federation entity amended several rulebooks related to the FBiH Law on accounting and auditing. Bosnia and Herzegovina still needs to designate, in line with the EU *acquis* requirements, one single supervisory authority with country-wide competence responsible for the oversight of statutory auditors.

## **Chapter 7: Intellectual property law**

*The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and*

*broadcasting.*

Bosnia and Herzegovina is **moderately prepared** in the area of intellectual property law. **No progress** was made in this area. Significant efforts are required on legislative alignment and, in particular, on improving enforcement and coordination. An intellectual property strategy 2022-2026 has not yet been adopted. The recommendations from last year were not addressed and remain valid.

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

- adopt and implement the strategy on intellectual property 2022-2026 and implement the strategy on enforcement of intellectual property rights;
- further align the legal framework on copyright and related rights with the EU *acquis* and amend the Law on patents;
- take steps to increase the coordination and capacity of policymaking institutions to enforce intellectual, industrial, and commercial property rights.

The legal framework on **copyright and related rights** is moderately aligned with the EU *acquis*. The rules in the area of orphan works and collective management rights need to be revised to align with the EU *acquis*. No strategy on intellectual property is in place. Copyright works and related rights are deposited and registered in the Institute for Intellectual Property. Six organisations in the country are authorised for the collective management of copyright and related rights. The intellectual property strategy 2022-2026 has not yet been adopted.

On **industrial property rights**, the legislative framework is partially aligned with the EU *acquis*. Further alignment is needed in most areas, in particular on patents, trademarks and trade secrets, but also on topographies of semiconductor products and on industrial designs. Bosnia and Herzegovina has acceded to the relevant multilateral conventions, as required by the SAA, except for the European Patent Convention, for which it still needs to adopt relevant amendments to the Law on patents.

Regarding **enforcement**, in the reporting period, the Indirect Taxation Authority received 79 requests for customs measures based on protected trademarks, designs and one due to the violation against the indication of geographical origin. It issued 82 decisions on temporary retention and seizure of goods (compared with 113 requests and 114 decisions in the previous reporting period). The State Investigation and Protection Agency investigated 40 cases, of which 13 were closed.

The administrative and judicial capacity of enforcement institutions on intellectual property rights is insufficient and their coordination needs to improve. The coordination body has been established in 2021 and is composed of representatives of enforcement institutions from all levels of government. The body held two sessions since its creation and remains understaffed. Bosnia and Herzegovina's existing strategy on IPR enforcement remains to be implemented. Nor is there a reliable system for collecting, analysing and exchanging data between enforcement institutions. Steps need to be taken to raise the awareness of businesses and consumers on IPR in general as well as on the prevention of counterfeiting and piracy. Prosecutors, judges, and court panels following infringement cases are not sufficiently trained on intellectual property rights to handle cases efficiently and consistently.

## **Chapter 8: Competition policy**

*EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position, and also include rules on concentrations*

*between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.*

Bosnia and Herzegovina has **some level of preparation** in the area of competition policy. There was **no progress** in this area. Bosnia and Herzegovina took no steps to remove all ethnic-based decision-making procedures and vetoes from the Competition Council and State Aid Council, in line with the Commission Opinion's key priorities. Bosnia and Herzegovina should further align its implementing legislation on State aid with the EU *acquis*. Recommendations from last year were not addressed and remain valid.

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

- amend the Law on competition and the Law on State aid to revise the voting procedures in line with the Commission's Opinion;
- improve the enforcement record of the State Aid Council by ensuring that State aid measures are notified *ex-ante* by granting authorities;
- in line with SAA provisions, ensure that the State Aid Council operates independently and that the existing aid schemes introduced before the State Aid Council's establishment are aligned with the EU *acquis*.

### Antitrust and mergers

The **legislative framework** on antitrust and mergers is broadly aligned with the EU *acquis*. The Law on competition of Bosnia and Herzegovina largely mirrors the rules in the EU treaties on restrictive agreements and abuse of dominant position. It still needs to be brought into line with the most recent EU *acquis*, including implementing legislation.

As for the **institutional framework**, the functioning of the Competition Council is still significantly impeded by tight procedural deadlines and ethnic-based decision-making procedures, which require decisions to be supported by at least one representative of each constituent people to have legal effect. The Law on competition needs to be amended, notably to revise such voting procedures in line with the Commission's Opinion.

Regarding **enforcement capacity**, the Competition Council is composed of six members assisted by 20 staff. The staff's level of expertise needs to be further developed and supported through relevant training.

On **implementation**, in 2022 the Competition Council took 35 decisions, including 2 on prohibited agreements, 3 on abuse of dominant position and 12 on concentrations. It issued 18 expert opinions, and 3 fines were imposed for about EUR 155 000. The Competition Council should strengthen the enforcement of competition rules, as the impact of competition enforcement is limited and fines are negligible. No dawn raids were carried out in the reporting period. The leniency programme for companies providing information on cartel cases has never been used. The Competition Council should conduct more on-site inspections and raise awareness about its leniency programme and mergers, by imposing remedies where necessary. The judiciary's capacity to handle complex competition cases is improving and needs to be further strengthened. In advocacy, the Competition Council should conduct market studies so as to gain a better understanding of competition in key sectors, detect sources of competition problems and identify solutions. To tackle unfair competition in the market, the Competition Council needs to increase cooperation with other regulatory bodies, such as the Public Procurement Agency and the Procurement Review Body.

### State aid

The **legislative framework** on State aid, including the Law on the State aid system, is partially aligned with the EU *acquis* and with SAA provisions. The implementing legislation is not developed evenly across the country and needs to be aligned with the EU *acquis*, including on *de minimis* aid and on services of general economic interest. A regional aid map has not yet been drawn up and the existing aid schemes have not been aligned with the EU *acquis* on State aid as per SAA rules and deadlines.

As for the **institutional framework**, the State Aid Council responsible for the consistent implementation of the State aid law is composed of eight members appointed by the Council of Ministers and the governments of the entities and Brčko District. As in the case of the Competition Council, the functioning of the State Aid Council is significantly impeded by ethnic-based decision-making procedures, which require decisions to be supported by at least one representative of each constituent people to have legal effect. The Law on State aid needs to be amended, notably to revise the voting procedure in line with the Commission's Opinion. The mandate of the members of the State Aid Council from the *Republika Srpska* entity expired in 2020, while that of the Federation entity and the state level ended in 2021. The appointments of the new members by the relevant authorities are still pending.

The **enforcement capacity** of the State Aid Council is insufficient. With only six staff members, its secretariat is not able to fulfil its tasks. Furthermore, its capacity needs to be developed through relevant training.

On **implementation**, the State Aid Council issued six decisions during the reporting period. Most State aid measures are put in place by granting authorities without notification or prior approval by the State Aid Council. Bosnia and Herzegovina needs to ensure the transparency of all State aid measures. The State Aid Council should continue monitoring the implementation of State aid rules in large projects carried out in cooperation with third countries.

#### Liberalisation

Concerning **liberalisation**, the Law on competition and the Law on State aid apply to public undertakings and undertakings with special or exclusive rights. Bosnia and Herzegovina needs to demonstrate that these rules are being enforced. The rules on financing services of general economic interest are not fully aligned with the EU *acquis*.

### **Chapter 9: Financial services**

*EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.*

Bosnia and Herzegovina is **in between some and moderate level of preparation** in the area of financial services. There was **no progress** in implementing last year's recommendations. Further steps are needed to significantly improve coordination in supervision and enforcement within the sector. The overall level of preparedness in the securities market remains low.

Last year's recommendations remain largely valid. In the coming year, Bosnia and Herzegovina should in particular:

- improve cooperation in the area of financial stability among all stakeholders through a Memorandum of Understanding;
- strengthen the bank resolution framework by amending the entities' banking laws and the law on deposit insurance to enable the creation of a financial stability fund;

→ demonstrate improvements in the coordination between corrective and enforcement powers of supervisory bodies, including banking agencies.

As regards **banks and financial conglomerates**, the banking sector appears sufficiently capitalised and liquid. The overall capital adequacy ratio was 19.6% at the end of 2022, well above the regulatory minimum of 12%. However, the fragmented market remains a drag on the moderate profitability of the banking sector. Strategies on implementing Basel III are in place.

In September 2022 and April 2023, banking agencies adopted decisions on temporary measures to reduce the risk of increasing interest rates and to limit banks' exposures. The aim of these temporary measures was to introduce additional rules for expected credit losses and offset the consequences of a potentially significant increase in the amount of debt repayment. Financial stability will have to be closely monitored, including through more frequent meetings of the Standing Committee for Financial Stability, which brings together the Central Bank, the ministries of finance at State and entity level, the entity banking agencies and the Deposit Insurance Agency.

The fragmentation of the institutional and regulatory set-up continues to impede effective banking supervision. The Standing Committee for Financial Stability did not meet during the reporting period, raising concerns about the coordination and regularity of financial stability monitoring. To ensure financial stability, Bosnia and Herzegovina needs to improve cooperation among the banking agencies, the Central Bank, the Deposit Insurance Agency and relevant ministries (a memorandum of understanding to this end has yet to be signed), and to adopt a common methodology to determine systematically important banks.

The deposit insurance scheme is operational, but the amount of insured deposits (increased to EUR 35 800 in November 2022) still remains below the requirements of the EU *acquis*. While the implementation of the Law on deposit insurance strengthens depositors' confidence and should prevent bank runs, the bank resolution framework should be established to enable the creation of a single financial stability fund that could enable bank resolution and provide sufficient liquidity. This is a major shortcoming as, without such a fund, the financial sector safety net remains inadequately prepared to deal with a potential bank failure which, unlike the case of the Sberbank subsidiaries in March 2022, might not be quickly resolved through change of ownership.

The implementation of the methodology for the supervisory review and evaluation process (SREP) continued and enabled risks and corrective measures to be identified for individual banks. To be complete, the legal framework must notably strengthen supervisors' corrective and enforcement powers and introduce consolidated supervision of banking groups across the entities.

The ratio of non-performing loans declined to 4.7% of the outstanding loan portfolio at the end of 2022. Nevertheless, institutional and legal obstacles to swift and effective resolution need to be reduced.

Regarding **insurance and occupational pensions**, no progress was made in the alignment and harmonisation of the entities' legislation on compulsory vehicle insurance to ensure a country-wide harmonised approach to the liberalisation of the insurance market in Bosnia and Herzegovina.

Some preparatory steps were made at entity level for the transition to a Solvency II-based regulatory framework. The Insurance Agency of Bosnia and Herzegovina has to finalise a conformity analysis of the entity laws with the Solvency II Directive. The Federation entity

postponed application of International Financial Reporting Standard 17 (IFRS 17) to January 2026 due to the low level of readiness of insurance companies, for which a working group has been established to prepare for implementation. No progress was made on voluntary pensions.

Alignment with the *acquis* governing financial supervision of institutions for occupational retirement provision has yet to be addressed.

No progress was made in terms of **financial market infrastructure**. The legislation is not in line with the EU *acquis*.

The regulatory framework for **securities markets and investment services** is under the entities' competence. Both entities have a securities market regulator (the Securities Commissions) and a dedicated, though not harmonised, legal framework on the securities market and investment funds.

With regard to the **investment funds sector**, some progress was made on alignment with the Directive 2011/61/EU on Alternative Investment Fund Managers and Directive 2009/65/EC for collective investment in transferable securities (UCITS). The Ministry of Finance adopted a proposal for a Law on amendments to the Law on investment funds. Coordination between the entities needs to be improved to ensure consistent alignment with key areas of the EU securities market *acquis*, such as market manipulation and market abuse rules. The entity-level Securities Commissions is fully operational and holds monthly sessions.

On **digital finance**, the presence of fintech start-ups is marginal compared to traditional banks, which are perceived as the main financial institutions for utilising digital financial technologies. Approximately 80% of executed payments are carried out in cash, due to a lack of consumer trust in online payments, high credit-card fees and inadequate legislation to enable payment service providers to enter the market. The banking sector in Bosnia and Herzegovina is dominated by foreign capital and allows transfer of knowledge and solutions. However, without a legal and regulatory framework for digital identity, banks can only offer hybrid solutions, i.e. using digital solutions and technology to the level permitted by this framework. The majority of banks in Bosnia and Herzegovina have already digitalised some processes and introduced principles of sustainability in their day-to-day operations and credit analysis, but further development is subject to comprehensive reform.

On **sustainable finance**, the management and monitoring of climate-related and environmental risks in the banking sector were included in the Strategic Priorities for 2023-2025. This envisages a series of concrete measures to be implemented in the area of risk assessment, supervision and international cooperation, as well as the establishment of rules for managing to climate-related and environmental risks. Bosnia and Herzegovina should ensure these Strategic Priorities are fully implemented and make further progress on the integration of sustainable considerations in its regulatory financial framework.

## **Chapter 28: Consumer and health protection**

*EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.*

Bosnia and Herzegovina is at an **early stage of preparation** in the field of consumer protection and public health. **No progress** was made in the area - none of last year's

recommendations were implemented, so they remain valid. The legislation on serious cross-border health threats, including communicable diseases, is not yet aligned with the EU *acquis* at all levels of government.

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

- adopt legislation at all levels banning smoking in public places in line with the EU *acquis*, ratify the protocol to eliminate illicit trade in tobacco, and start to enforce both measures;
- further align its legislation with the *acquis* on substances of human origin and on medicines for human use, and establish an oversight system in this field with a view to ensuring efficient coordination in the whole country;
- further align the state-level law on consumer protection and product safety with the EU *acquis*.

### Consumer protection

On **horizontal aspects**, the state-level law on **consumer protection** was adopted in 2006 and is now very outdated. It needs urgent alignment with the latest EU *acquis* to address rapidly changing digital markets and to address the risk of unequal protection of consumers in the entities. The legal framework for consumer credit and distance marketing of financial services is also not aligned with the EU *acquis*. The Ombudsperson's office for consumer protection failed to provide data on decisions issued in 2022.

The legal framework for **product safety** is still not aligned with the EU *acquis*. Over the reporting period, the Market Surveillance Agency and the inspection bodies of the entities and the Brčko District conducted 221 checks as part of proactive surveillance, and 14 checks on reactive surveillance. As a result of 189 product models checked, 3 906 unsafe products were withdrawn from the market (of which 2 313 were destroyed), and businesses brought 8 612 products into compliance with safety requirements.

### Public health

On **horizontal aspects**, no progress was made in drafting a health strategy at the state level or in the Brčko District. There is no state-level health information strategy and no progress was made on **e-health** or on an integrated health information system.

On **tobacco control** policies, legislation at the level of the entities and the Brčko District is not aligned with the relevant EU *acquis*. The Federation entity Law on tobacco control entered into force in May 2023. It regulates the use, advertising, flavouring and packaging of tobacco and other smoking products. However, the law includes extensive exceptions and is likely to have a limited impact, including on indoor smoking in public and commercial areas. Although Bosnia and Herzegovina is a party to the WHO Framework Convention on tobacco control, it does not fully implement it due to the lack of systematic monitoring, and it has still not ratified the protocol to eliminate illicit trade in tobacco products.

The legal framework on **blood, tissues, cells and organs** at the level of the entities and the Brčko District is not aligned with the EU *acquis*. The legal framework on biomedically assisted fertilisation remains fragmented, so it cannot be evaluated as aligned with the EU *acquis* across the country. Bosnia and Herzegovina does not have the necessary administrative capacity to fulfil the requirements laid down in the *acquis* on human organ, tissue and cell transplantation. The entities have established institutes for transfusion medicine, whose transplantation programmes are organised at entity level with very limited cooperation between them. No progress has been made in setting up a state-level oversight system to ensure efficient coordination throughout the country.

Legislation on **serious cross-border health threats, including communicable diseases**, has not yet been aligned with the EU *acquis* at all levels of government. Bosnia and Herzegovina needs to strengthen coordination between the entities and the state level on communicable disease surveillance and response. Bosnia and Herzegovina's participation in the technical activities of the European Centre for Disease Control and Prevention (ECDC) remains limited and it has not yet taken part in the ECDC assessment on the status of communicable diseases.

Measures to promote healthy lifestyles in connection with the prevention of **non-communicable diseases** are regulated and partially implemented by the competent institutions of the entities and the Brčko District. On **cancer screening**, Bosnia and Herzegovina still has no country-wide cancer control plan or country-wide early detection programme, and the Federation entity has no systematic cancer registers or screening programmes for the treatment of cancer, due to legislative issues and limited financial capacity. Both entities have cancer registers. The *Republika Srpska* entity has an early detection programme in place. The Brčko District has no register or early detection programmes.

Bosnia and Herzegovina has 74 community-based **mental health** centres with multidisciplinary teams and some of them have additional specialists. A special forensic psychiatric hospital provides treatment to forensic patients from across the country. On preventive measures, activities to reduce **alcoholism** and for the prevention of alcohol-induced disorders were carried out with the participation of NGOs. **Drug abuse** prevention and harm-reduction preventive measures are not implemented systematically, though some are implemented through education and NGO activities. There is no systematic approach to rehabilitation and social reintegration, and such programmes have been introduced unequally in different parts of the country.

In September 2022 the *Republika Srpska* entity expanded the scope of health insurance and increases its coverage by introducing the right to health protection and right to salary compensation due to health incapacity.

