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**COMMISSION STAFF WORKING PAPER**

**BOSNIA AND HERZEGOVINA 2011 PROGRESS REPORT**

*Accompanying the document*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**Enlargement Strategy and Main Challenges 2011-2012**

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## 1. INTRODUCTION

### 1.1. Preface

Since March 2002, the Commission has reported regularly to the Council and Parliament on the progress made by the countries of the Western Balkans region. This progress report broadly follows the same structure as in previous years. The report:

- briefly describes relations between Bosnia and Herzegovina and the Union;
- analyses the situation in Bosnia and Herzegovina in terms of the political criteria for membership;
- analyses the situation in Bosnia and Herzegovina on the basis of the economic criteria for membership;
- reviews Bosnia and Herzegovina's capacity to implement European standards, i.e. to gradually approximate its legislation and policies with the *acquis*, in line with the Interim Agreement/Stabilisation and Association Agreement and the European Partnership priorities.

This report covers the period from October 2010 to September 2011. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a general rule, legislation or measures which are being prepared or awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and enables an objective assessment.

The report is based on many sources. As usual, these include contributions from the government of Bosnia and Herzegovina and from the EU Member States, reports by the European Parliament<sup>1</sup> and information from various international and non-governmental organisations.

The Commission has drawn detailed conclusions regarding Bosnia and Herzegovina in its separate communication on enlargement<sup>2</sup>, based on the technical analysis contained in this report.

### 1.2. Context

Bosnia and Herzegovina is a potential candidate for EU membership.

An international presence under UN auspices - the Office of the High Representative (OHR) - has been in place in Bosnia and Herzegovina since 1995. The Peace Implementation Council Steering Board has set objectives and conditions<sup>3</sup> to be met for the closure of the Office of the High Representative.

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<sup>1</sup> The rapporteur for Bosnia and Herzegovina is Ms Doris Pack.

<sup>2</sup> Enlargement Strategy and Main Challenges 2011-2012 - COM(2011) 666.

<sup>3</sup> These cover five objectives: 1) Acceptable and sustainable resolution of the issue of apportionment of property between State and other levels of government; 2) Acceptable and sustainable resolution of defence property; 3) Completion of the Brcko final award; 4) Fiscal sustainability (promoted by an

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

One year after the general elections of 3 October 2010, the process of establishing executive and legislative authorities remains to be completed with the establishment of a State-level Government. The failure to reach a political agreement on the formation of authorities has hampered Bosnia and Herzegovina's progress on much needed reforms, in particular as regards the harmonisation of the Constitution with the European Convention on Human Rights (ECHR)<sup>4</sup> and the adoption of a State Aid Law at State-level. Moreover, the adoption of the State-level Law on Household and Population Census remains essential for the socio-economic development of Bosnia and Herzegovina and future EU integration steps.

A shared vision by the political representatives on the overall direction and future of the country and its institutional setup is lacking. The EU accession process requires political will and functional institutions at all levels with an effective coordination mechanism on EU matters. The EU has reinforced its role in the country and continued to implement the objectives of the EU agenda, in line with the March 2011 Council Conclusions. The European Union Special Representative (EUSR) to Bosnia and Herzegovina and Head of the EU Delegation took up office in September as a single EU Representative.

### **1.3. Relations between the EU and Bosnia and Herzegovina**

Bosnia and Herzegovina participates in the **Stabilisation and Association Process**. The Interim Agreement (IA) has been in place since July 2008. The Stabilisation and Association Agreement (SAA) has been ratified by all EU Member States, but has not yet entered into force. Implementation of the Interim Agreement by Bosnia and Herzegovina remained uneven, including as regards various measures introduced to protect the domestic market. The country is in breach of the IA due to non-compliance with the European Convention on Human Rights and with the rules on State aid.

The overall pace of reforms has been very limited. Respect for democratic principles and the right to equal treatment without discrimination, as embodied in the ECHR, remain essential requirements of the IA and of the SAA. The lack of a credible process for the harmonisation of the Constitution with the European Court of Human Rights' (ECtHR) decision<sup>5</sup> of December 2009 in the Sejdic-Finci case, remains an issue of serious concern.

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agreement on a permanent ITA coefficient methodology and establishment of a National Fiscal Council); and 5) Entrenchment of the rule of law (demonstrated by adoption of a National War Crimes Strategy, of a Law on aliens and asylum and of a National Justice Sector Reform Strategy), as well as two specific conditions: 1) signing of the SAA and 2) a stable political situation.