On **health inequalities**, accessibility to healthcare for all citizens is still a key challenge despite legislation stipulating that equal access to health should be in place. One of Bosnia and Herzegovina's key reform priorities is to provide good quality accessible public healthcare for all, including marginalised groups. Access to healthcare services for Roma is only possible if they are registered at the employment or education administrations, which means that many Roma do not have health insurance. Obstacles to the mobility of patients between different entities or cantons persist and illustrate the complexity and inefficiency of the system; this must be improved and harmonised with the EU *acquis*. Women and girls face problems with healthcare due to lack of health insurance and poorly organised services related to sexual and reproductive health, among other things. This especially affects women from marginalised groups (including Roma women, women from rural areas, women with disabilities), through a disproportionate lack of access to healthcare. Women and girls were disproportionately affected by the COVID-19 pandemic, most particularly by being on the frontlines of the pandemic and owing to the loss of jobs in care, hospitality and service. Bosnia and Herzegovina still needs to take concrete steps to include a gender perspective in the planning and implementation of relief and recovery measures in case of a healthcare crisis. Bosnia and Herzegovina needs to improve conditions in hospitals and maternity hospitals and ban obstetric violence, in line with its obligations under the Istanbul Convention. While there has been improvement in addressing gender-based violence, Bosnia and Herzegovina still needs to make significant investments in developing its multi-sectoral response mechanisms, including in healthcare institutions, for victims of gender-based

violence, including sexual violence. Bosnia and Herzegovina needs to continue aligning healthcare, maternity, paternity and parental leave benefits and ensure that women, including women from marginalised groups, have equal access to health insurance and services. (*See also Chapter 19*)

For **medicinal products for human use** and **medical devices** the state-level Agency for Medicines and Medical Devices (ALMBiH) is the regulatory body in charge of securing the functional, coordinated and uniform system for regulation of such products, supervising a single market for them, and ensuring their availability on the entire territory of the country. The *Republika Srpska* entity Law on pharmaceuticals and medical devices, which provides for the establishment of an entity-level agency with the same responsibilities as ALMBiH, was repealed by the Constitutional Court in December 2022.

### **CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH**

This cluster covers: Digital transformation and media (Chapter 10); Taxation (Chapter 16); Economic and monetary policy (Chapter 17); Social policy and employment (Chapter 19); Industrial policy (Chapter 20), Science and research (Chapter 25); Education and culture (Chapter 26); and Customs union (Chapter 29).

Bosnia and Herzegovina has some level of preparation in the areas of taxation, social policy and employment, science and research and customs. It is at an early stage of preparation on digital transformation and media, economic and monetary policy, industrial policy, and education and culture. Unfortunately, Bosnia and Herzegovina has made limited or no progress in any of these areas.

#### **Chapter 10: Digital transformation and media**

*The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.*

Bosnia and Herzegovina is at an **early stage of preparations** in the area of digital transformation and media. **No progress** was achieved in implementing last year's recommendations, which remain valid. The legislation and strategic framework are not in place and not aligned with the EU *acquis*. The country still needs to introduce the European emergency number 112. The regional roaming agreement, enabling 'roam like at home' (RLAH), was successfully implemented. Negotiations on association to the Digital Europe Programme should be finalised by the end of 2023. Last year's recommendations remain valid.

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

- complete phase two of the digital switchover and adopt a framework strategy for access to the broadband network;
- develop and adopt a law on electronic identity and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*; develop a legislative framework on cybersecurity in line with the EU *acquis*;
- develop and adopt a law on electronic communications and electronic media in line with the EU *acquis*.

Regarding **electronic communications and information and communication technology**, Bosnia and Herzegovina has still made no progress in adopting the legislation related to electronic communications and electronic media in line with the 2018 EU regulatory

framework, nor has it made progress in aligning with the EU Broadband Cost Reduction Directive. Bosnia and Herzegovina has not developed a broadband strategy, even though it introduced the 4G network in 2019. The Communications Regulatory Agency still lacks financial independence and no efforts were made to improve the procedure for appointing its management to ensure full political independence. The mandate of its Board expired at the end of 2017 and the Parliament has still not appointed a new board.

In 2022, there were 61 internet providers, 875 598 broadband subscribers and 3 705 589 internet users (110.9% penetration rate, counting both households and business connections), with a penetration rate of 24.8% for broadband internet.

Regarding **information society services**, Bosnia and Herzegovina made no progress in adopting a country-wide strategy and action plan for development of the information society. No progress was made in the adoption of the law on electronic identity and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*. Nor has progress been made in ensuring the interoperability of the electronic signature system aligned with the EU *acquis* throughout the country. A functional and interoperable electronic signature system would facilitate secure electronic communication and digital transactions, allowing various sectors (public administration, taxation, customs, banking, judiciary) to operate in a more efficient and effective manner, improving business environment and enabling swift access of citizens to public services. One company and two state-level institutions now offer e-signature services. Bosnia and Herzegovina has no national open data policy in place. Alignment with the Digital Services Act and Digital Markets Act needs to be stepped up, to provide predictability for the business community. Bosnia and Herzegovina should also align with the European Interoperability Framework and the Interoperable Europe Act.

Concerning **cybersecurity**, Bosnia and Herzegovina does not have a comprehensive legislative framework on the security of networks and information systems (a law on information security is in place only in the *Republika Srpska* entity), and made no progress in adopting a country-wide strategy. Moreover, the country made no progress in designating a country-wide single point of contact responsible for coordination and cross-border cooperation. Bosnia and Herzegovina needs to establish a network of computer security incident response teams (CSIRT) to facilitate strategic cooperation and the exchange of information; a CSIRT is operational only at the Ministry of Defence and in the *Republika Srpska* entity.

As regards **audiovisual policy**, Bosnia and Herzegovina made no progress in developing and adopting a law on electronic communications and electronic media in compliance with the EU *acquis* and to harmonise entity legislation with the state-level law on the public broadcasting system. No progress has been made in adopting legislation on media ownership transparency, including a register of ownership structures, or in adopting legislation on advertising in the media. The Communications Regulatory Agency adopted by-laws to align national rules with the EU *acquis*. The government also committed to strengthen the independence of the media regulatory authority. Bosnia and Herzegovina has thus met the requirements for continuing their participation in the MEDIA and cross-sectorial strands of the Creative Europe programme. Bosnia and Herzegovina took limited steps in the preparation of the second phase of the digital switchover, with public broadcasting services acquiring equipment needed to switch to digital terrestrial broadcasting. Bosnia and Herzegovina has failed to introduce a suitable model to collect broadcasting fees that would ensure the public broadcasting system's financial sustainability and political independence. The Public Services Broadcasting Corporation, as prescribed by the respective law, is still not

established. The financing of local public broadcasters from the public budget also needs to be brought in line with the EU *acquis*, as it constitutes State aid and provides opportunities for political pressure and influence. (See also Chapter 23 – Freedom of expression)

## Chapter 16: Taxation

*EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.*

Bosnia and Herzegovina has **some level of preparation** in the area of taxation. **No progress** was made in implementing the recommendations from last year which therefore remain valid. Country-wide harmonisation remains insufficient, hindering progress towards a single economic space.

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

- bring the legislation on VAT and on excise duties in line with the EU *acquis*, notably on excise duties on beer;
- make progress on the electronic signature (e-signature) in order to ensure its interoperability and a harmonised country-wide system.

The legislative framework for **indirect taxation** is partially aligned with the EU *acquis*. The country needs to further align VAT legislation with the EU *acquis* and improve cooperation between the Indirect Taxation Authority and the tax administrations of the entities and Brčko District, including through joint audits. Its ability to fulfil its vital country-wide role must be maintained.

As regards excise duties on tobacco, alcohol and energy, there are considerable discrepancies with the *acquis* on the scope and classification of excisable goods as well as exemptions, structures and minimum rates. The country needs to align its Law on excise tax fully with the EU *acquis*.

On **direct taxation**, the tax and social contribution regimes in the two entities have continued to diverge, hindering progress towards a single economic space. There was no progress in the field of direct taxation in the Federation entity, as new legislation on income tax and social contributions to reduce the tax burden on labour and increase take-home pay has yet to be adopted.

On **administrative cooperation and mutual assistance**, Bosnia and Herzegovina has ratified the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters. The country has not yet committed to automatically exchanging financial account information based on the OECD single global standard. Bosnia and Herzegovina has signed and implemented 38 double taxation agreements, of which 19 with EU Member States.

Concerning **operational capacity and computerisation**, there needs to be further improvement of coordination, cooperation and data exchange among Bosnia and Herzegovina's different tax administrations, including the country-wide harmonisation and interoperability of the e-signature. The administrative capacity and staffing levels of the Indirect Taxation Agency should be substantially strengthened, especially in key operational posts.

## Chapter 17: Economic and monetary policy

*EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.*

Bosnia and Herzegovina is at an **early stage** of preparation on economic and monetary policy and there was **no progress**, in particular in terms of the cooperation and coordination of macroeconomic and fiscal policies, as evidenced by the difficulties in the preparation and execution of the Economic Reform Programme (ERP) and the failure to appoint a new governing board of the Central Bank. Monetary policy underpins economic stability, but the full independence of the Central Bank has yet to be ensured.

The 2022 Commission's last year's recommendations were not met and therefore remain valid. In the coming year, Bosnia and Herzegovina should in particular:

- maintain the integrity of the currency board arrangement and the independence of the Central Bank, and appoint the members of its governing board without any further delay;
- enhance cooperation and coordination on socio-economic reforms among the different levels of the government and strengthen the analytical capacity of governmental institutions, in particular of the state-level Ministry of Finance and Treasury;
- ensure consistent political support for and high visibility, country-wide ownership and coherence of the Economic Reform Programme, including its medium-term macro-fiscal framework; enhance administrative capacity to design, implement and monitor economic reforms.

As regards **monetary policy**, the exchange rate regime continues to be characterised by a currency board arrangement, which links the convertible mark (BAM) to the euro as the anchor currency. This provides stability within the country's complex institutional environment. The Central Bank's objective of keeping the domestic currency stable remains in contrast with the primary objective of monetary policy in the EU, which is price stability.

The Law on the Central Bank does not ensure the Bank's unconditional independence and is not fully aligned with the EU *acquis* as regards the prohibition of monetary financing. The Central Bank is required to report to the Parliamentary Assembly on its audited annual financial statements and to the Presidency on the preliminary financial reports.

The mandate of the Central Bank's governing board expired in August 2021 and the Presidency has still not appointed a new one. The outgoing governing board remains in office *ad interim*, to ensure the core tasks and functions of the Central Bank. The circumstances of the appointments in 2020 of now-acting members of the board (following a change in the composition of the Presidency) and previous dismissals, as well as the failure to appoint a new board after the expiry of the previous mandate, raise concerns about the vulnerability of the Central Bank to political interference. Proposals for the use of Central Bank reserves for fiscal purposes resurfaced occasionally, although such measures would undermine the currency board arrangement. Therefore, preserving the integrity of the currency board arrangement and the independence of the Central Bank remains crucial.

The Central Bank has improved its operational risk management and became a member of the International Operational Risk Working Group (IORWG). In July and December 2022, the Central Bank amended the reserve remuneration rates in order to harmonise with the ECB reference rate, but also to partly cushion the impact of the increasing ECB reference rate on banking sector operations.

Banking supervision powers lie with the two entities' banking agencies, but remain impeded by fragmented competences and insufficient coordination, cooperation and information sharing.

Concerning the **budgetary framework**, some work has been going on in order to improve the reporting in the context of the EU's excessive deficit procedure. Fiscal rules remain at entity level and there is still no independent fiscal institution to monitor and enforce compliance with country-wide fiscal rules. The medium-term budgetary framework remains insufficiently developed and underused as a policy-guiding instrument, as its adoption is often severely delayed by political disagreements. The alignment of the underlying statistical framework with the requirements and definitions of the European System of National and Regional Accounts (ESA 2010) remains limited. The still outstanding agreement on the sectorisation of public accounts as well as the country's fragmented institutional set-up and limited cooperation between the different authorities and bodies involved are important impediments in this respect. The Central Bank and the Directorate for Economic Planning (DEP), which is an independent state-level institution, are producing regular macroeconomic forecasts. However, their quality is strongly impeded by the poor quality and late submission of country-wide statistics. While the Central Bank's methodological underpinning of its forecast is publicly available, this is not the case with the forecast method of the DEP. The Medium-Term Budgetary Framework forms the base of the country's annual budgets, although with a strong entity-level emphasis. The adoption of this framework is often impeded by the country's frequent political stalemates. The underlying assumptions are not very transparent and the description of medium-term policies and their fiscal implications is very limited and usually only focussed on entity level. The country does not have a fiscal council, as required by the EU *acquis*.

Regarding **economic policy**, the overall quality of Bosnia and Herzegovina's medium-term economic reform programme (ERP) did not improve this year and was again submitted with a two-month delay. The Council of Ministers was late in adopting the activity plan formally empowering the Directorate for Economic Planning to effectively coordinate the preparation of the programme. All of this points to long-standing and significant weaknesses in administrative cooperation and policy formulation. The policy guidance jointly agreed at the July 2022 Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye was implemented only to a limited extent. The capacity to design, implement and monitor structural reforms remains very limited. A country-wide medium-term reform programme that is coherent, consistent and based on a jointly agreed prioritisation has not been established yet. In addition, the coordination role of the Directorate for Economic Planning remains weak and lacks sufficient resources and competences.

### **Chapter 19: Social policy and employment**

*EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.*

Bosnia and Herzegovina has **some level of preparation** in the field of social policy and employment. There was **limited progress** in the area. Serious challenges remain to be addressed as regards employment, social inclusion and protection, and poverty reduction, especially related to coordination among the responsible institutions across the country. Limited progress was made on the recommendation related to development of the Youth Guarantee implementation plan. The Commission's recommendations from last year were only partially implemented and therefore remain valid.

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

- develop and adopt entity-level and country-wide employment strategies as a policy framework, while providing for additional capacity for implementation and monitoring;
- finalise and adopt the Youth Guarantee implementation plan in line with the EU model and guidance;
- introduce a uniform minimum level of maternity leave benefits and protection throughout the country, starting by harmonising the definitions of maternity, paternity and parental leave.

The **labour laws**, in place at the level of the entities and Brčko District, apply to all employees except civil servants, and guarantee a minimum level of protection of employee rights. In order to fully meet EU standards, the legal framework would need to be further improved, notably as concerns the protection of workers from discrimination.

In January 2023, the new Brčko District Law on employment and rights during unemployment entered into force, replacing an earlier law. The new law increases unemployment benefits, extends the duration of the right to unemployment benefit, regulates public works and establishes the obligation to develop a Brčko District employment strategy.

The right to strike is regulated by the entity-level labour laws and by the laws on striking that are in place at all levels of the government. Implementation of the labour laws remains inadequate, especially when it comes to social dialogue, protection of workers and the enforcement of labour inspections. Shortcomings in labour laws as concerns crisis management, were made clear during the COVID-19 pandemic. For instance, the labour legislation generally lacks provisions regarding remote work and organisation of work during emergency situations.

Laws on **health and safety at work** are in place in the entities and the Brčko District. Following the adoption of new occupational safety and health law in the Federation entity, new bylaws regulate risk assessment, the licencing of authorised entities and the performance of periodic review in the area of occupational safety and health. The bylaws regulating specific aspects of occupational safety and health are not harmonised with the EU *acquis* throughout the country.

The enforcement and implementation of legislation remains partial, especially when it comes to inspection capacity, proper prevention of injuries at work, investment in safety and relevant training for employers, and assistance to conduct a proper risk assessment in the workplace. The system of collection and dissemination of statistical data on work-related injuries and diseases still needs to be improved. Official data on reported accidents and fatalities, along with the most affected sectors, was not published for 2022.

**Social dialogue** remains weak at all levels and no significant improvements have been made. The involvement of social partners in the implementation of policies is limited as well as their internal capacity. The number of branch and sectoral collective agreements concluded remains low. Economic and Social Councils operate at entity level, with different approaches and effectiveness. The state-level Economic and Social Council has not been established. There are no general collective agreements in the two entities, but a number of branch agreements are in place, limited mainly to the public sector and some state-owned enterprises.

Although laws on social entrepreneurship are adopted in the *Republika Srpska* entity and in Brčko District, their adoption is still pending in the Federation entity. Regarding

**employment policy**, there is still no country-wide employment strategy in place. A 2021-2027 employment strategy was adopted in the *Republika Srpska* entity, including the Youth Guarantee. An employment strategy still needs to be adopted in the Federation entity.

According to the data of the labour force survey in 2022, only 40.2% of the working age population is employed, but only 47.6% of the working age population is actually active in the labour market, with a markedly lower share of women (less than 40% of the total). When it comes to employment, the share of women is even lower, standing at 36.8% of the total number of employed people. Shares of men and women in the unemployed population are roughly the same, pointing to the significantly lower activity rate of women of working age (over 60% of the inactive population are women). Youth unemployment remains high, as 40% of those aged 15-24 actually looking for work are unable to find it. 81% of the unemployed are younger than 50. Long-term unemployment prevails, as almost 57.8% of the total unemployed have been looking for work for more than 2 years and have been unable to find it. This also points to a mismatch between the outputs of the education system and the real needs of the labour market, and the predominantly structural nature of unemployment.

The highest share in educational structure of unemployed people are those who completed secondary education and specialisation (70.1%), followed by those who completed primary school or lower education (15.3%), and those with a college, university, master and doctoral degree (14.5%).

The trend of labour emigration from Bosnia and Herzegovina to the EU has been increasing for years, with the number of first residence permits in EU Member States granted to Bosnia and Herzegovina nationals rising steadily from 11 506 in 2011 to 56 363 in 2019 and decreasing to 33 147 only in 2021 due to the COVID-19 pandemic.