<sup>4</sup> The Sejdic-Finci vs. Bosnia and Herzegovina case, December 2009, regarding ethnic discrimination for representation in the institutions of the country for persons not belonging to one of the three Constituent Peoples.

<sup>5</sup> See footnote 4

Within the framework of the Stabilisation and Association Process, Bosnia and Herzegovina engaged with the EU on a Structured Dialogue on Justice in June, aiming at ensuring an independent, effective, impartial and accountable judicial system. In reply to the request for technical information handed during the first meeting of the structured dialogue, the authorities of Bosnia and Herzegovina submitted a detailed report on their judicial system.

The EU provides guidance to the authorities on reform priorities, including the European Partnership. Progress on these reform priorities is encouraged and monitored by the bodies established by the IA. Six Interim Sub-Committee meetings and one Interim Committee meeting were held during the reporting period. Furthermore, the multilateral economic dialogue between the Commission, EU Member States and potential candidate countries in the context of the pre-accession fiscal surveillance took place at an expert meeting in May 2011. At the end of 2010, an agreement was reached on the supply of electricity to Brcko District and on the launch of a comprehensive review of electricity legislation.

The EU has continued to deploy considerable resources in Bosnia and Herzegovina under the Common Foreign and Security Policy and the Common Security and Defence Policy. In September, the EUSR mandate was transferred from the OHR to a single EU representative acting under a double-hatted mandate as EUSR and Head of the EU Delegation. The mandate includes a broad and balanced set of instruments to maximise the incentives provided by the EU.

In March, the Foreign Affairs Council underlined the fact that the EU Police Mission (EUPM) and EUFOR Althea are important elements of the EU overall strategy for Bosnia and Herzegovina. The mandate of the EUPM focuses on the fight against organised crime and corruption. The EUPM has continued to monitor and assess implementation of police reform and accountability, and to provide training. The mission currently has 273 officers and its current mandate will end in December 2011. The EUFOR/ALTHEA military operation contributed to maintaining a safe environment in the country. Particular emphasis has been placed on providing capacity-building and training. EUFOR forces number about 1,300 troops in theatre. In 2010, the UN Security Council extended the mandate of EUFOR until November 2011. Both missions will be kept under regular review, including on the basis of the situation on the ground.

**Visa liberalisation** for citizens of Bosnia and Herzegovina was granted by the European Parliament and the Council as of 15 December 2010. It applies to holders of biometric passports travelling to the Schengen area. This decision was based on fulfilment of the specific conditions set out in the roadmap for visa liberalisation. The rules for visa-free travel have been respected by the vast majority of travellers. To ensure the continued implementation of the commitments, a post visa liberalisation monitoring mechanism was established in view of increased numbers of asylum seekers from the region. The Commission presented its first monitoring report to the European Parliament and the Council in June 2011. A readmission agreement between the European Union and Bosnia and Herzegovina has been in force since January 2008.

As regards the **common foreign and security policy (CFSP)**, during the reporting period Bosnia and Herzegovina aligned itself, when invited, with 45 out of 66 relevant EU declarations and Council decisions (68 % alignment).

Bosnia and Herzegovina receives **financial assistance** under the Instrument for Pre-accession Assistance (IPA). The EU Delegation to Bosnia and Herzegovina is responsible for the

implementation of financial assistance in the country. Little progress has been made by the country's authorities towards establishing the necessary structure for decentralised management of EU funds (DIS). The legal basis for the operating structure, appointment of the necessary programme officers and adoption of the roadmap towards a decentralised implementation system are still not agreed.

The implementation of the 2007-2009 national IPA programmes is ongoing. The Multi-annual Indicative Planning Document (MIPD) for the period 2011-2013 has identified the following three priorities for IPA support: supporting the strengthening of the rule of law, improving the capacity and efficiency of the public administration and supporting social and economic development.

The lack of agreement between stakeholders in the country regarding the projects to be financed under the IPA 2011 national programme<sup>6</sup> delayed the completion of the programming exercise in 2011. The difficulties encountered during the programming exercise demonstrate the need to urgently address the issue of coordination on EU matters within the country's institutions at every level. Strengthening coordination mechanisms on the programming of future EU financial assistance and on other EU matters, is an issue to be addressed as a matter of urgency.

Furthermore, Bosnia and Herzegovina benefits from the IPA multi-beneficiary programmes.

Development of **civil society** in Bosnia and Herzegovina continues to be supported under the Civil Society Facility, with the emphasis on building the capacity of government institutions and civil society to engage in a dialogue, reinforcement of local democracy, environment and climate change.

The implementation of the cross-border cooperation programmes 2007-2009 between Bosnia and Herzegovina and its neighbours Croatia, Montenegro and Serbia is ongoing.

Bosnia and Herzegovina participates as a full member in the 7th Framework Programme for research, technological development and demonstration activities (FP7) and in the COST and the EUREKA networks. Bosnia and Herzegovina became an associate member of the Culture 2007-2013 programme. Bosnia and Herzegovina is preparing for its participation in the Lifelong Learning Programme.

## 2. POLITICAL CRITERIA

This section examines the progress made by Bosnia and Herzegovina towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. It also monitors regional cooperation, good neighbourly relations with enlargement countries and Member States and compliance with international obligations, such as cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY).

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<sup>6</sup> The IPA national allocation for 2011 is € 102.6 million. It includes the IPA 2011 national programme (€ 96.3 million) which will cover projects in a variety of areas, including to support the judiciary, law enforcement, public administration reform, education, social inclusion, refugee returns, cultural heritage and demining. Other sectors include support for local economic development, water sector, waste management and energy efficiency.



## 2.1. Democracy and the rule of law

### *Constitution*

The Dayton/Paris Peace Agreement put an end to the 1992-1995 war and brought peace to Bosnia and Herzegovina. However, Bosnia and Herzegovina's Constitution, which is Annex 4 to the Agreement, established a complex institutional architecture, which remains inefficient and is subject to different interpretations. The complicated decision-making process has contributed to delay structural reforms and reduce the country's capacity to make progress towards the EU. Few credible steps have been taken to improve the adoption of key legislation relevant to EU integration and to harmonise legislation between the State-level and the Entities.

The Constitution of Bosnia and Herzegovina prevents citizens who do not identify themselves as belonging to one of the three constituent peoples (Bosniak, Serb and Croat) from standing as candidates for the Presidency and the House of Peoples of the Parliamentary Assembly. No agreement has emerged to align the Constitution with the European Court of Human Rights (ECtHR) decision<sup>7</sup> regarding discrimination against citizens on the grounds of ethnicity. The lack of a shared vision by the political representatives on the direction of the country has hampered progress on this issue. The first inter-institutional working group which was set up to implement the ECtHR decision failed to reach an agreement. The establishment of a new Working Group, as recommended by the Council of Ministers in August, is outstanding.

The Republika Srpska National Assembly (RSNA) adopted Conclusions and a decision on holding a referendum challenging the State-level judiciary institutions and the legitimacy of some decisions by the High Representative. Following the EU facilitation, in June the RSNA repealed the decision on holding a referendum and amended the Conclusions. Within the established framework of the Stabilisation and Association Process, Bosnia and Herzegovina has engaged with the EU in a Structured Dialogue on Justice.

The Federation's Constitution entails complex and costly governance structures with overlapping competences between the Federation, the Cantons and the municipalities. Regarding the harmonisation of legislation with the *acquis*, the lack of harmonisation mechanisms between the different levels remains an issue to be addressed.

On the basis of the Dayton/Paris Peace Agreement (DPA), the international community continued to maintain a presence in Bosnia and Herzegovina. Regarding the Brcko Final Award, which is one of the objectives<sup>8</sup> set by the Peace Implementation Council Steering Board for the closure of the Office of the High Representative (OHR), progress was made in resolving the electricity issue. Further efforts are needed to meet outstanding objectives and conditions.

The High Representative used Bonn powers<sup>9</sup> on several occasions, including by approving temporary financing of the 2011 budget in the Federation and suspending two decisions

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<sup>7</sup> See footnote 4

<sup>8</sup> See footnote 3

<sup>9</sup> The Peace Implementation Council Conference in Bonn in December 1997 decided to "give to the High Representative the power to remove from office public officials not complying with the Dayton Peace Agreement, and to impose laws which he considers necessary if Bosnia and Herzegovina's legislative bodies fail to do so".

enacted by the Central Election Commission concerning the legality of the constitutive session of the Federation's House of Peoples and the election of the President and Vice-presidents. The HR also lifted all ICTY-related sanctions, including bans against a number of persons.

*Overall*, there has been little progress on addressing the European Partnership priorities, which require measures to achieve more functional and sustainable institutional structures and respect for human rights and fundamental freedoms, including by harmonising the Constitution with the ECHR.