The capacity of **public employment services** to provide quality services to jobseekers has been gradually improving, but remains weak. The administration of social benefits further limits the ability of public employment services to assist active jobseekers. In the *Republika Srpska* entity the public employment service has been discharged from administrative duties related to health insurance and other social benefits for the registered unemployed. This is not yet the case in other parts of the country.

Bosnia and Herzegovina needs to swiftly complete and adopt the Youth Guarantee Implementation Plan.

The level of informal employment remains high. Measures to reduce informal employment are supported by active employment measures such as self-employment, incentive programmes for employers and improvement of business climate, and some repressive measures and efforts to reduce para-fiscal charges.

On **social inclusion and protection**, there are still no country-wide strategies on poverty reduction, social inclusion and protection. Nor is there a system at state level for monitoring policy implementation. For persons with disabilities, institutional care is still prevalent. The issue of accessibility to public buildings needs to be addressed in a systematic manner. Services within the community that enable independent living are not adequately supported and there is no comprehensive strategy for deinstitutionalisation. At entity level, there is a wide range of strategies and laws related to social inclusion and protection, but they are not enforced due to lack of funding, inadequate procedures, standards and referral practices, and a general lack of coordination.

The social protection system remains underdeveloped and the effectiveness of social transfers is limited. Social assistance is neither well targeted nor needs-based due to the absence of an

adequate system for data collection. A large number of people in Bosnia and Herzegovina are not covered by public health insurance and as such are not entitled to the basic package of healthcare services. In addition, because of the highly decentralised governance structure, the eligibility conditions for social assistance differ between entities, districts and cantons. Along with differences in eligibility criteria, there are differences in coverage, targeting efficiency and generosity. Cooperation between social service centres and employment services is not well established. The transformation of institutions for social protection and, in particular, of institutions for children without parental care is still ongoing. **Deinstitutionalisation** requires comprehensive reform of financing of new services for both capacity building and support for social service centres across the country. Both entities and Brčko District started developing the roadmap for deinstitutionalisation.

The scope and duration of the employment and social rights related to maternity, paternity and parental leave remains uneven throughout the country. Although most of the existing legislation envisages various rights including mandatory maternity leave and protection from dismissal, the issue of wage compensation for employed parents during maternity leave is still unresolved.

There are still no country-wide systematic measures to improve the situation of older persons. Bosnia and Herzegovina should adopt a new action plan for children, as each entity implements the child reform activities based on their existing strategies and legal framework.

In the Federation entity, a new Law on material support for families with children entered into force in October 2022, introducing uniform standards for the financial support of children and unemployed mothers and reducing some of the inequalities among cantons. However, this law does not regulate wage compensation for employed parents during maternity leave, which remains regulated separately by each canton.

The EU statistics on income and living conditions (EU-SILC) are still not available in Bosnia and Herzegovina, although the country conducted the necessary surveys in 2022 and spring 2023

On **non-discrimination in employment and social policy**, although labour laws within the country address the issue of non-discrimination, there are still different maternity leave benefits and definitions of parental leave across the country. Bosnia and Herzegovina needs to establish uniform minimum maternity leave benefits across the country and harmonise the definition of maternity, paternity and parental leave to eliminate discrimination. Apart from policy frameworks that target the increase of employment opportunities for persons with disabilities, there are no strategies or action plans in place specifically developed for employment-related discrimination. No official data on the employment of persons with disabilities were published. The labour market and social policies have not been very successful in addressing the specific needs of vulnerable populations, including the Roma. According to the mapping performed under the EU supported analysis of persons with disabilities and Roma, around 82% of the Roma interviewed reported that they are either unemployed (40%) or inactive of the labour market (42%). The weak links between the responsible ministries and lack of cooperation constitutes a barrier to progress. In 2022, the Ombudsperson dealt with 387 cases of employment-related discrimination. Complaints concern mainly irregularities in employment, labour rights in general, dismissal procedures and in the payment of pensions. A significant number of workers do not initiate proceedings, nor do they seek judicial protection for fear of being fired. Most public bodies do not have mechanisms for dealing with complaints of harassment and discrimination, as required by the anti-discrimination legal framework.

The principle of **equal opportunities and equal treatment of men and women in matters of employment and social policy** is regulated by the laws on gender equality and antidiscrimination, and by the entity-level labour laws. These laws contain rules on gender equality covering different areas (employment, education, training and professional qualification) but in practice the enforcement of non-discrimination legislation remains low. The employment rate for the population aged 20-64 slightly increased from 39.1% in 2021 to 40% in 2022 for females, and from 66% to 67.7% for men, resulting in a high gender employment gap of 27.7 percentage points. The gender pay gap remains significant, at around 25%.

## **Chapter 20: Enterprise and industrial policy**

*EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).*

Bosnia and Herzegovina remains at an **early stage of preparation** in the area of enterprise and industrial policy. **Limited progress** was made, notably in updating entity-level industrial policy strategies. The investment environment remains unsatisfactory.

The recommendations from last year were partially implemented, therefore remain in large part valid. In the coming year, Bosnia and Herzegovina should in particular:

- simplify and harmonise business registration in both entities in order to reduce the administrative burden on entrepreneurs, by centralising company registration and licencing under one-stop-shops and by broadening online registration;
- harmonise the industrial policy strategies and action plans of the various levels of government, ensuring coordination and involvement of industrial enterprises in policy formulation and implementation;
- assess the needs of businesses, particularly SMEs, when it comes to modernising skills and adopt strategic guidelines for harmonisation of SMEs and entrepreneurship support.

During the reporting period, the entities and Brčko District continued COVID-19 supported measures for businesses in the form of subsidies and tax relief, while guarantee funds continued operations.

Regarding **enterprise and industrial policy principles**, the *Republika Srpska* entity introduced new indicators and improved databases to monitor implementation of its industrial development strategy and its accompanying action plan. Nevertheless, Bosnia and Herzegovina still lacks a country-wide industrial development strategy and a state-level body promoting consistency between industrial strategies and coherence with other related policies, notably to encourage foreign direct investment, improve the business environment and SME's development, and to effectively adapt to the emerging energy crisis and the rising prices of production inputs.

Limited steps were taken to **improve the business environment** and to attract investments. The *Republika Srpska* entity adopted a decree on direct investments of special importance, aiming to attract investors who will provide better jobs and new technologies. New administrative procedures include the option of electronic access to registration documents and e-settlement of taxes. While electronic registration of businesses was launched in the *Republika Srpska* entity and in Brčko District, the systems are not yet fully functional and interoperable due to delays in the issuing of e-signatures and e-seals. Although laws on bankruptcy are in place throughout the country, bankruptcy proceedings are not resolved in a

timely manner, with insufficient emphasis on companies' rehabilitation and reorganisation.

Despite these developments, the investment environment and the level of competitiveness remain unsatisfactory. Bosnia and Herzegovina still lacks a country-wide strategic framework to encourage foreign direct investment and to improve the business environment. Common causes of informality like high barriers to starting a business and rules on taxes and para-fiscal charges continue to be among the most salient business environment issues, together with 'red tape' and the regulatory differences across various levels of government. Bosnia and Herzegovina lacks a comprehensive inventory of all administrative and technical steps needed for domestic and foreign companies to register and operate, in order to abolish requirements that hamper the single economic space across the country. Bosnia and Herzegovina has not yet provided for the electronic registration of businesses by all levels of government, nor has it improved the connection and coordination of business registers among entities and with the Brčko District. Regulatory impact assessment is applied across the country and has been expanded to cover the impact on SMEs, though it is still often perceived as a mere formal obligation. Overall, the simplification of business-related legislation is being carried out on an *ad hoc* basis and is not harmonised throughout the country, e.g. as regards additional administrative and compliance requirements between entities.

Bosnia and Herzegovina continued to participate in ongoing multi-annual projects funded by the previous EU Programme for the competitiveness of enterprises and SMEs (COSME). The Association Agreement for participation of Bosnia and Herzegovina in the Single Market Programme was signed in July 2023.

**Oversight and governance of public enterprises** still need to be strengthened, including actions to put public companies on an equal footing with other industrial enterprises and to reduce substantial payment arrears. The *Republika Srpska* still does not have a single register of public companies containing all the required information. Oversight and risk management units have been established and incorporated respectively in the General Secretariat of the *Republika Srpska* entity government and the entity Ministry of Finance. The Federation entity has a single register of public enterprises and has added comprehensive non-financial information. However, no oversight and management units have been put in place in the Federation entity.

Preparations for the **green and digital transitions and global competitiveness of industry**, in line with the EU industrial strategy, are at a very early stage. Only 4% of companies rely on digitalisation and innovation as a key driver to their business growth.

Energy diversification is slowly progressing and Bosnia and Herzegovina's economy is about six times more carbon-intensive than the EU average. Therefore, a greater focus on green investments is required, including actions at the SME level. Evidence-based government support should also improve accountability for the use of public funds and ensure that businesses, in particular SMEs, can obtain financing for the twin transition.

The innovation performance of Bosnia and Herzegovina decreased between 2016 and 2022, in contrast to increasing EU average, widening the gap in innovation performance. As the 2022 Global Innovation Index shows, Bosnia and Herzegovina produces less innovation compared to its level of innovation investments. The low-level commercialisation of research and development is linked to low public investments in this area and the weak linkages for technology transfer and cooperation in clusters (*see Chapter 25 – Science and research*). The collaboration of SMEs and research institutions is not sufficiently developed to create conditions for the application of innovative financing models like innovation vouchers or

collaborative grants. Amending the Law on patents could improve both collaboration and financing of innovation activities for higher value-added business. (*see Chapter 7 – Intellectual property law*)

The capacity and funding to perform monitoring and evaluations of enterprise and industrial policy measures are still limited, and the statistical data remain insufficient to describe the structure and dynamics of industry.

As for **enterprise and industrial policy instruments**, no progress was made in aligning the legislation against late payments in commercial transactions with the EU *acquis*, including in the Brčko District.

As regards **sectoral policies**, the *Republika Srpska* entity adopted its tourism strategy for the period 2021-2027 in January 2022, while the strategy is still pending adoption in the Federation entity.

## Chapter 25: Science and research

*The EU provides significant support for research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and a solid investment in research and innovation.*

Bosnia and Herzegovina has **some level of preparation** in the area of science and research. **Limited progress** was made, notably by developing a roadmap for research infrastructure. The country's research capacity and innovation efforts remain very limited. Overall, the research and innovation gap with the European Union is widening. The recommendations from last year were only partially implemented, therefore remain valid.

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

- develop a new 2023-2028 strategy and action plan for scientific development;
- develop and adopt a smart specialisation strategy;
- improve reporting on research and innovation statistics.

On **research and innovation policy**, the legislative framework regulating research and innovation development remains fragmented and still needs to be improved throughout the country. No action plan was in place from 2017 till 2023. Bosnia and Herzegovina needs to develop and adopt a new strategy and action plan for scientific development (2023-2028).

The country's estimated total allocations for research and innovation remain below 0.3% of GDP. A substantially increased budget, particularly in the area of innovation, is essential for the country's economic recovery. Further progress should be made to ensure reliable and comprehensive statistics on research and innovation, e.g. for the European Innovation Scoreboard and the European Research Area. The country's research capacity remains limited, while brain drain continues, most notably in the health, medical, and IT sectors, with no systematic measures having been introduced so far to address the issue.

The government's efforts in upgrading research and innovation policies and related activities (e.g. the strategy for the development of science and the pending adoption and implementation of the related action plan) as well as grants provided to organisations for submitting proposals under Horizon Europe are delivering some results. However, systemic collaboration and interaction need to be strengthened between 'triple helix' actors – academia, industry and governments. The development of a smart specialisation strategy is still at a very early stage. Its absence hampers research and innovation efforts.

As regards **international cooperation**, Bosnia and Herzegovina takes part in Horizon Europe as an associated country, having competitively received EUR 1.65 million in 2021. Preliminary and partial figures for 2022 show an encouraging increase: so far already EUR 2.1 million have been gained by researchers and innovators from Bosnia and Herzegovina in 2022. The selection of Sarajevo for the Horizon Europe Mission on climate-neutral and smart cities and its outreach to Mostar is encouraging.

Bosnia and Herzegovina is included in the European Innovation Scoreboard, enabling its participation in the European Institute of Innovation & Technology's Regional Innovation Scheme as of 2025; participation in the activities of the European Institute of Innovation & Technology are encouraged. In the scoreboard, Bosnia and Herzegovina was found to be an emerging innovator. Over time, its performance relative to the EU has declined, in particular in the last two years.

## Chapter 26: Education and culture

*The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policies through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.*

Bosnia and Herzegovina is **at an early stage** of preparation in the area of education and culture. There was **no progress** in the area. A fully functional system of accreditation of higher education institutions and in particular study programmes is still lacking. Bosnia and Herzegovina needs to align legislation at all levels of government with the framework laws on education, and ensure application of the common core curriculum based on learning outcomes. Social inclusion at all stages of education needs to be ensured. Youth strategies across the country should be developed and implemented. Having only been partly addressed, the recommendations of last year's report remain relevant.

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

- extend and update the action plan for the national qualification framework (NQF) and establish an inter-sectoral commission for NQF;
- ensure a fully functional system of (re-)accreditation of higher education institutions and study programmes across the country;
- ensure continued participation in international assessment studies<sup>16</sup> and the implementation of findings to improve PISA results.

In the area of **education and training**, Bosnia and Herzegovina failed to participate in 2021 PIRLS and 2022 PISA, and has not confirmed participation in 2025 PISA yet. Coordination of the processes linked with participation in international assessment studies needs to be significantly improved. No clear measures have been taken by Bosnia and Herzegovina to address the findings of 2018 PISA and 2019 TIMSS; in the absence of a countrywide approach, some cantons have started reforming their curriculum based on student learning outcomes to improve quality in line with 2018 PISA and 2019 TIMSS recommendations. Bosnia and Herzegovina has, however, decided to join the ICILS 2023, which can help the country to monitor its own national targets regarding students' digital competences and also

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<sup>16</sup> International Student Assessment – PISA, Trends in International Mathematics and Science Study – TIMSS and Progress in International Reading Literacy Study – PIRLS, International Computer and Information Literacy Study – ICILS, Teaching and Learning International Survey – TALIS.

to provide information for monitoring progress toward the UN Sustainable Development Goals.

Bosnia and Herzegovina was invited to take part in the European Education Area working groups 2021-2025. These working groups fosters collaboration among European Union Member States, as well as with candidate countries, in order to build more resilient and inclusive national education and training systems and prepare their youth for the green and digital transition.

Activities on implementation of the recommendations for action policies with the roadmap for promotion of inclusive education in Bosnia and Herzegovina should be intensified. The education of children with special needs remains a challenge, particularly in terms of ensuring the necessary infrastructure, provisions, transportation and school assistants to support both children and teachers.

Although the legal framework regulating the collection and systematisation of data for Bosnia and Herzegovina is in place, there is no mechanism to systematically measure or monitor the quality of education inputs, outputs or outcomes. An administrative database has been in operation since October 2022 to manage data needed for reporting to international institutions. However, data does not feed back into the policy-making process. The education system lacks common standards for the different levels of education, as well as for teacher training and performance evaluation. Comprehensive teacher training focusing on developing students' key competencies should be provided and a systematic approach for application of the common core curriculum based on learning outcomes should be established.

Due to demographic changes, the number of students enrolled at almost all levels of education is gradually declining. In early childhood education and care (ECEC), the enrolment rate remains very low but with a positive trend (+16%), now standing at 32%. Only 42% of three-to-five year olds are enrolled in pre-school education, and 25% of three-to-six years old Roma children. Concerning access to primary and secondary education, close to 100% of children are attending primary and 85% attending secondary education. Primary school completion rate is 92% (93% for boys and 90% for girls). Among Roma children, 69% attend primary and 23% secondary education, with a higher enrolment percentage for boys (the attendance of girls is 67% in primary and 18% in secondary education).

There has been limited effort in supporting the digital transformation of education and training, with a lack of a country-wide coordinated approach to the topic, despite the lessons of the COVID-19 pandemic. The country should continue to strengthen efforts towards effective, coherent and inclusive digital transformation of the education and training systems, including the capacity of the systems to develop digital skills.

A country-wide policy document on **vocational education and training** (VET) has been in place since 2021, based on the Riga conclusions. However, no noticeable progress followed its adoption.

There is no progress in developing a national qualification framework for Bosnia and Herzegovina. The related action plan ended in 2020 and should be extended and revised, since it was never operational and no specific commission for the national qualification framework has been established. Bosnia and Herzegovina's national qualification framework is not yet referenced to the European Qualification Framework, nor is there a mechanism for the validation of prior learning. Cooperation between the two accreditation agencies, one at state level and one in the *Republika Srpska* entity, has improved. Bosnia and Herzegovina should significantly intensify efforts to ensure a fully functional accreditation system of higher education institutions and in particular study programmes.

Bosnia and Herzegovina benefits from the international dimension of the 2021-2027 **Erasmus+** programme. In 2022, around 770 higher education staff members and 1 070 students from Bosnia and Herzegovina were selected to undertake a mobility period in EU Member States or associated third countries to the programme, while Bosnian higher education institutions are expected to host around 560 staff members and 490 students from Europe. The number of higher education capacity-building projects selected for funding increased from 8 in 2020 to 12 in 2022. In 2023, for the first time, higher education institutions from Bosnia and Herzegovina were eligible to participate in the call for proposals for the European universities initiative, with one university winning a grant as part of a successful alliance.

In the area of **culture**, Bosnia and Herzegovina is implementing measures under the UNESCO Convention on the protection and promotion of the diversity of cultural expression. The country has to ensure a permanent solution to the legal status and financing for the seven cultural institutions of significance for Bosnia and Herzegovina.

Implementation of the decisions of the Commission to Preserve National Monuments rests on the entities. The budget allocation for culture on all levels of government should be increased with longer-term, multi-annual funding decisions to provide stability for cultural creation and operation. Bosnia and Herzegovina has to establish formal partnership structures enabling transparent and organised participation in cultural policymaking.

Although there are **youth** strategies at some levels of government, Bosnia and Herzegovina should work on a country-wide youth strategy that would ensure equal treatment of young people.

## **Chapter 29: Customs union**

*All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity and access to the common computerised customs systems.*

Bosnia and Herzegovina has **some level of preparation** in the area of customs union. Customs legislation is not fully aligned with the EU *acquis*. There was **no progress** and last year's recommendations were not implemented. Bosnia and Herzegovina should support the Indirect Taxation Authority and progressively align its systems with EU customs requirements.

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

- ensure the interoperability of advanced e-signatures on a country-wide basis;
- strengthen the administrative and operational capacity of the Indirect Taxation Authority;
- increase post-clearance checks based on risk analysis, expand use of simplified procedures for reliable economic operators and upgrade interconnectivity and interoperability with the EU's IT systems and requirements.

The body in charge of implementing **customs legislation** and policies is the Indirect Taxation Authority. Further alignment with the Union Customs Code is needed, notably on customs procedures and simplified procedures. The 2015 Law on customs policy, partially aligned with the EU *acquis*, started to be implemented in August 2022 following adoption of the Law on customs offences. It introduced an Authorised Economic Operators program and simplified customs procedures requiring e-signature. No company has been recognised as authorised economic operator so far. The customs tariff and valuation classifications are harmonised with the EU's Combined Nomenclature. Regarding rules of origin, the country

continues to apply the Pan-Euro Mediterranean Convention and has begun the process of adopting the transitional rules of origin in trade with the EU.

Bosnia and Herzegovina is an observer in the Common Transit Convention and intends to join it once it has met all legal and technical requirements. These include the successful implementation of the new computerised transit system (NCTS), which began operating at the national level in August 2022. It will need to upgrade its NCTS system before it can join the Convention.

Bosnia and Herzegovina should also continue aligning its provisions concerning customs enforcement of intellectual property rights. Further alignment is also needed with the *acquis* for authorised economic operators, which has to be achieved through implementation of the Central European Free Trade Agreement (CEFTA) Additional Protocol 5. Cross-border smuggling of tobacco products and other illicit activities in the border regions continue to be an important area where further improvements in cooperation and anti-fraud tools are needed. As part of the anti-fraud effort, accession to the World Health Organization's Protocol to eliminate illicit trade in tobacco products, is recommended.

The **administrative and operational capacity** of the Indirect Tax Authority should be substantially strengthened, especially in key operational posts. Bosnia and Herzegovina needs to progressively align its systems with EU customs requirements, such as the new computerised transit system and internal control standards. Its capacity to conduct a risk analysis is hampered by an inadequate IT system. As a result, customs authorities still perform 60% of checks physically.

#### **CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY**

This cluster covers Transport (Chapter 14); Energy (Chapter 15); Trans-European networks (Chapter 21); and Environment and climate change (Chapter 27).

Bosnia and Herzegovina is at early stage of preparation in most areas related to the Green Agenda and sustainable connectivity, namely on energy, environment and climate change. Legislation related to gas, electricity, renewable energy and energy efficiency still needs to be adopted. Bosnia and Herzegovina has some level of preparation in the areas of transport and trans-European networks. Additional efforts are needed to improve road safety to reduce traffic fatalities, and to strengthen the regulatory bodies on transport, including civil aviation. Further steps are needed on connectivity reform measures and in aligning with the Trans-European Transport Network (TEN-T) and Trans-European Networks for Energy (TEN-E) Regulations. The green transition and sustainable connectivity are key to economic integration within the region and with the EU. The implementation of the economic and investment plan and the Green Agenda needs further acceleration in the upcoming period.

#### **Chapter 14: Transport policy**

*The EU has common rules on technical and safety standards, security, social standards State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.*

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| <p>Bosnia and Herzegovina has reached <b>some level of preparation</b> in this area, with <b>no progress</b> achieved. It needs to intensify its efforts to further align with and implement effectively the EU <i>acquis</i> in all areas of transport and at all levels of government. Bosnia and Herzegovina still needs to strengthen its administrative capacity, in particular concerning road safety with the establishment of a lead Road Safety Agency, as well as enforcement, inspection and investigation bodies for road transport, railways, inland waterways, combined</p> |
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/ intermodal transport and civil aviation. Last year's recommendations have not been addressed and remain valid.

In the coming year Bosnia and Herzegovina should in particular:

- develop enforcement capacity to reduce road traffic fatalities and make progress on establishing a national system for continuous road crash data collection;
- reinforce the independence, strengthen the capacity and ensure sufficient funding of regulatory bodies in the field of transport;
- draw up the strategic framework, adopt relevant legislation and ensure sufficient capacity and resources for implementing the intelligent transport system (ITS) on the core networks.

Regarding the **general EU transport *acquis***, Bosnia and Herzegovina is implementing its framework transport strategy for the period up to 2030. The reforms in the transport sector have been insufficient for several years and the pace of structural adjustment is too slow. The necessary investments are being delayed by failure to complete and approve technical documentation, by limited borrowing capacity and by financial constraints. In addition, the lack or change of focus on key priorities and lack of coordination and cooperation between government levels, especially where particular vested interests prevail, create further delays and overall inefficiency. Bosnia and Herzegovina should intensify efforts to deliver on the commitments contained in the Transport Community Treaty, its five actions plans and elements arising from the smart and sustainable mobility strategy for the Western Balkans. For larger transport agglomerations, sustainable urban mobility plans which respect environmental and social standards, should be developed following EU practice.

Further efforts are required to ensure full alignment with the intelligent transport systems (ITS) Directive, improve multimodality and secure the implementation of relevant national laws in the areas of road and rail. An overall strategy for ITS is yet to be adopted and appropriate resources should be allocated for its implementation.

The country is moderately prepared for **road transport**. Bosnia and Herzegovina should implement measures agreed in the TCT road safety action plan to develop climate-resilient, intelligent and resource-efficient TEN-T road networks. Implementation of road safety legislation remains a concern, as there is no visible and substantial decrease in the very high number of accidents and fatalities. Moreover, work is needed to tackle the discrepancy between the national figure and the significantly higher WHO estimate. There is still a lot to do to develop a harmonised road crash database system. The Ministry of Communications and Transport still needs to establish a lead road safety agency and a country-wide system for the continuous collection of road crash data, as a long-standing point of the TCT road safety action plan. Bosnia and Herzegovina needs to adopt, as an outstanding opening issue, a state-level law on the international transport of dangerous goods by road. It also still needs to strengthen its mechanisms for monitoring the implementation of the relevant international rules and EU legislation, including those on transportable pressurised equipment, roadside checks of vehicles and road safety. Bosnia and Herzegovina has not yet aligned its legislation with the Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management. It is highly recommended that Bosnia and Herzegovina establish a licensing system for road safety inspectors and auditors as well as to adopt the rulebooks for road safety inspections and audits.

On **rail transport**, Bosnia and Herzegovina is moderately prepared, but made only limited progress in the reporting period, mainly in developing, maintaining and improving

infrastructure; technical documentation for such interventions is under preparation. However, half of the railway infrastructure remains unsafe, outdated and unreliable, and cannot enable suitable international transit on the network. The country still needs to adopt the multi-annual maintenance plan for the entire core network, as the country-wide coordination of infrastructure interventions on railways is degrading. In line with EU standards, and as required by the TCT rail action plan, Bosnia and Herzegovina should use modern ITS for the reconstruction and new construction of railway sections. EU standards are not fully and systematically implemented, since less advanced variants – even sometimes incompliant with ITS – are deemed more cost-efficient, in particular in the *Republika Srpska* entity, although design and 50% of grants for reconstruction activities are funded by IPA programmes.

Bosnia and Herzegovina still needs to fully align the law on railways with the fourth EU railway package and to open the railway market. The railway laws in both entities aiming to provide non-discriminatory access to the network are to a large extent not compliant with EU *acquis* and still need to be reviewed. Another outstanding issue is the lack of progress on alignment with the *acquis* on rail passenger rights. Equally, network statements are prepared but still not published, and the amendment of the law on railways to enable the establishment of independent bodies, namely the railway safety authority and railway accident investigation body, is still pending. There was still no progress on negotiating protocols on railway border-crossing procedures with Croatia, due to technical concerns on border and customs-related issues.

**On maritime transport** Bosnia and Herzegovina remains at an early stage of preparation, as this is not considered a priority, since the country has very limited access to the sea and has neither a commercial port nor a maritime fleet. Institutional set-up to enable Bosnia and Herzegovina to become a maritime shipping flag holder country would bring a strong economic contribution to the economic prosperity of the country.

**Inland waterway transport** is at an early stage of preparation. The institutional, legal and regulatory set-up of waterway transport in Bosnia and Herzegovina still need to be developed to ensure the safety of navigation on inland waterways and its maintenance.

Preparation on **civil aviation** is still at a standstill. Although the Air Navigation Services Agency has been operational since December 2019, the 2009 Law on civil aviation still needs to be aligned with the requirements of the European Common Aviation Area Agreement (ECAA). Bosnia and Herzegovina urgently needs to address the chronic lack of adequately trained and qualified staff and the institutional set-up within the Bosnia and Herzegovina Directorate of Civil Aviation (BHDCA), which increases the risks of safety oversight. Although the new management has been in place for more than 2 years, it has not yet addressed this issue. There is no progress in harmonising legislation with the EU Regulation on passenger rights. Bosnia and Herzegovina needs to enhance the independence of the civil aviation regulator to reverse the negative trend.

Bosnia and Herzegovina has not started to develop its policy, institutions, legal and regulatory framework on **combined / intermodal transport**. The low level of priority in this sub-sector is caused by a physical infrastructural bottleneck at the Ivan tunnel and Bradina ramp on the railway in Corridor Vc, as well as by the inertia of the relevant institutions and administration.

Bosnia and Herzegovina should increase efforts to align with and implement **EU passenger rights** legislation.

## Chapter 15: Energy

*EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety, radiation protection and nuclear safeguards.*

The country remains at an **early stage of preparation** in the area of energy. **Limited progress** was made with the adoption of the law on electricity, the law on energy and the law on renewable energy in the Federation entity. Bosnia and Herzegovina still needs to make significant efforts to strengthen country-wide cooperation and coordination and improve the fragmented and inconsistent legislative and regulatory framework. Last year's recommendations have not been implemented and remain valid.

- In the coming year, Bosnia and Herzegovina should in particular: adopt gas and electricity laws and bylaws, in compliance with the third energy package and the Energy Community Electricity Integration Package, at state and entity levels and ensure the full harmonisation of laws at entity level in the area of electricity and gas to prevent delays in coupling with the EU internal electricity market;
- adopt state- and improve entity-level legislation on renewable energy and energy efficiency in line with the obligations stemming from the Energy Community Treaty and the commitments from the 2020 Sofia summit declaration on the Green Agenda for the Western Balkans; and
- finalise and adopt the national energy and climate plan (NECP) 2021-2030 by the end of June 2024, in line with the Energy Community 2030 energy and climate targets, taking due account of recommendations issued by the Energy Community Secretariat.

The national energy strategy of Bosnia and Herzegovina, adopted in August 2018, is outlined in the framework energy strategy until 2035. Its implementation is ongoing. Bosnia and Herzegovina still needs to finalise and adopt the national energy and climate plan (NECP) 2021-2030, which will replace the national energy strategy and the national energy efficiency action plan. Civil society organisations are involved in the drafting process.

Measures to improve **security of supply of electricity** need to be redirected from coal to renewables. A decision for an extension of the Tuzla coal-fired power plant (Block 7) is still pending. This may increase the country's security of supply, but might also significantly prolong dependency on coal which is not in line with the country's commitments to decarbonisation. An important supplier has stepped out of the Tuzla Block 7 contract. Although the Chinese consortium proposed to replace the contractor, the Federation entity did not agree to this. A final decision will have to be taken by the Federation entity's Parliament. The State Aid Council is yet to decide on the public guarantee granted in favour of the Export-Import Bank of China for a loan for Tuzla 7.

After the Federation's entity Parliament took the decision to extend the lifetime of two units of the Kakanj and Tuzla power plants, the Energy Community Secretariat opened an infringement procedure against Bosnia and Herzegovina in October 2022.

Bosnia and Herzegovina has not yet taken any actions towards gradually phasing out coal subsidies, although the country is considering how to align with the EU Emissions Trading System (ETS) to promote decarbonization. This will be particularly challenging for a country whose energy production and industry largely depend on fossil fuels. The appointment of the management of Transco is still pending.

Bosnia and Herzegovina needs to align with and implement the risk-preparedness regulation to increase resilience in the event of another energy crisis.

Regarding **security of supply for natural gas**, although only 3% of the energy supply comes from gas, the country is fully dependent on one gas pipeline which supplies gas through Turkish Stream, from Russia as its single source, rendering Bosnia and Herzegovina vulnerable in case of disruption. Both the Federation entity and *Republika Srpska* entity have a long-term contract with Gazprom.

The Federation entity should accelerate the adoption of the law and permit procedures on the Southern Gas Interconnector project, one of the flagship projects of the EU's Economic and Investment Plan, that will contribute to strengthening the integration into the European gas market and increasing the security of supply. Proposals for a new Eastern Gas Interconnector, to be funded by Gazprom, would not contribute to the diversification of gas supply. Decisions on both interconnectors need to be approved by the Presidency.

The former refinery in Brod that was connected to Croatia's natural gas network in 2021 without the required state-level approval remains in breach of the legal framework.

There was still no progress in the harmonisation of legislation on compulsory oil stocks and petroleum products. The development of the necessary legislation, establishment of a body at state level on compulsory oil stocks and harmonisation of legislation at entity level are still pending.

To prevent further delays in the opening and unbundling of energy markets and comply with the third and fourth energy package, Bosnia and Herzegovina still needs to adopt outstanding gas and electricity legislation, including alignment and implementation of the newly adopted Energy Community Electricity Integration Package. Some progress was made in the Federation entity with the adoption of the Law on electricity and the Law on energy. The country needs to adopt state-level legislation on electricity to enable electricity market coupling, appointment of the nominated electricity market operator (NEMO), establishment of the power exchange, and day-ahead and intra-day markets as a precondition to further integrate with the EU internal market, including market coupling. The entity-level laws will need to be fully harmonised with this legal framework. The country still needs to adopt and enforce a new law for adequate restructuring, certification, and operation of the gas transmission system operator in accordance with the third energy package.

On retail market, the electricity markets in both entities are formally open to competition. Introduction of the virtual power plant model in April 2022 has enabled small-scale renewable energy sources to reach wholesale markets via aggregation and most renewable energy producers stepped out of the support schemes in both entities. Regulated prices and tariffs do not reflect costs, as the energy sector is subsidised by direct and indirect subsidies.

Some measures protecting energy-vulnerable groups and mitigating energy poverty remain in place, focusing solely on direct financial support and only targeting the most vulnerable groups, notably recipients of various social welfare benefits.

Gas customers in the Federation entity are still captive. In the *Republika Srpska* entity, only a small portion of the gas market is supplied under regulated tariffs. Switching rules are in place. On the wholesale market, gas prices are not regulated in the *Republika Srpska* entity. In the Federation entity, the prices are regulated by the Ministry. Third-party access is granted under regulated tariffs for the gas network in the *Republika Srpska* entity. In the Federation entity, negotiated third-party access still applies to transmission and distribution networks. The gas market remains closed without adequate regulatory oversight and lacks

transparency, particularly regarding setting prices for end consumers. For electricity, the regulatory authorities at all levels are operational, but their independence continues to be hampered by political interference.

On **hydrocarbons**, the country has yet to align the legislative framework with the EU *acquis*, including the Directive on the safety of offshore oil and gas installations.

There has been some progress on **renewable energy** as the Federation entity adopted the law on renewable energy and both entities are currently working on secondary legislation; a state-level legal framework is still lacking. Both entities need to launch renewable energy support scheme auctions. In June, the *Republika Srpska* entity signed a direct agreement with the service provider to use electronic registers for issuance, cancellation and trade of guarantees of origin; the Federation entity is expected to do the same at the end of the year.

There are no limits on the maximum power which can be integrated into transmission electricity from non-dispatchable renewable energy sources. Despite large capacity, there are only three wind parks in place and an increasing number of solar PV plants. Hydropower planning continues to be carried out without consulting all stakeholders and without respecting the Espoo Convention on transboundary environmental impact assessment. Despite existing legal obligations, environmental impact assessments are still not consistently prepared and lead to protests and challenges in court, such as on the Buk Bijela hydropower plant (*see Chapter 27 – Environment and climate change*).

Further alignment with EU standards is still required for issuing, transferring and cancelling guarantees of origins and using minimum levels of renewable energy in new buildings and existing buildings subject to major renovation.

Renewable energy producers have priority access to the grid and pay 50% of the fixed part of the connection costs. On the distribution level, producers in the *Republika Srpska* entity have to fully cover connection costs, while renewable energy producers in the Federation entity cover 50% of the calculated average value of the connection costs.

On **energy efficiency**, no progress has been made in harmonising the legislation with EU requirements.