### *Parliament*

On 3 October 2010, general elections were held for the Presidency and the lower chamber of the Parliamentary Assembly of Bosnia and Herzegovina (House of Representatives). The establishment of the State-level legislative authorities was delayed until May for the House of Representatives and until June for the House of Peoples. The formation of parliamentary committees, including the Joint Committee for European Integration, was completed in June. As a result, the adoption of EU-related legislation or appointments have been very limited. The State aid law, which is required for compliance with the Stabilisation and Association Agreement, was adopted by the Council of Ministers in August but adoption by the Parliamentary Assembly is pending. The State-level Law on Household and Population Census, which is required for the country's social and economic development, remains to be adopted. In August, a full-time director and two deputies at the Agency for the Prevention and Coordination of the Fight against Corruption were appointed by the State-level Parliamentary Assembly (*see Chapter 2.1- Anti-corruption Policy*).

Regarding the harmonisation of legislation with the *acquis*, many EU-related laws remain to be adopted. The amendments to the rulebook of procedures of the State-level House of Peoples and the House of Representatives, which are intended to introduce a fast track mechanism for EU legislation, are outstanding.

Further steps were taken to improve the functioning of the Parliamentary Assembly of Bosnia and Herzegovina. Allocation of human resources improved. A communication strategy was adopted. A training centre for Members of Parliament and a visitor centre were established.

At Entity level, the overall functioning of the Parliamentary Assemblies has continued to be satisfactory. In the Federation, an EU Integration Committee of the Parliamentary Assembly has been established. In April, the Federation Parliament adopted a Resolution in favour of EU Integration.

The Republika Srpska National Assembly (RSNA) has improved the legislative process. A revised rule of procedure aimed at streamlining decision making was adopted, reducing the quorum needed to pass legislation from 50 percent of the delegates present to one third. A new rulebook of internal organisation was adopted by the RSNA, which reorganised the structure of the parliamentary committees. The EU Integration Committee is in place. Moreover, the Republika Srpska Constitution was amended to increase the number of Deputy Speakers at the RSNA up to four. This allows "others" in addition to the three Constituent People to be elected to this position.

The two Entity Parliaments have continued cooperating with their respective governments but the cooperation between the Council of Ministers and the State-level Parliament requires

further strengthening. In September, a joint meeting between the State and Entity level Parliamentary speakers took place in Sarajevo. However, an effective cooperation mechanism is lacking between the Parliament of Bosnia and Herzegovina and the Entity Parliaments, despite the fact that a legal framework for coordination is envisaged in the rulebooks.

*Overall*, the administrative resources for the Parliamentary Assembly of Bosnia and Herzegovina, the Federation Parliament and the Republika Srpska National Assembly have improved. However, the lengthy process of establishing legislative and executive authorities and the lack of a State-level Government hampered their ability to legislate. Lack of coordination between the State and Entity parliaments and political discord between the Entities has continued to hamper the work of the Parliamentary Assembly.

### *Government*

Following the elections, the Presidency of Bosnia and Herzegovina was established in November 2010 and held a number of sessions since then. The newly elected Presidency has held a number of regular and emergency sessions. The three Presidency members improved efforts at joint policy formulation and implementation but foreign policy coordination remained subject to disagreements on some issues. The chair of the tripartite Presidency rotates every eight months. The Presidency conducts foreign and defence policy and proposes the State budget.

One year after the elections, there is still no agreement between political representatives on the appointment of the State-level Council of Ministers. As a result, the Council of Ministers has continued to function in a caretaker capacity and held several sessions. It adopted a decision on the mechanisms and modalities for harmonisation of the legislation of Bosnia and Herzegovina with the EU *acquis*. In July, the Council of Ministers issued a recommendation on the establishment of a new working group for the implementation of the ECtHR decision in the Sejdic-Finci case.

The formation of authorities at the Entity level has been a lengthy process, except for the Republika Srpska authorities. Divergent political and ethnic interests adversely affected the governance of the Federation. One year after the general elections, some Cantons in the Federation remain without a Government in place. The deadlines for establishment of authorities as envisaged in the Constitution of Bosnia and Herzegovina were not met.

The Government of the Federation of Bosnia and Herzegovina was formed in March based on a coalition agreement between a number of political parties. The Federation House of Peoples appointed the Federation President and Vice-Presidents. On 24 March, the Central Election Commission (CEC) issued two decisions concluding that the elections of the Federation President and Vice-Presidents were not in line with the Election Law and that the conditions for the formation of the Federation House of Peoples had not been met. The High Representative then issued a decision suspending the CEC decisions. On this basis, the Federation executive and legislative authorities have been operating. A Croat National Assembly, comprising of municipalities and Cantons with a Croat majority, was established, largely reinforcing the ethnic dimension of politics in those areas. The Federation budget for 2011 was adopted following a decision by the HR on temporary financing of the budget.