Bosnia and Herzegovina made no further progress on **nuclear energy, nuclear safety and radiation protection**. The country has no nuclear sites on its territory, nor does it have plans to build any. The country should still consider becoming a member of the European Community Urgent Radiological Information Exchange system (ECURIE). Bosnia and Herzegovina should also increase the administrative capacity and financial resources of the State Regulatory Agency for Radiation and Nuclear Safety, to meet international commitments on data submission and improve coordination and reporting.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in Bosnia and Herzegovina would need to be adapted to accommodate for the safeguard provisions (chapter 7) of the Euratom Treaty.

## **Chapter 21: Trans-European Networks**

*The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.*

Bosnia and Herzegovina has **some level of preparation** in trans-European networks. There was **limited progress** in the area, with the continuation of the Corridor Vc motorway

development. However, transport and energy infrastructures remain insufficiently developed and the implementation of connectivity reform measures remains slow. Therefore, the recommendations from previous reports remain valid.

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

- continue with the development of the indicative extension of the TEN-T and TEN-E core networks in line with the priorities identified in the economic and investment plan for the Western Balkans, the Green Agenda and the Transport Community five-year rolling work plan for the development of the indicative TEN-T extension in the Western Balkans;
- accelerate the implementation of connectivity reform measures and continue with the adoption of the multi-annual maintenance plans for the entire road and rail core networks;
- align the legislation with Regulation (EU) N° 347/2013 on guidelines for trans-European energy infrastructure.

**On transport networks**, Bosnia and Herzegovina participates in the Transport Community meetings, however, the country should increase efforts and resources to deliver on the obligations contained in the Transport Community Treaty action plans.

Bosnia and Herzegovina should accelerate the implementation of connectivity reform measures and aim to continue with the adoption of the multi-annual maintenance plans for the entire road and rail core networks. Border-crossing agreements with neighbouring countries remain a challenge; more efforts are required to strengthen mutual relations and cross-border cooperation.

In May 2023, Bosnia and Herzegovina signed a high-level agreement with the Commission to adapt the TEN-T network. Priority connectivity projects on the indicative TEN-T core network to the Western Balkans have been planned through the single project pipeline. The preparation and implementation of these projects continued during the reporting period. In relation to the Corridor Vc motorway, works on the Medakovo-Ozimize subsection started, while 90% of works were completed for the subsection Ponirak Vraca-Zenica tunnel in September 2023. Bosnia and Herzegovina and Croatia still need to agree on the category of the Svilaj border crossing. Efforts are still necessary to speed up construction, improve preparedness and close the financing gap to complete the construction of the Corridor Vc motorway in the Federation entity. As regards the two infrastructural investments located in the *Republika Srpska* entity (Corridor Vc road and rail), the Commission has taken no decision on the issue yet and will assess when the time is ripe to proceed with the signature of the contribution agreements.

Although the construction of the interstate bridge between Bosnia and Herzegovina and Croatia at Gradiška was completed in May 2022, the border crossing is expected to become operational in 2023 upon completion of the access expressway on Croatian territory. Technical documentation and tender dossiers for Route 2b of the comprehensive road network and Banja Luka-Lašva and the main design for the Route 2a core network have been finalised. Conceptual design for railway route 9a Tuzla-Zvornik and technical documentation and tender dossiers for Corridor Vc sections Sarajevo-Doboj and Visoko-Konjic have been finalised, but not endorsed yet by the final beneficiary. A serious effort is needed to accelerate progress in the rail core network where investments continue to be limited in particular due to lack of financial support through fuel levies, as it was done for roads and motorways. The navigability of the Sava River still requires further demining and rehabilitation. Work on the rehabilitation of the Brčko Port is progressing. .

**On energy networks**, Bosnia and Herzegovina has not made any progress in aligning with

Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure in the reporting period, so the infringement established by the Energy Community in November 2018 has still not been rectified.

Bosnia and Herzegovina should finalise the single project pipeline to also include the energy sector; this will ensure the eligibility of the project of Energy Community interest (Trans-Balkan corridor) and the two mutual interest gas projects (North and South interconnectors with Croatia). More efforts are required to accelerate progress for the preparation and development of these projects. Tender documentation for the southern gas interconnector with Croatia (Zagvozd – Posušje – Novi Travnik with a branch to Mostar) is prepared. Bosnia and Herzegovina remains heavily dependent on carbon-intensive infrastructure and still needs to develop its regional connections to unlock the potential of the economic and investment plan and the Green Agenda for the Western Balkans.

### **Chapter 27: Environment and climate change**

*The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.*

Bosnia and Herzegovina is **in between an early stage and some level of preparation** in the area of environment and climate change. **Limited progress** was made with the adoption of a national adaptation plan and a national climate-change adaptation and low-emission development strategy. To align with the EU climate *acquis* and implement and enforce it, Bosnia and Herzegovina still needs to reaffirm its political commitment and set up the necessary administrative capacity at all levels of government. It needs to ensure an even, country-wide harmonised and consistent approach in strategic planning and alignment with the EU *acquis*, in particular in the field of air quality, industrial emissions and water and waste management. In May 2023, Bosnia and Herzegovina ratified the agreement on its membership in the Union Civil Protection Mechanism (UCPM), showing its capacity to bring together the relevant decision making structures. Bosnia and Herzegovina needs to continue working to further improve its national civil protection system and especially that international assistance is provided in a coordinated manner at national level. The recommendations from last year were not fully addressed and remain valid.

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

- implement the country-wide environmental approximation strategy and adopt an environmental protection strategy, and provide for a consistent and uniform application of environmental *acquis* across the country;
- urgently formalise the procedures for the appointment and functions of the national focal point for Bosnia and Herzegovina for the implementation of all environmental conventions to which Bosnia and Herzegovina is a signatory;
- continue implementing the Paris Agreement by putting in place policies and measures to deliver on its updated nationally determined contribution (NDC), implement the revised climate-change adaptation and low-emissions development strategy, adopt an integrated national energy and climate plan (NECP), and urgently prepare alignment with the EU Emissions Trading System (ETS) in line with the Energy Community requirements.

### Environment

**Horizontal legislation** is aligned with the EU *acquis* to a limited extent. The willingness to act and capacity to ensure country-wide harmonisation with the EU *acquis* continues to be limited, leaving the environment sector unevenly regulated across the country. The environment approximation strategy still needs to be fully harmonised and implemented, requiring a single integrated action plan. Bosnia and Herzegovina still needs to enhance the legal framework, strengthen administrative capacity and monitoring systems, implement structural reforms, and improve inter-institutional coordination, in line with the Green Agenda for the Western Balkans and the 2050 climate neutrality target. Bosnia and Herzegovina still needs to adopt a country-wide environmental protection strategy and to align the provisions of Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) in the legislation at all levels of government and across relevant sectors. The provisions need to be considerably strengthened and enforced, and the necessary improvements need to be made on access to information and the participation of the public in the decision-making process. Bosnia and Herzegovina needs to implement the provisions of Espoo convention concerning planned investments in the transboundary context (*see also Chapter 15 - Energy*). A strategy and functioning structure for gathering, transferring and reporting environmental data still needs to be adopted. The legal framework regulating environmental inspections and their enforcement needs to be improved in line with the EU *acquis*. Stricter control of pollutants and polluter-pays principle have to be put in place. Alignment with a number of horizontal environmental directives such as the Directive on environmental liability, the Directive on infrastructure for spatial information (INSPIRE) and the Directive on environmental crime is still pending. The long-overdue requirement for formalising the procedure for the appointment of national focal points concerning the implementation of environmental conventions to which the country is a signatory party, has yet to be met.

Alignment with the *acquis* on **air quality** did not progress. A well-functioning harmonised air monitoring network still needs to be established to be able to provide reliable data, and a programme for air-quality improvement needs to be developed. Alignment with the EU Directive on the reduction of national emissions of certain atmospheric pollutants, establishment of functional national emission inventories and reporting and full ratifications and implementation of the Air Convention and its protocols, are still pending. The country remains in serious and persistent breach of the Energy Community Treaty on alignment with the *acquis* on reducing the sulphur content of certain liquid fuels, on which penalties have been applied since January 2021. Alignment with *acquis* on volatile organic compounds (VOC) is lagging behind.

A country-wide strategy for **waste management**, with particular attention to the circular economy context, the EU plastic strategy and the Single-Use Plastics Directive still needs to be developed. To align with the landfill Directive, Bosnia and Herzegovina needs to close down or rehabilitate non-compliant landfills. Awareness-raising measures are required to reduce waste generation and promote reuse and recycling. Alignment with the *acquis* on sewage sludge, batteries, packaging, polychlorinated biphenyls / polychlorinated terphenyls and end-of-life vehicles is still required.

On **water quality**, a consistent and harmonised country-wide strategy and sustainable investment plan on water management and urban wastewater management is still missing. Specific plans for implementing EU legislation on drinking water, urban wastewater and flood risk management still need to be adopted. A countrywide roof report for Bosnia and Herzegovina on river basin management plans still needs to be adopted, as well as a revised

action plan for flood protection and river management. Flood hazards and risks are being mapped for the entire country.

There is no progress on alignment with the *acquis* on **nature protection**. The list of potential Natura 2000 sites and implementing legislation still needs to be adopted. Investments in renewable energy need to comply with all relevant EU *acquis*, including the nature *acquis* (see Chapter 15 - Energy). A system to systematically monitor biodiversity still needs to be established. While Bosnia and Herzegovina reports to the Convention on international trade in endangered species of wild fauna and flora (CITES), full implementation of the Convention and capacity building need to be strengthened. Bosnia and Herzegovina should prepare the legislation and establish the conditions for ratification and implementation of the Nagoya Protocol on access to genetic resources and fair distribution of profits generated by their use.

There is no progress on alignment with the *acquis* on **industrial pollution control and risk management**. The pollutants release and transfer register (PRTR) protocol to the Aarhus Convention still needs to be ratified. This includes the obligation to report to PRTR at country level, enabling public access to and integration of the collected data and its transmission to the EU institutions. Bosnia and Herzegovina needs to ensure the implementation of the national emissions reduction plan (NERP) and adopt technical and financial measures necessary for that purpose. Bosnia and Herzegovina still needs to further align with the directives on industrial emissions, eco-labelling and eco-management and audit schemes. It should also align with the Directive on the control of major-accident hazards involving dangerous substances (Seveso III).

On **chemicals**, the country's alignment with the EU Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation remains uneven. Alignment with the EU Regulation on classification, labelling and packaging of substances and mixtures (CLP) and appointment of the responsible bodies to formulate the necessary preventive and remedial measures are still needed. Alignment with the *acquis* on asbestos and on the protection of animals used for scientific purposes is also lagging behind. Bosnia and Herzegovina still needs to implement the Rotterdam Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade, to which it is a party. There has been no progress in acceding to the Minamata Convention.

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

In recent years Bosnia and Herzegovina made significant progress in building the capacity of its **civil protection** system at local and entity levels. In May 2023, Bosnia and Herzegovina ratified the agreement on its membership in the Union Civil Protection Mechanism (UCPM). As a participating state of the UCPM, Bosnia and Herzegovina is expected to actively participate in activities under the mechanism and ensure, when necessary, that international assistance is provided in a coordinated manner at national level. A positive development of the coordination at the national level was demonstrated when Bosnia and Herzegovina offered assistance to Slovenia via the UCPM in response to floods in August 2023. The country needs to proceed with establishing Trans-European Services for Telematics between Administrations (TESTA) as a precondition to be connected to the Common Emergency Communication and Information System (CECIS), improve legislation for preparedness and response, and strengthen governance. Bosnia and Herzegovina still needs to speed up the implementation of the 2020-2025 action plan on civil protection. A comprehensive training programme for emergency response units still needs to be developed and systematic inspections ensured. Bosnia and Herzegovina still needs to make additional efforts to establish the 112 European single emergency number, also adopting the necessary legal basis.

## Climate change

The level of alignment with the EU **climate acquis** remains limited. Bosnia and Herzegovina still needs to adopt a country-wide climate strategy to align with the new EU climate *acquis* as per the important modifications brought in by the Fit for 55 package, and develop a state-level framework law on climate change. In line with the Green Agenda, Bosnia and Herzegovina is urged to take the necessary steps to prepare alignment with the EU Emissions Trading System (ETS) to advance the implementation of the EU *acquis*, prioritise alignment with the new governance regulation, and adequately prepare for the EU Carbon Border Adjustment Mechanism, that enters into force in its transitional phase as of 1 October 2023. In October 2022, Bosnia and Herzegovina adopted the national adaptation plan with measures until 2030 and submitted it to the UN Framework Convention on Climate Change (UNFCCC) secretariat; it also published a national climate change adaptation and low emission development strategy consistent with the EU 2030 framework on climate and energy policies. Both will need to be implemented. Bosnia and Herzegovina needs to finalise and adopt the 2021-2030 national energy and climate plan (NECP) by the end of June 2024 (*See Chapter 15 – Energy*). The country still needs to significantly reinforce its administrative and inspection capacities in the sector and structural reforms need to be implemented to ensure meaningful implementation of the required measures.

Bosnia and Herzegovina needs to step up the implementation of its revised nationally determined contribution for 2020-2030 (NDC) submitted in 2021 to the UNFCCC. It plans to reduce greenhouse gas emissions by slightly more than one third by 2030 and almost two thirds by 2050 compared with 1990. There has been no progress in aligning with the EU monitoring and reporting regulation. There is still no national greenhouse gas emissions inventory system or accompanying state-level legal regulatory framework. No progress has been made in aligning with the directives on fuel quality, ozone depleting substances, fluorinated gases, carbon capture and storage or on other relevant legislation. Following ratification of the Kigali amendment to the Montreal Protocol on substances that deplete the ozone layer in 2021, Bosnia and Herzegovina is urgently required to freeze hydrofluorocarbon production and use in 2024, with an 80% reduction by 2045.

## **CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION**

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy & coordination of structural instruments (Chapter 22); and financial & budgetary provisions (Chapter 33).

While implementing the 2018-2021 strategic plan for rural development, Bosnia and Herzegovina must step up its efforts to adopt a post-2021 country-wide strategy for rural development and start implementing agricultural reforms in order to reduce the number of small and ineffective farms as well as fragmentation of agricultural land. The Parliament adopted a state-level Law on the organisation of the wine market in August 2023. It has yet to adopt a state-level law on organic production and harmonise across the country the legislation on quality policy. It needs to align the legislation on food safety, veterinary and phytosanitary policy and strengthen its administrative capacity; in particular, it should speed up preparations for national reference laboratories, implement an updated national salmonella control plan and maintain vaccination against rabies and brucellosis. Bosnia and Herzegovina must step up its efforts to prepare and adopt a country-wide strategy on fisheries and aquaculture and harmonise data collection. It should start preparing a country-wide regional

development strategy, improve public investment planning and develop a single project pipeline in all relevant sectors. It should take steps to ensure the management of own resources, notably by reinforcing the capacity of the Indirect Tax Authority to implement customs legislation effectively, stepping up the fight against tax and customs fraud, and adopting a master plan for the production of national accounts.

## Chapter 11: Agriculture and rural development

*The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.*

Bosnia and Herzegovina is at an **early stage of preparation** in the area of agriculture and rural development. There was **limited progress** in implementing last year's recommendations, with the adoption of a state-level Law on the wine market, for which the related by-laws now need to be adopted. Bosnia and Herzegovina is unevenly implementing the 2018-2021 strategic plan for rural development and has not yet made any significant steps in the adoption of a post-2021 state-level strategic plan; it still needs to adopt a state-level law on organic production and to update the legislation on quality policy, in line with the EU *acquis*. The 2022 recommendations remain broadly valid.

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

- complete the implementation of the 2018-2021 strategic plan for rural development, in particular by harmonising across the country and aligning with the EU *acquis* and adopt a country-wide strategy for agriculture and rural development for 2022-2027;
- adopt a state-level law on organic production and all the required by-laws for the implementation of the Law on the organisation of the wine market, in line with the EU *acquis*;
- update and adopt a state-level law on quality policy, in line with the EU *acquis*.

Concerning **horizontal issues**, the necessary administrative structures required for the common agricultural policy (CAP), including a paying agency, were not established and there was no progress in developing elements of an integrated administration and control system (IACS) or a farm accountancy data network (FADN). Bosnia and Herzegovina needs to improve sector coordination and strengthen administrative capacity at all levels of government. For the country to benefit from the instrument for pre-accession assistance for rural development (IPARD), the authorities need to set up the necessary institutional structures. Direct payments still need to be aligned with the EU *acquis*. Bosnia and Herzegovina needs to develop farm advisory services.

As regards **common market organisation (CMO)**, there was no progress in preparing and setting up the regulatory framework in line with the EU *acquis*. The Parliament adopted a state-level Law on the organisation of the wine market, for which all required by-laws now need to be adopted for it to start being applied. The setting up of a register of grapes and wine producers and of a vineyard register is still pending.

Bosnia and Herzegovina made no progress in harmonising **rural development** programmes and support measures. The relevant levels of government should address it in their policy implementation.

Reporting on the implementation of the 2018-2021 strategic plan for rural development is lacking, as the last report available is from 2018. The system of data collection and processing for planning agricultural and rural development policies and its implementation as well as monitoring and reporting needs to substantially improve. A 2022-2027 country-wide strategic plan for agriculture and rural development still needs to be adopted.

No progress was noted **on quality policy**. The legal framework still needs to be improved and harmonised with the relevant EU *acquis* and a clear distribution of competences in this area is needed.

There was no progress on **organic farming**. The state-level law still needs to be developed in line with the EU *acquis* and the regulatory framework harmonised across all levels of government. Support measures remain unevenly implemented across the country.

## **Chapter 12: Food safety, veterinary and phytosanitary policy**

*EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.*

Bosnia and Herzegovina has **some level of preparation** in this area. **No progress** was made over the reporting period. Significant work is still necessary to align with the EU *acquis*, particularly as regards official checks, animal health and plant health. The administrative capacity of laboratories has yet to be strengthened and official checks need to be bolstered. To ensure alignment with the EU *acquis*, the country's central databases and animal registers require further improvements. The Commission's recommendations from last year were not met, therefore they remain valid.

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

- introduce inter-laboratory comparative test system as a regular practice, particularly between laboratories in charge of the analysis of samples for notifiable diseases, to increase checks and administrative capacity, especially of inspection services and laboratories;
- speed up preparations for national reference laboratories through further alignment with the *acquis*, and notably by increasing the accreditation of laboratory methods used in hygiene, veterinary and phytosanitary inspections, food and feedstuff analysis;
- improve the action plan for reliable certification of the necessary animal health statements contained in the certificate for the export of fresh meat to the EU market;

In the area of **general food safety, food safety rules and specific rules for feed**, no progress was made in improving the current system to fulfil the public and animal health requirements for the export of bovine, ovine and caprine meat. This means the authorities still cannot reliably certify the necessary animal health statements contained in the certificate for the export of fresh meat and meat products to the EU market. The database for animals and official checks is not fully reliable, and the surveillance programme for relevant notifiable diseases is very limited. Official laboratories lack the necessary capacity and are not accredited for methods to detect foot and mouth disease. Bosnia and Herzegovina prepared its action plan aiming to respond to the inefficiencies identified, but these have not yet been addressed.

Further work is still needed to improve the official control system in Bosnia and Herzegovina, notably for the registration of farm holdings and the deregistration of holdings

that are no longer active, plus to ensure the reliability of livestock numbers and species present on active holdings. Substantial work is also required to ensure the reliability of information in the central database for animal identification. Alignment has yet to be ensured for the surveillance of notifiable diseases, particularly when it comes to an early detection system and the awareness-raising of farmers. The inter-laboratory comparative test system in Bosnia and Herzegovina is still not set up, so not all laboratories can take part in disease validation and verification on a regular basis. The full national reference laboratories system is still not in place. To fully implement the EU *acquis* in this area, the setting up of national reference laboratories for food and feed needs to be stepped up; hygiene, veterinary and phytosanitary checks need to be improved; and the accreditation of laboratory methods used for these checks needs to be accelerated. Bosnia and Herzegovina has not yet met the criteria for the export of table eggs to the EU and its updated national salmonella control plan is not yet fully implemented. No progress was made on setting up its flock register, nor in ensuring the availability and completeness of data to ensure accurate reporting, in particular regarding prevalence and incidence.

Bosnia and Herzegovina's alignment with the EU *acquis* remains low, notably on the state-level laws on food (2004) and veterinary medicine (2002). A state-level law on official checks has not yet been prepared or adopted, and both the law on animal health and the law on animal welfare have yet to be updated. Further work is still necessary to implement effectively and harmonise the legislation at all levels of governance, particularly the hygiene package.

Bosnia and Herzegovina continued to monitor pesticide residues in and on food of plant and animal origin. The system for recognition of mineral and spring waters as well as for table waters was improved and the state register of these waters was updated.

No progress was made on **veterinary policy** and substantial work is still necessary on the control, prevention and eradication of communicable animal diseases. Significant work is required to improve monitoring and surveillance of brucellosis and rabies, which is not yet considered eradicated in Bosnia and Herzegovina as well as to improve coordination of managing the outbreak of African swine fever.

The country's system of managing animal disease notification and outbreak information is not yet aligned with the EU *acquis*; nor are the central animal identification and registration systems for sheep, goats, pigs and horses. While Bosnia and Herzegovina obtained permission to export fishery products to the EU market, there continue to be concerns about the monitoring of residues and contaminants in live animals and animal products, including inspections of veterinary medicinal products.

No progress was made concerning the **placing on the market of food, feed and animal by-products**. Bosnia and Herzegovina's food and feed control system is not yet aligned with the EU *acquis* and further structural and administrative work is still necessary at all levels of the government, particularly concerning inspection services and laboratories, for which inter-laboratory comparative tests have still not been introduced.

In the area of **phytosanitary policy**, to align with the EU *acquis*, reforms are still needed. Key state-level laws, notably the new plant health law and a state-level law on official checks, have not been adopted. While the implementation of the programme for special surveillance of quarantine pests for potatoes continued, as well as the registration of plant operators and varieties in a single phyto-registry, no progress was made on issuing plant passports and nor were the OECD seed schemes adopted. The country has not yet fulfilled the EU *acquis* requirements of setting up its laboratories as reference laboratories providing

phyto-sanitary checks. The principles of integrated pest management have yet to be implemented in a harmonised manner.

No progress was made in the area of **genetically modified organisms (GMOs)**, on which the level of alignment with the EU *acquis* remains low. Inspection services at all levels of the government are still insufficient and no progress was made in setting up the country's reference laboratory for testing, controlling and monitoring the presence of GMOs in food and feed.

### Chapter 13: Fisheries and aquaculture

*The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.*

Bosnia and Herzegovina is at an **early stage of preparation** in this area. There was **no progress**. The country still needs to prepare, adopt and implement a country-wide fisheries and aquaculture strategy in line with EU *acquis*. As the recommendations of 2022 were not implemented, they remain valid.

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

- prepare and adopt a country-wide strategy on fisheries and aquaculture in view of aligning the legislation with the EU *acquis*;
- harmonise the methodology for data collection for fish and fishery and aquaculture products across the country and establish relevant statistics.

There was no progress in developing a country-wide policy framework and legislation on inland and marine fisheries to prepare for the EU's common fishery policy (CFP). Preparation and adoption of a country-wide strategy and state-level legislation on fisheries and aquaculture should be stepped up and country-wide harmonisation ensured.

Institutional capacity and administrative structures need to be substantially strengthened. There are no specific **structural actions** in place to support small-scale and/or inland fisheries and aquaculture.

No progress was made in setting up relevant measures and strengthening administrative capacity to implement **resource and fleet management**. Bosnia and Herzegovina still needs to set up a fleet register and the system for management and control of fishing activities in line with the EU common fisheries policy. On **inspection and control**, the country still needs to improve and harmonise the data on catches and landings per type of fishery. More information is required on methodologies and planning for data collection. Bosnia and Herzegovina still lacks any structural and **State aid** measure in line with the EU *acquis*.

Concerning **market policy**, marketing standards for certain fishery and aquaculture products are in place, but there was no further progress including on the framework to recognise producer organisations in line with the EU *acquis*.

Regarding **international agreements**, Bosnia and Herzegovina continues to cooperate on fisheries with the General Fisheries Commission for the Mediterranean (GFCM), of which it is a cooperating non-contracting party and the UN's Food and Agriculture Organisation (FAO). As a party to the Malta *MedFish4Ever* Declaration, Bosnia and Herzegovina should contribute to its effective implementation.

Bosnia and Herzegovina is encouraged to promote regional cooperation with partner countries.

## **Chapter 22: Regional policy and coordination of structural instruments**

*Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.*

Bosnia and Herzegovina remains at **an early stage of preparation** in the area of regional policy and coordination of structural instruments. **No progress** was made during the reporting period. Although the IPA III Framework Partnership Agreement (FFPA) was ratified in August 2022, the obligation to appoint a National IPA Coordinator (NIPAC) for IPA III has not been met. Last year's recommendations were not implemented and remain valid.

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

- prepare a country-wide regional development strategy;
- improve public investment planning and update the single project pipeline in all relevant sectors, and ensure its endorsement by the National Investment Committee and its regular update;
- urgently appoint a National IPA Coordinator (NIPAC) for IPA III and reach an agreement on coordination procedures for the effective use of pre-accession funds while respecting the NIPAC functions as provided for in the IPA II Framework Agreement and IPA III Financial Framework Partnership Agreement.

On the **legislative framework**, Bosnia and Herzegovina still needs to establish a system for managing EU structural funds. It still lacks a number of country-wide strategies in fields relevant to cohesion policy. There is no sound country-wide regional development policy with accompanying institutional structure and performance monitoring framework. The NUTS II regions are only provisionally defined and accepted by the Commission until Bosnia and Herzegovina finalises and agrees the entire classification including definition of the NUTS III level. Bosnia and Herzegovina needs to improve the statistical and analytical basis (including definition of NUTS regions) to develop a sound strategic framework for cohesion policy. GDP per capita figures harmonised at NUTS II level are still to be provided. Existing budget laws allow for both flexibility and multi-annual budgeting, but the multi-annual programmes need to be included in a more comprehensive manner in the entities' budgets and more consistently across administrative levels. Legislative frameworks establishing financial control and independent internal audit structures are in place at both state and entity levels.

Concerning **the institutional framework** for IPA planning, the IPA III FFPA was ratified in August 2022. In order for IPA funding to continue, Bosnia and Herzegovina needs to urgently appoint a National IPA Coordinator (NIPAC) for IPA III, in line with the FFPA. The authorities need to agree on coordination procedures for the effective use of pre-accession funds while respecting the role of the NIPAC. The role of the NIPAC also needs to be strengthened.

**Administrative capacity**, including training in key institutions managing EU funds, is insufficient. The capacity for programming and managing EU pre-accession funds and introducing cohesion policy needs to be improved. To avoid an absorption shock at a later stage, Bosnia and Herzegovina needs to develop a systematic plan such as a management and control system roadmap to strengthen administrative capacity to implement EU regional policy.

Difficulties persist as a result of lack of agreement on how to reconcile the IPA legal framework with the system of coordination of European integration.

The National Investment Committee needs to revise its single project pipeline for the environment sector and finalise the one for the energy sector.

Bosnia and Herzegovina continues to gain experience in the programming and implementation of regional policy territorial cooperation through cross-border cooperation and transnational and interregional cooperation programmes. Bosnia and Herzegovina also participates in two macro-regional strategies for the Adriatic and Ionian region and for the Danube region, which promote cooperation and synergies among participating EU and non-EU countries.

Regarding **monitoring and evaluation**, the NIPAC office should urgently strengthen its capacity.

With the exception of cross-border cooperation programmes, Bosnia and Herzegovina is still lacking a **financial management, control and audit system** for EU funds. Structures and bodies defined in Annex A of the Framework Agreement under IPA II and the IPA III FFPA still need to be established.

### **Chapter 33: Financial and budgetary provisions**

*This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.*

Bosnia and Herzegovina is at an **early stage** of preparation in the area of financial and budgetary provisions. **No progress** was made on strengthening administrative capacity for coordination and management of own resources. Significant further efforts are needed to ensure sound capacity, institutional set-up and cooperation of institutions and bodies to be involved in application of the own-resources system. The recommendations from last year remain valid.

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

- strengthen capacity and inter-agency cooperation to combat tax and customs fraud;
- bolster the capacity of the Indirect Tax Authority (ITA) to effectively implement customs legislation;
- adopt a master plan for the production of national accounts for Bosnia and Herzegovina.

There was no progress in improving the capacity of ITA and in implementing an accounting system for customs duties to distinguish between recovered debts and outstanding debts, in line with the EU's **traditional own resources** accounting. There was no progress in aligning the VAT law with the EU *acquis*, in particular as regards special schemes and exceptions.

On **gross national income (GNI) resource**, the definitions and accounting rules of ESA 2010 are used for compilation of the GNI. There was no progress in setting up a common, coordinated and appropriate national accounts system for the whole country. This should be given high priority. A master plan for the development of national accounts still needs to be adopted to facilitate development of this system, in line with ESA 2010.

In terms of **administrative infrastructure**, there was no progress in providing sufficient human and administrative resources to ensure the full and correct application of EU rules concerning payments into the EU budget. Better coordination among administrative structures and implementing rules are needed to ensure correct forecasting, calculation, accounting, collection, payment and monitoring of own resources.

#### **CLUSTER 6: EXTERNAL RELATIONS**

This cluster covers: external relations (Chapter 30); foreign, security and defence policy (Chapter 31).

Bosnia and Herzegovina should implement the action plan for the Common Regional Market by adopting and implementing the relevant protocols to the Central European Free Trade Agreement (CEFTA). Bosnia and Herzegovina should finalise its accession to the WTO and consider establishing a development and humanitarian aid policy. The country's alignment with EU foreign policy significantly improved, notably on statements and restrictive measures following Russia's war of aggression against Ukraine, although implementation of sanctions remains a challenge. The country should appoint a 'political director' and 'European correspondent', and strengthen arms control and monitoring regimes.

#### **Chapter 30: External relations**

*The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules on humanitarian aid and development policy.*

Bosnia and Herzegovina has reached **some level of preparation** in the area of external relations. There was **no progress**. The capacity to tackle key challenges in trade policy has yet to be strengthened. Bosnia and Herzegovina again introduced temporary export restrictions in May 2023 on certain wood products. These decisions should be revoked without delay, and Bosnia and Herzegovina should abstain from taking further unilateral trade measures without valid justification and prior consultation with the Commission in line with its obligations under the SAA. The Commission's recommendations of 2022 were not implemented and remain valid.

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

- finalise its accession to the World Trade Organization (WTO);
- implement the 2021-2024 Common Regional Market action plan, in particular by implementing CEFTA Additional Protocol (AP) 5 on trade facilitation and CEFTA AP 6 on trade in services, and negotiate and ensure swift adoption of CEFTA AP 7 on dispute settlement;
- start the process leading to the establishment of a development and humanitarian aid policy.

On the **common commercial policy**, no progress was made on accession to the WTO, although membership negotiations have been at a very advanced stage for some time. The Russian Federation is the only WTO member that has not completed its bilateral negotiations

with Bosnia and Herzegovina on market access for goods and services, having raised one outstanding issue on the need to amend the legislation on the quality of liquid petroleum fuels. The decision to amend this legislation has yet to be approved by the Council of Ministers.

Bosnia and Herzegovina needs to adopt CEFTA AP 5 on trade facilitation and CEFTA AP 6 on trade in services as soon as possible. In addition Bosnia and Herzegovina should negotiate and ensure swift adoption of the CEFTA AP 7 on dispute settlement and proceed with the implementation of the 2021-2024 Common Regional Market action plan.

In May 2023, Bosnia and Herzegovina introduced a further temporary export ban for certain wood products, following similar measures taken in 2022. The ban was introduced without providing sufficient justifications or notifying or consulting the Commission in advance, as required under the SAA. This decision has now lapsed but Bosnia and Herzegovina should abstain from taking further unilateral trade measures, without prior consultation with the Commission and without a valid justification, in line with its obligations under the SAA. Bosnia and Herzegovina should also take action to cease the practice by certain cantons of excluding certain imported medicines from the lists of medicines that can be prescribed and dispensed at the expense of the compulsory health insurance.

Bosnia and Herzegovina applies export controls on **dual-use goods** in accordance with its legislation. The framework legislation needs to be aligned with the latest EU *acquis*, namely Regulation (EU) 2021/821 and its annual updates as regards the list of dual-use items.

As regards **bilateral agreements with third countries**, Bosnia and Herzegovina needs to further strengthen its administrative capacity and improve cooperation and coordination between ministries and the different levels of competent authorities in order to ensure consistency of implementation and enforcement. Bosnia and Herzegovina has 36 bilateral investment treaties in force, 18 of which are with EU Member States.

There were no changes in the areas of **development policy** and **humanitarian aid**. The country is a recipient of aid programmes and has so far provided humanitarian aid only ad hoc. Bosnia and Herzegovina is encouraged to start the process of establishing a legal framework covering international cooperation and development policy as well as humanitarian aid, in accordance with EU policies and principles, and to build dedicated administrative structures.

### **Chapter 31: Foreign, security and defence policy**

*Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.*

Bosnia and Herzegovina has **some level of preparation** in the area of common foreign, security and defence policy. There was **some progress**, as the country significantly improved its alignment with EU foreign policy, notably on statements and restrictive measures following Russia's war of aggression against Ukraine, upon the initiative of the Ministry of Foreign Affairs. Alignment with EU restrictive measures remains a matter of political dispute, and certain ministries have hindered their implementation. Bosnia and Herzegovina has yet to join a number of international arms control regimes as well as to strengthen the monitoring regime regarding weapons and military equipment. Bosnia and Herzegovina continued to participate in EU crisis management missions and operations under the common security and defence policy.

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

- achieve and maintain full alignment with EU Common Foreign and Security Policy, ensure the thorough implementation of restrictive measures stemming from EU alignment, and make further efforts to close space for foreign interference and information manipulation;
- align legislation and procedures with EU standards on marking and deactivation of small arms and light weapons, including for seized and confiscated weapons;
- appoint the ‘political director’ and ‘European correspondent’ within the Ministry for Foreign Affairs.

The **political dialogue** between the EU and Bosnia and Herzegovina on foreign and security policy issues continued, including at high level. In March 2023, Bosnia and Herzegovina participated at ministerial level at the first Schuman Security and Defence Forum and in May 2023 in the working lunch with members of the Foreign Affairs Council. In April 2023, the deputy foreign minister participated in the informal EU-Western Balkans meeting of political directors in Brussels.

The implementation of Bosnia and Herzegovina’s 2018-2023 foreign policy strategy in the reporting period was affected by frequently divergent positions among the members of the Presidency.

Bosnia and Herzegovina still needs to appoint a ‘political director’ and ‘European correspondent’ within the Ministry of Foreign Affairs. Rules and practices based on ethnic quotas in appointing the diplomatic and consular staff have a negative impact on the capacity of the ministry, adversely affecting Bosnia and Herzegovina’s foreign policy objectives.