Regarding coordination on EU matters, the Directorate for European Integration (DEI) has increased its staffing levels but remains without the necessary authority to drive the EU

integration process forward. Its role in terms of coordination on EU-related matters between all authorities requires further strengthening.

The government of Republika Srpska transferred the European Integration department from the Prime Minister to the Ministry of Economic Relations and Regional Cooperation. A harmonisation unit in charge of screening Republika Srpska laws with the EU *acquis* was established, while other units dealing with EU integration and donor coordination were also established within the same ministry. The administrative capacity of Republika Srpska to monitor EU-related laws improved. However, an effective coordination mechanism remains to be established with the State-level authorities on EU matters in order to harmonise the transposition of the EU *acquis* throughout the country.

The Federation government has established an EU Integration Unit in some ministries. However, the Federation General Secretariat dealing with EU integration lacks the power to monitor the implementation of the EU approximation action plan. The lack of capacity for coordination of EU-related matters within the Federation government and between the Entities and the State-level remains an issue of concern.

In the Brcko District there is a procedure in place for the harmonisation of legislation with the *acquis*. However, the legislative office following this process requires strengthening in terms of human resources and of specialised training.

As regards policy planning, the country development strategy and the social inclusion strategy were adopted by the Federation government and by Brcko District. However, adoption by the state-level Council of Ministers and by the Republika Srpska government remains pending. Overall policy planning in Bosnia and Herzegovina as a whole remains impeded by the lack of up-to-date census data. The adoption of the Law on the population and household census remains an issue to be addressed as a matter of urgency.

At the Entity level, legislation is largely in line with the European Charter for Local Self-Government. The Governments of the Federation and of the Republika Srpska have prepared a code of relations in order to improve coordination between the different levels of government.

*Overall*, little progress was made by Bosnia and Herzegovina in improving the functionality and efficiency of all levels of government. One year after the general elections, a State-level Council of Ministers remains to be appointed. The political representatives lack a shared vision on the direction to be taken by the country. An effective coordination mechanism between the State, the Entities and Brcko District remains to be established as a matter of urgency regarding EU matters and the harmonisation of EU related legislation.

#### *Public Administration*

Limited progress has been made in the area of public administration reform.

The Public Administration Reform Coordinator's Office (PARCO) has sufficient human and financial resources to perform its task of coordinating and monitoring the implementation of the Public Administration Reform (PAR) Strategy and Action Plan. However, the coordinating structures at Entity and Cantonal levels for implementation of the PAR Strategy remain insufficient. The implementation of the strategy is constrained by PARCO's weak

enforcement powers. Both the PARCO and the PAR process lack the necessary political support to bring about reforms.

Bosnia and Herzegovina has made no progress in strengthening the administrative capacity for implementation of the commitments arising from the IA and the SAA. The country's administrative structures need to be strengthened substantially in order to be able to respond effectively to the requirements of the EU accession process. These structures remain cumbersome and fragmented and there is an unclear division of responsibilities across the various levels of government.

Key permanent appointments to State-level bodies, such as to the Indirect Taxation Authority, the Communications Regulatory Agency, the electricity transmission company TRANSCO and the State Electricity Regulatory Commission are still pending. These agencies lack the necessary resources and political support to become fully operational, in line with EU requirements.

No progress has been made towards the development of a professional and de-politicised civil service. State-level institutions have stopped using a single human resources management information system. The strengthening of the civil service has been hampered by the enactment of separate laws on civil service in the Federation, some of them providing for the establishment of civil service agencies at Cantonal level. These developments pose the risk of further fragmentation of the civil service system across the country.

The Ombudsman of Bosnia and Herzegovina has issued several recommendations concerning lengthy administrative and judiciary proceedings, criteria for recruitment and access to information. The Ombudsman also presented special reports on pension rights, the situation of elderly people, persons with disabilities and the rights of children with special needs. However, most of the recommendations have not been implemented by the relevant authorities at State, Entity and Cantonal level, due to weak enforcement capacity and insufficient political will. Only a limited number of cases were lodged regarding anti-discrimination issues. Financial and staffing resources for the functioning of the Ombudsman institution need to be further increased.