On **common foreign and security policy (CFSP)**, Bosnia and Herzegovina has significantly improved its alignment with EU statements and relevant Council Decisions, including with restrictive measures following Russia’s unprovoked war of aggression against Ukraine. Alignment with EU sanctions remains a matter of political contestation as one member of the Presidency advocated for a neutral stance on Russia’s war of aggression against Ukraine, which resulted in significant hindrances to their implementation, including not banning flights from Russia or the broadcast of Russian state-sponsored media. In 2022, Bosnia and Herzegovina’s alignment rate with relevant High-Representative statements on behalf of the EU and with Council Decisions reached 80%. As of August 2023, Bosnia and Herzegovina’s alignment rate was of 98% as the country started to align also with EU positions on Iran and Syria. Bosnia and Herzegovina aligned with the EU position at the United Nations General Assembly (UNGA), the OSCE and the Council of Europe on Russia’s war of aggression against Ukraine, including the UNGA resolution on the principles underlying a comprehensive, just and lasting peace in Ukraine adopted in February 2023. Bosnia and Herzegovina should reach full alignment with EU foreign policy to signal its commitment to the EU path and continue to strengthen its capacity to implement and enforce the sanctions in place.

Regarding **cooperation with international organisations**, Bosnia and Herzegovina is a member of and actively participates in the work of major international organisations, including the United Nations, the Council of Europe and the OSCE. Bosnia and Herzegovina chaired the OSCE Forum for Security Co-operation from January to April 2023. Bosnia and Herzegovina has been participating in NATO’s membership action plan since 2019.

Bosnia and Herzegovina maintains a bilateral immunity agreement with the United States, granting US citizens exemptions from the jurisdiction of the International Criminal Court. In doing this, Bosnia and Herzegovina does not comply with the EU common positions on the

integrity of the Rome Statute or related EU guiding principles on bilateral immunity agreements. Alignment with the EU position is therefore needed.

Bosnia and Herzegovina supports all EU measures and instruments for **conflict prevention**.

On **non-proliferation**, Bosnia and Herzegovina has yet to join international control regimes such as the Wassenaar Arrangement, the Australia Group, the Missile Technology Control Regime and the Nuclear Suppliers Group.

On trade in conventional weapons, military equipment and dual-use items, the country's overall legal and institutional framework is broadly in line with the EU *acquis*. Further improvements are required regarding the monitoring regime of weapons and military equipment produced and traded within the country.

Bosnia and Herzegovina is party to the Chemical Weapons Convention and has legislation in place to implement it, together with a state-level coordination body.

As regards small arms and light weapons, Bosnia and Herzegovina is implementing the 2018 regional roadmap and the 2021-2024 strategy and action plan. Bosnia and Herzegovina needs to mark and register all weapons of the country's security forces into a single registry to ensure adequate traceability, develop post-manufacture marking requirements for weapons earmarked for deactivation, in line with EU standards, and improve the traceability of seized and confiscated weapons, notably by amending the Law on marking to cover these types of firearms.

In terms of **security measures**, Bosnia and Herzegovina continued to implement the agreement with the EU on security procedures for the exchange of classified information.

Regarding the **common security and defence policy** (CSDP), Bosnia and Herzegovina has established a framework with the EU for participation in crisis management missions and operations. Bosnia and Herzegovina contributes to the EU Training Mission (EUTM) in the Central African Republic. Bosnia and Herzegovina also takes part in UN missions in the Democratic Republic of the Congo and in Mali. The Armed Forces of Bosnia and Herzegovina act as a functional, professional military organisation in spite of the protracted shortage of personnel and equipment. Bosnia and Herzegovina is invited to step up participation in CSDP military missions and operations.

The demining battalion of the Armed Forces of Bosnia and Herzegovina is essential to achieve a mine-free Bosnia and Herzegovina. The civilian mine action authorities (Demining Commission and BH Mine Action Centre) need to develop and adopt the bylaws and standard operating procedures required by the new land release method.

Bosnia and Herzegovina takes part in the European Peace Facility Balkan Medical Task Force assistance measure and is a beneficiary of an assistance measure for the Armed Forces of Bosnia and Herzegovina.

Bosnia and Herzegovina does not have an overall assessment or a policy framework for addressing **hybrid threats**, and remains vulnerable to cyberattacks. In 2022, several serious cyberattacks targeted the country's institutions, including the Parliament. Banja Luka-based provider M-tel continued to carry the signal of the RT and Sputnik channels, despite Bosnia and Herzegovina's alignment with EU sanctions on Russia prohibiting the broadcast of content from these Russian state-sponsored media outlets. In line with the Declaration of the EU – Western Balkans summit (Tirana, 6 December 2022), Bosnia and Herzegovina needs to make further efforts on closing space for foreign interference and information manipulation, including disinformation, taking actions towards building societal resilience against all forms

of hybrid threats.

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

The **Stabilisation and Association Agreement (SAA)** entered into force in June 2015. Policy dialogue in the joint bodies under the agreement restarted throughout the reporting period after political blockade in 2021-2022. Following completion of the 6<sup>th</sup> cycle of subcommittees, the SA Committee took place on 16 June and the SA Council on 19 July 2023. The country also participates in Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye, where joint recommendations were adopted at ministerial level on 16 May 2023.

The SAA and its Interim Agreement, applied since 2008, have allowed progressive **trade liberalisation** and mutual duty-free access for most goods. Since 2000, Bosnia and Herzegovina has also been benefiting from autonomous trade measures. The country joined the Central European Free Trade Agreement (CEFTA) in 2007. The EU is the main trading partner of Bosnia and Herzegovina, accounting for 63% of the country's trade in goods (74% of exports and 57% of imports), for a total trade volume of EUR 15.1 billion in 2022.

Bosnia and Herzegovina had applied for EU membership in 2016, and in May 2019 the Commission adopted its **opinion (avis)** setting out **14 key priorities** in the areas of democracy/functionality, rule of law, fundamental rights, and public administration reform. Fulfilling the 14 key priorities will allow the Commission to recommend opening EU accession negotiations with Bosnia and Herzegovina. In December 2022 the European Council granted Bosnia and Herzegovina **candidate country** status, on the understanding that a number of steps are taken, as outlined in the Commission recommendation in October 2022.

**Visa liberalisation** for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since December 2010. A readmission agreement has been in force since 2008. The Commission's sixth report under the visa suspension mechanism in October 2023 concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks.

Bosnia and Herzegovina significantly improved alignment with EU **common foreign and security policy** positions and declarations. Bosnia and Herzegovina continued to participate in EU crisis management missions and operations under the common security and defence policy. The EU continued to deploy considerable resources in Bosnia and Herzegovina. The enhanced presence of the combined Office of the EU Special Representative and the EU Delegation in Bosnia and Herzegovina 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 remained deployed in the country, retaining deterrence capacity to support a safe and secure environment. The UN Security Council extended EUFOR's mandate until November 2024.

The Armed Forces of Bosnia and Herzegovina benefit from EUR 20 million assistance from the **European Peace Facility (EPF)**, which enhances their capacity to participate in CSDP military missions and operations. Their demining battalion is essential for achieving a mine-free Bosnia and Herzegovina and benefits from EPF support in purchasing vehicles and metal detectors. The Armed Forces of Bosnia and Herzegovina received EPF support in chemical, biological, radiological and nuclear (CBRN) protection, and also take part in the EUR 6 million EPF Balkan Medical Task Force assistance measure.

The EU is the main provider of **financial assistance** to Bosnia and Herzegovina, notably under the **Instrument for Pre-accession Assistance (IPA)** with a total allocation of EUR 565.77 million under IPA II in 2014-2020 and EUR 188 million under IPA III 2021-23. Bosnia and Herzegovina benefits from EUR 70 million (IPA 2023) for a State and Resilience

Building Contract as part of the EUR 1 billion Energy Support Package for the Western Balkans, aimed to help to mitigate the increase of energy prices for vulnerable households and businesses in the immediate term and support energy transition and energy security in the Western Balkans. Under the EIP, Bosnia and Herzegovina benefits from a portfolio of **EUR 934 million** of ongoing/active bilateral IPA funds, mobilising additional funding of EUR 2.595 billion.

The EU provides support via IPA and the Foreign Policy Instrument to strengthen Western Balkans partners' resilience to face hybrid threats including cyber and foreign information manipulation and interference.

Bosnia and Herzegovina also benefits from investments through the **Western Balkans Investment Framework (WBIF)**. WBIF provided to Bosnia and Herzegovina since 2009 approx. EUR 717 million of grants for investment and technical assistance. The current WBIF portfolio amounts to EUR 640 million of grants leveraging investments estimated at **EUR 2 billion**.

Bosnia and Herzegovina participates in three **cross-border cooperation programmes**, as well as in transnational cooperation programmes. To facilitate the development of public procurement in the country, Bosnia and Herzegovina is participating as an observer in a pilot project under the Technical Support Instrument.

Bosnia and Herzegovina also participates union programmes, such as Horizon 2020, Creative Europe, Fiscalis 2020, Erasmus+ (international dimension), the Civil Protection Mechanism of the Union (as of 2023), and the Single Market Programme. Bosnia and Herzegovina has expressed interest or is considering joining several more programmes: Customs, Health, Justice, Citizens, Equality, Rights and Values (CERV), Employment and Social Innovation (EaSI), as well as Digital Europe programme, during or after 2023.

**STATISTICAL DATA (as of 31/08/2023)**
**Bosnia and Herzegovina**

| <b>Basic data</b>                            | Note | 2010     | 2017     | 2018     | 2019     | 2020     | 2021     |
|--|------|----------|----------|----------|----------|----------|----------|
| Population (thousand)                        |      | 3 844 s  | 3 510 s  | 3 500 s  | 3 492 ps | :        | :        |
| Total area of the country (km <sup>2</sup> ) | 1)   | 51 209 w |

| <b>National accounts</b>   | Note | 2010    | 2017    | 2018    | 2019     | 2020   | 2021   |
|--|------|---------|---------|---------|----------|--------|--------|
| Gross domestic product (GDP) (million national currency)   |      | 25 365  | 31 803  | 33 942  | 35 785   | 34 728 | 39 107 |
| Gross domestic product (GDP) (million euro)  |      | 12 969  | 16 261  | 17 354  | 18 297   | 17 756 | 19 995 |
| GDP (euro per capita)  |      | 3 374 s | 4 633 s | 4 958 s | 5 240 ps | :      | :      |
| GDP per capita (in purchasing power standards (PPS))   |      | 7 500   | 9 300   | 10 000  | 10 500   | 10 200 | :      |
| GDP per capita (in PPS), relative to the EU average (EU-27 = 100)  |      | 29.8 s  | 31.1 s  | 32.4 s  | 32.7 s   | 33.1 s | :      |
| Real GDP growth rate: change on previous year of GDP volume (%)  |      | 0.9     | 3.2     | 3.8     | 2.9      | - 3.0  | 7.4    |
| Employment growth (national accounts data), relative to the previous year (%)                                  |      | :       | :       | :       | :        | :      | :      |
| Labour productivity growth: growth in GDP (in volume) 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 (2015 = 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 (%)  |      | 8.0     | 6.5     | 6.9     | 6.5      | 7.0    | 6.0    |
| Industry (%)   |      | 21.3    | 23.1    | 23.8    | 22.9     | 22.8   | 24.5   |
| Construction (%)   |      | 5.2     | 4.8     | 4.8     | 5.0      | 5.4    | 5.1    |
| Services (%)   |      | 65.6 s  | 65.5 s  | 64.6 s  | 65.6 s   | 64.7 s | 64.3 s |
| Final consumption expenditure, as a share of GDP (%)   |      | 106.9   | 95.7    | 93.0    | 91.7     | 92.7   | 87.5   |
| Gross fixed capital formation, as a share of GDP (%)   |      | 20.8    | 21.7    | 22.4    | 22.7     | 22.1   | 21.4   |
| Changes in inventories, as a share of GDP (%)  |      | - 1.1   | 3.0     | 2.0     | 2.1      | 1.0    | 4.6    |
| Exports of goods and services, relative to GDP (%)   |      | 29.7    | 40.3    | 42.0    | 40.0     | 34.2   | 42.2   |
| Imports of goods and services, relative to GDP (%)   |      | 51.3    | 56.3    | 56.4    | 54.5     | 47.9   | 53.9   |
| Gross fixed capital formation by the general government sector, as a percentage of GDP (%)                     |      | :       | :       | :       | :        | :      | :      |

| <b>Business</b>  | Note | 2010 | 2017     | 2018   | 2019   | 2020   | 2021      |
|--|------|------|----------|--------|--------|--------|-----------|
| Industrial production volume index (2015 = 100)  |      | 93.7 | 107.7    | 109.5  | 103.5  | 96.7   | 106.2     |
| Number of active enterprises (number)  |      | :    | 68 761 b | 68 085 | 67 981 | 66 873 | 70 794 pw |
| Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%) |      | :    | 11.5 p   | 11.1 p | 10.4 p | :      | :         |

|  |  |   |           |          |          |          |           |
|--|--|---|-----------|----------|----------|----------|-----------|
| Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%) |  | : | 9.5 p     | 10.3 p   | 3.8 p    | :        | :         |
| People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)               |  | : | 69.5 bsw  | 69.1 sw  | 69.1 sw  | 69.6 sw  | 69.1 psw  |
| Value added by SMEs (in the non-financial business economy) (EUR million)  |  | : | 4 845 bsw | 5 269 sw | 5 780 sw | 5 677 sw | 6 733 psw |
| Total value added (in the non-financial business economy) (EUR million)  |  | : | 7 681 b   | 8 393    | 9 040    | 8 829    | 10 689 pw |

| <b>Inflation rate and house prices</b>                               | Note | 2010  | 2017  | 2018  | 2019  | 2020    | 2021  |
|--|------|-------|-------|-------|-------|---------|-------|
| Consumer price index (CPI), change relative to the previous year (%) | 2)   | 2.1 w | 0.8 w | 1.4 w | 0.6 w | - 1.1 w | 2.0 w |
| **Annual change in the deflated house price index (2015 = 100)       |      | :     | :     | :     | :     | :       | :     |

| <b>Balance of payments</b>   | Note  | 2010      | 2017      | 2018      | 2019      | 2020      | 2021      |
|--|-------|-----------|-----------|-----------|-----------|-----------|-----------|
| Balance of payments: current account total (million euro)  |       | - 782.8   | - 777.3   | - 559.3   | - 474.1   | - 575.1   | - 472.0   |
| Balance of payments current account: trade balance (million euro)  |       | - 3 674.3 | - 3 792.2 | - 3 845.5 | - 4 071.4 | - 3 204.5 | - 3 666.0 |
| Balance of payments current account: net services (million euro)   |       | 876.0     | 1 191.0   | 1 335.6   | 1 430.2   | 763.4     | 1 314.6   |
| Balance of payments current account: net balance for primary income (million euro)                         |       | 210.9     | - 134.6   | - 99.6    | - 30.8    | - 99.2    | - 288.7   |
| Balance of payments current account: net balance for secondary income (million euro)                       |       | 1 804.6   | 1 958.5   | 2 050.2   | 2 198.0   | 1 965.3   | 2 168.0   |
| Net balance for primary and secondary income: of which government transfers (million euro)                 |       | 76.2      | 35.9      | 15.1      | 49.1      | 66.7      | 31.6      |
| **3 year backward moving average of the current account balance relative to GDP (%)                        |       | :         | - 4.8     | - 4.2     | - 3.5     | - 3.0     | - 2.7     |
| **Five year change in share of world exports of goods and services (%)                                     |       | :         | 31.3      | 30.6      | 25.1      | 13.9      | 20.8      |
| Net balance (inward - outward) of foreign direct investment (FDI) (million euro)                           | 3)    | 272.2 w   | 366.8 w   | 491.0 w   | 377.8 w   | 322.2 w   | 459.8 w   |
| Foreign direct investment (FDI) abroad (million euro)  | 4) 3) | 58.8 w    | 88.4 w    | 16.4 w    | 19.7 w    | 61.6 w    | 68.9 w    |
| of which FDI of the reporting economy in the EU-27 countries (million euro)                                | 5)    | :         | 59.4 w    | - 14.4 w  | - 26.1 w  | 27.3 w    | 26.2 w    |
| Foreign direct investment (FDI) in the reporting economy (million euro)                                    | 4) 3) | 331.0 w   | 455.2 w   | 507.4 w   | 397.4 w   | 383.8 w   | 528.7 w   |
| of which FDI of the EU-27 countries in the reporting economy (million euro)                                | 3) 5) | 156.7 w   | 292.7 w   | 290.8 w   | 207.7 w   | 253.6 w   | 213.0 w   |
| **Net international investment position, relative to GDP (%)   | 4)    | - 53.7 w  | - 46.4 w  | - 42.2 w  | - 37.3 w  | - 35.3 w  | - 30.8 w  |
| Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%) | 4)    | 7.8 sw    | 8.3 s     | 8.4 s     | 8.4 s     | 7.3 s     | 7.8 s     |

| <b>Public finance</b>                                     | Note | 2010    | 2017   | 2018   | 2019   | 2020    | 2021 |
|---|------|---------|--------|--------|--------|---------|------|
| General government deficit / surplus, relative to GDP (%) |      | - 2.4 w | 2.6 w  | 2.3 w  | 1.9 w  | - 5.3 w | :    |
| General government gross debt relative to GDP (%)         | 6)   | 30.2 w  | 36.1 w | 34.1 w | 32.7 w | 36.6 w  | w    |
| Total government revenues, as a percentage of GDP (%)     | 6)   | 42.9 w  | 43.0 w | 43.0 w | 42.5 w | 42.1 w  | :    |
| Total government expenditure, as a percentage of GDP (%)  | 6)   | 45.3 w  | 40.4 w | 40.8 w | 40.6 w | 47.4 w  | :    |

| <b>Financial indicators</b>   | Note | 2010      | 2017      | 2018      | 2019      | 2020      | 2021      |
|---|------|-----------|-----------|-----------|-----------|-----------|-----------|
| Gross external debt of the whole economy, relative to GDP (%)           | 4)   | 72.0 sw   | 66.8 sw   | 65.6 sw   | 63.1 sw   | 64.3 sw   | 60.1 sw   |
| Gross external debt of the whole economy, relative to total exports (%) | 4)   | 242.4 w   | 163.4 w   | 153.9 w   | 155.5 w   | 185.6 w   | 136.1 w   |
| Money supply: M1 (banknotes, coins, overnight deposits, million euro)   | 7)   | 3 016.6 w | 5 405.6 w | 6 209.7 w | 6 775.2 w | 7 697.6 w | 9 166.2 w |

|  |         |           |            |            |            |            |            |
|--|---------|-----------|------------|------------|------------|------------|------------|
| Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)                        | 8)      | 6 967.5 w | 11 307.9 w | 12 368.7 w | 13 463.7 w | 14 443.5 w | 16 113.7 w |
| Money supply: M3 (M2 plus marketable instruments, million euro)  | 10)     | w         | w          | w          | w          | w          | w          |
| Total credit by monetary financial institutions to residents (consolidated) (million euro)             | 10) 11) | 7 232.3 w | 9 419.2 w  | 9 962.9 w  | 10 620.9 w | 10 403.5 w | 10 776.7 w |
| **Annual change in financial sector liabilities (%)  | 12) 13) | - 0.1 w   | 8.3 w      | 9.1 w      | 8.0 w      | 3.7 w      | 9.9 w      |
| **Private credit flow, consolidated, relative to GDP (%)   | 12)     | - 0.6 w   | 3.4 w      | 3.3 w      | 3.8 w      | - 1.2 w    | :          |
| **Private debt, consolidated, relative to GDP (%)  | 12)     | 61 w      | 58 w       | 58 w       | 59 w       | 59 w       | :          |
| Interest rates: day-to-day money rate, per annum (%)   | 14)     | w         | w          | w          | w          | w          | w          |
| Lending interest rate (one year), per annum (%)  | 15)     | 7.89 w    | 4.38 w     | 3.79 w     | 3.29 w     | 3.05 w     | 3.20 w     |
| Deposit interest rate (one year), per annum (%)  | 16)     | 0.19 w    | 0.07 w     | 0.05 w     | 0.06 w     | 0.07 w     | 0.05 w     |
| 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, 42 countries (2015 = 100)                                |         | 98 w      | 102 w      | 103 w      | 104 w      | 106 w      | 108 w      |
| **3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100) |         | 0 sw      | 0 sw       | 0 sw       | 0 sw       | 0 sw       | 0 sw       |
| Value of reserve assets (including gold) (million euro)  | 4)      | 3 301.8 w | 5 427.0 w  | 5 944.1 w  | 6 441.1 w  | 7 091.0 w  | 8 359.1 w  |

| <b>External trade in goods</b>  | Note | 2010    | 2017     | 2018     | 2019     | 2020     | 2021     |
|---|------|---------|----------|----------|----------|----------|----------|
| Value of imports: all goods, all partners (million euro)                |      | 6 962   | 9 298    | 9 855    | 9 969    | 8 634    | 11 042   |
| Value of exports: all goods, all partners (million euro)                |      | 3 628   | 5 653    | 6 085    | 5 876    | 5 379    | 7 298    |
| Trade balance: all goods, all partners (million euro)                   |      | - 3 334 | - 3 646  | - 3 770  | - 4 093  | - 3 254  | - 3 744  |
| Terms of trade (export price index / import price index * 100) (number) | 17)  | :       | 101.3 sw | 102.7 sw | 102.3 sw | 105.6 sw | 104.4 sw |
| Share of exports to EU-27 countries in value of total exports (%)       |      | 69.0 s  | 70.4 s   | 72.2 s   | 72.3 s   | 72.4 s   | 72.8 s   |
| Share of imports from EU-27 countries in value of total imports (%)     |      | 60.3 s  | 60.0 s   | 59.7 s   | 61.1 s   | 60.8 s   | 58.9 s   |

| <b>Demography</b>  | Note | 2010  | 2017  | 2018    | 2019 | 2020 | 2021 |
|--|------|-------|-------|---------|------|------|------|
| Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants) |      | - 0.4 | - 2.0 | - 2.4 p | :    | :    | :    |
| Infant mortality rate deaths of children under one year of age (per thousand live births)                                  |      | 6.4   | :     | :       | :    | :    | :    |
| Life expectancy at birth: male (years)   |      | :     | :     | :       | :    | :    | :    |
| Life expectancy at birth: female (years)   |      | :     | :     | :       | :    | :    | :    |

| <b>Labour market</b>   | Note    | 2010   | 2017   | 2018   | 2019   | 2020    | 2021    |
|--|---------|--------|--------|--------|--------|---------|---------|
| Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%) | 18) 19) | 58.4 w | 58.4 w | 58.4 w | 59.0 w | 62.3 bw | 63.4 bw |
| *Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)            | 18) 19) | 42.8 w | 46.6 w | 47.7 w | 49.7 w | 52.5 bw | 52.6 bw |
| Male employment rate for persons aged 20–64 (%)  | 18) 19) | 54.6 w | 58.1 w | 59.5 w | 61.6 w | 64.9 bw | 66.0 bw |
| Female employment rate for persons aged 20–64 (%)  | 18) 19) | 31.2 w | 35.1 w | 35.8 w | 38.0 w | 40.0 bw | 39.1 bw |
| Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)             | 18) 19) | 26.8 w | 32.5 w | 32.6 w | 36.2 w | 35.4 bw | 35.6 bw |
| Employment by main sectors   |         |        |        |        |        |         |         |

|  |         |        |        |        |        |         |         |
|--|---------|--------|--------|--------|--------|---------|---------|
| Agriculture, forestry and fisheries (%)  | 18) 19) | :      | 18.9 w | 15.7 w | 18.0 w | 12.0 bw | 9.4 bw  |
| Industry (%)   | 18) 19) | :      | 22.2 w | 23.5 w | 23.8 w | 23.9 bw | 24.4 bw |
| Construction (%)   | 18) 19) | :      | 7.3 w  | 8.7 w  | 7.9 w  | 9.5 bw  | 9.1 bw  |
| Services (%)   | 18) 19) | :      | 51.6 w | 52.1 w | 50.3 w | 54.7 bw | 57.0 bw |
| People employed in the public sector as a share of total employment, persons aged 20–64 (%)                          | 18) 19) | 18.6 w | 18.4 w | 18.4 w | 17.2 w | 19.1 bw | 19.8 bw |
| People employed in the private sector as a share of total employment, persons aged 20–64 (%)                         | 18) 19) | 81.4 w | 81.6 w | 81.6 w | 82.8 w | 80.9 bw | 80.2 bw |
| Unemployment rate: proportion of the labour force that is unemployed (%)   | 18) 19) | 27.3 w | 20.7 w | 18.5 w | 15.9 w | 15.9 bw | 17.4 bw |
| Male unemployment rate (%)   | 18) 19) | 25.6 w | 19.0 w | 17.3 w | 13.8 w | 14.2 bw | 14.4 bw |
| Female unemployment rate (%)   | 18) 19) | 29.9 w | 23.3 w | 20.5 w | 19.0 w | 18.6 bw | 22.0 bw |
| Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)                            | 18) 19) | 57.5 w | 45.8 w | 38.8 w | 33.8 w | 36.6 bw | 38.3 bw |
| Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)       | 18) 19) | 22.3 w | 17.0 w | 15.2 w | 12.1 w | 11.9 bw | 13.7 bw |
| Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%) | 18) 19) | 28.2 w | 19.5 w | 19.1 w | :      | 19.5 bw | 21.8 bw |
| Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)                | 18) 19) | 13.2 w | 14.6 w | 13.9 w | 10.9 w | 10.9 bw | 10.8 bw |

#### Social cohesion

|   | Note    | 2010  | 2017  | 2018  | 2019  | 2020  | 2021  |
|---|---------|-------|-------|-------|-------|-------|-------|
| Average nominal monthly wages and salaries (national currency)  | 22)     | 798 w | 851 w | 879 w | 921 w | 956 w | 998 w |
| Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)  |         | :     | :     | :     | :     | :     | :     |
| GINI coefficient  |         | :     | :     | :     | :     | :     | :     |
| 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 (%) | 18) 23) | 7.9 w | 5.1 w | 5.4 w | 3.8 w | 4.7 w | 4.7 w |

#### Standard of living

|   | Note | 2010     | 2017    | 2018    | 2019      | 2020      | 2021       |
|---|------|----------|---------|---------|-----------|-----------|------------|
| Number of passenger cars relative to population size (number per thousand population)             |      | 189.0    | 230.0   | 240.0   | 245.0     | 244.0     | 256.0      |
| Number of mobile phone subscriptions relative to population size (number per thousand population) | 24)  | 784.3 ew | 981.7 w | 989.9 w | 1 075.5 w | 1 010.0 w | 1 088.6 ew |
| Mobile broadband penetration (per 100 inhabitants)  | 24)  | :        | 43.4 w  | 52.7 w  | 44.7 w    | 46.7 w    | 52.3 ew    |
| Fixed broadband penetration (per 100 inhabitants)   | 24)  | :        | 19 w    | 20 w    | 21 w      | 22 w      | 23 ew      |

#### Infrastructure

|   | Note | 2010    | 2017    | 2018    | 2019    | 2020    | 2021    |
|---|------|---------|---------|---------|---------|---------|---------|
| Density of railway network (lines in operation per thousand km <sup>2</sup> ) | 1)   | 20.1 sw | 19.9 sw |
| Length of motorways (kilometres)  |      | 35 w    | 172     | 198     | 208     | 218     | 218     |

#### Innovation and research

|  | Note | 2010 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--|------|------|------|------|------|------|------|
|  |      |      |      |      |      |      |      |

|   |  |   |         |         |        |        |      |
|---|--|---|---------|---------|--------|--------|------|
| Public expenditure on education relative to GDP (%)                                     |  | : | 4.1 sw  | 4.0 sw  | 4.1 sw | 4.3 sw | :    |
| *Gross domestic expenditure on R&D relative to GDP (%)                                  |  | : | 0.20 sw | 0.19 sw | 0.19   | 0.20   | :    |
| Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%) |  | : | 0.04    | 0.06    | 0.09   | 0.09   | :    |
| Percentage of households who have internet access at home (%)                           |  | : | :       | 69.2    | 72.0   | 72.8   | 75.5 |

| <b>Environment</b>  | Note | 2010   | 2017   | 2018   | 2019   | 2020   | 2021   |
|---|------|--------|--------|--------|--------|--------|--------|
| *Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)                       |      | 75.6 w | :      | :      | :      | :      | :      |
| Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices) |      | :      | 428.4  | 456.8  | 429.3  | 435.2  | 420.4  |
| Electricity generated from renewable sources relative to gross electricity consumption (%)        |      | 60.4 w | 39.6   | 41.5   | 45.5   | 49.3   | 46.3   |
| Road share of inland freight transport (based on tonne-km) (%)                                    | 25)  | 62.3 w | 78.9 w | 78.7 w | 77.4 w | 78.8 w | 78.8 w |

| <b>Energy</b>  | Note | 2010 | 2017    | 2018    | 2019    | 2020    | 2021    |
|--|------|------|---------|---------|---------|---------|---------|
| Primary production of all energy products (thousand TOE) |      | :    | 4 624   | 5 672   | 5 405   | 5 237   | 5 223   |
| Primary production of crude oil (thousand TOE)           |      | :    | 0       | 0       | 0       | 0       | 0       |
| Primary production of solid fuels (thousand TOE)         |      | :    | 3 612   | 3 659   | 3 403   | 3 329   | 3 121   |
| Primary production of gas (thousand TOE)                 |      | :    | 0       | 0       | 0       | 0       | 0       |
| Net imports of all energy products (thousand TOE)        |      | :    | 2 299 s | 1 814 s | 1 979 s | 1 805 s | 2 002 s |
| Gross inland energy consumption (thousand TOE)           |      | :    | 6 754   | 7 478   | 7 230   | 7 108   | 7 374   |
| Gross electricity generation (GWh)                       |      | :    | 16 438  | 19 160  | 17 493  | 16 874  | 18 536  |

| <b>Agriculture</b>   | Note | 2010      | 2017      | 2018      | 2019      | 2020      | 2021      |
|--|------|-----------|-----------|-----------|-----------|-----------|-----------|
| Agricultural production volume index of goods and services (at producer prices) (2010 = 100) |      | :         | :         | :         | :         | :         | :         |
| Utilised agricultural area (thousand hectares)   |      | 1 708.7 e | 1 762.0 e | 1 779.6 e | 1 806.3 e | 1 845.6 e | 1 865.8 e |
| Livestock numbers: live bovine animals (thousand heads, end of period)                       |      | 462.0     | 445.0 e   | 438.0     | 430.0 e   | 427.0 e   | 339.5     |
| Livestock numbers: live swine (thousand heads, end of period)                                |      | 581.0     | 548.0 e   | 542.0 e   | 543.0 e   | 547.0 e   | 569.6     |
| Livestock numbers: live sheep and live goats (thousand heads, end of period)                 |      | 1 110.0 s | 1 090.0 s | 1 085.0 s | 1 085.0 s | 1 085.0 s | 1 083.2 s |
| Raw milk available on farms (thousand tonnes)  |      | :         | :         | :         | :         | :         | :         |
| Harvested crop production: cereals (including rice) (thousand tonnes)                        |      | 1 264.4 e | 1 176.9 e | 1 764.1 e | 1 685.6 e | 1 966.8 e | 1 425.1 e |
| Harvested crop production: sugar beet (thousand tonnes)                                      |      | 0.0       | 0.0       | 0.0       | 0.0       | 0.0       | 0.0       |
| Harvested crop production: vegetables (thousand tonnes)                                      |      | 273.4 e   | 291.5 e   | 298.7 e   | 298.8 e   | 323.7 e   | 292.7 e   |

Source: Eurostat and/or the statistical authorities in Bosnia and Herzegovina

: = not available  
b = break in series  
e = estimated value  
n = not significant value  
p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

\* = Europe 2020 indicator

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

Footnotes:

- 1) Inland waters estimated at 210 km<sup>2</sup>.
- 2) Consumer price inflation
- 3) Based on IMF balance of payments manual, Asset - Liability Approach
- 4) Based on IMF balance of payments manual, sixth edition.
- 5) Based on IMF balance of payments manual, sixth edition and OECD Benchmark Definition of Foreign Direct Investment - 4th edition
- 6) End of year (31 December).
- 7) M1 money supply comprises cash outside banks and transferable deposit in domestic currency of all domestic sectors (except central government deposits).
- 8) M2 money supply is comprised of money supplies, M1 money and QM quasi money. QM money supplies covers other deposits in domestic currency, transferable and other deposits in foreign currency of all domestic sectors (except the deposits of the central government).
- 9) Central Bank of BiH produces only the following monetary aggregates: M1, QM and M2 based on IMF recommendations.
- 10) Based on IMF monetary and financial statistics manual, 2000.
- 11) In accordance with the Decision on Credit Risk Management and Determination of Expected Credit Losses, from supervisory body, since January 1, 2020, commercial banks have re-recorded some of the bank's balance sheet receivables on of balance sheet records, which caused a decrease in loan of approximately 400 millions KM in private enterprises and household sectors.
- 12) Data for monetary financial institutions.
- 13) The Central Bank of Bosnia and Herzegovina started with other financial corporation statistics from 2006.
- 14) Money market is not yet established in Bosnia and Herzegovina.
- 15) Short-term lending rates in national currency to non-financial corporations (weighted average).
- 16) Demand deposit rates in national currency of households (weighted average).
- 17) Paasche export and import unit value indices
- 18) Since January 2020, the Labour Force Survey in Bosnia and Herzegovina has been conducted continuously, throughout the year, with quarterly data release. Also, from 2020 the procedure of weight calibration according to population estimates by five-year age groups and sex is carried out.
- 19) From January 2021, the Agency for Statistics of Bosnia and Herzegovina began to apply the new, redesigned methodology of the Labour Force Survey. The redesign of the survey took place on the basis of and in accordance with the new Regulation of the European Parliament and the Council, which entered into force on 1st January 2021. With the introduction of the new, redesigned methodology of the Labour Force Survey from January 2021, the series of data published in the previous year was interrupted.
- 20) The public sector includes NACE Rev. 1.1 Sections L, M and N while the private sector includes other NACE Sections.
- 21) The public sector includes NACE Rev. 2 Sections O, P and Q while the private sector includes other NACE Sections.
- 22) Net earnings.
- 23) From 2020 onwards LFS is conducted on a quarterly basis leading to break in series compared to results from previous years. With the introduction of the new, redesigned methodology of the Labour Force Survey (Regulation (EU) 2019/1700; Implementing Regulation (EU) 2019/2240) from January 2021, the series of data published in the previous year was interrupted. This means that the data for 2020 and 2021 are also not comparable.
- 24) Data for variables TEL1200Z, TEL3100Z, TEL3200Z are estimated for 2021 based on estimated total number of population for 2020 reference year. Official estimate of total number of population for 2021 will be available by the end of October 2022. Revised data will be submitted in the 2nd wave of data collection
- 25) Data not collected on inland waterways. Road share of inland freight transport based on road and rail transport.