*Overall*, limited progress was made in the area of public administration. The implementation of the public administration strategy has continued, but the coordinating structures at Entity and Cantonal levels remain insufficient. The public administration reform process lacks the necessary political support. Continued fragmentation and politicisation of the civil service system remain issues of concern. The establishment of a professional, accountable, transparent and efficient civil service based on merit and competence requires further attention.

### *Judicial System*

Limited progress has been made in the area of judicial reform.

The political authorities of Bosnia and Herzegovina, as well as representatives from judicial institutions at the various levels, have engaged in a Structured Dialogue on Justice with the EU. This dialogue was launched in June 2011, within the framework of the Stabilisation and Association Process, to facilitate the revision of legislation and functioning of institutions in line with relevant European standards and aiming at ensuring an independent, effective, impartial and accountable judicial system. A first set of preliminary recommendations were

issued as a basis for the continuation of the dialogue. In August, replies to the technical information questions, handed over during the inaugural meeting of the dialogue, were submitted.

A general lack of political will and adequate planning continued to hamper the effective implementation of the Justice Sector Reform Strategy (JSRS) 2009-2013. The gaps include insufficient allocation of human and financial resources, together with a generally weak coordination amongst relevant institutions.

*Independence* of the judicial system is not yet ensured. Political pressure and verbal attacks on the judiciary have intensified. In particular, the legitimacy and role of the High Judicial and Prosecutorial Council (HJPC), the Court and the Prosecutor's Office of Bosnia and Herzegovina have been challenged by political representatives, particularly from Republika Srpska. The attempt to undermine the independence of the judicial system remains an issue of serious concern. The complexities of four separate judicial systems (the State-level, Republika Srpska, the Federation and its ten Cantons, the Brcko District) continued to pose challenges to the proper functioning of the overall judicial system. Harmonisation of budgetary procedures and streamlining of competences amongst the fourteen responsible authorities continues to be an issue seriously affecting the independence of the judiciary. In 2010, the financial resources allocated for Courts and Prosecutors' Offices represented approximately 0.79% of GDP.

As regards to *accountability*, the work of the Office of the Disciplinary Council for judges and prosecutors improved, and the number of outstanding cases was further reduced. In June, the Chief Prosecutor of Bosnia and Herzegovina was suspended and, in the meantime, an interim Prosecutor appointed. In Republika Srpska, the Chief Prosecutor was appointed following a two-year delay. The Federation Constitutional Court remains short of three judges out of nine.

Concerning *efficiency*, there has been moderate progress in addressing the backlog of cases. The HJPC continued to support courts across the country to tackle this issue effectively, including through the establishment of a special unit addressing efficiency in the judiciary. The HJPC adopted a Decision regarding regular and reserve judges which increased the number of posts. However, due to the lack of financial resources only few of the positions created by the HJPC have been filled. The HJPC adopted measures to reduce the backlog of cases related to claims for unpaid utility bills and of business registry cases. In the Federation, the backlog was reduced. However, the backlog remains high throughout the country, with approximately 2 million cases still pending, the majority of which are court cases related to unpaid utility bills.

Progress has continued in the consolidation of information technology resources in courts and Prosecutors' offices. Judicial staff in courts and Prosecutors' offices throughout Bosnia and Herzegovina has access to the respective case management systems. The judicial web portal is fully accessible and provides access to a substantial amount of court decisions, in addition to legal opinions issued by the Entities' Supreme Courts. Furthermore, digital access to court cases has improved in most courts and is now used extensively. The Care of Court Users Strategy, which encompasses outreach activities, is in place in most courts throughout the country.

The condition of a number of courts and Prosecutors' offices throughout the country has improved due to renovations. During 2010, despite the different assessment by the HJPC, amendments to the Law on Courts were adopted in the Federation providing for reopening of

some municipal courts that were previously closed. However, reopening of those courts has not yet taken place. Training for the judiciary is provided by the Judicial and Prosecutorial Training Centers (JPTCs) of the two Entities.

Limited progress was made in the area of juvenile justice and implementation of the relevant national strategy remained uneven. A revised national strategy for the period 2011-2014 remains to be adopted. In Republika Srpska, a revised Juvenile Justice Law entered into force in January 2011. In the Federation, the adoption of the Juvenile Justice Law is outstanding. The capacities of the social welfare services and of lower level judiciary, which have been given extensive responsibilities for children and juveniles' protection under the new law, require strengthening.

Moderate progress has been made in processing the large backlog of unresolved war crimes cases. Some progress has nevertheless been registered in the implementation of the National War Crimes Strategy, although delays have continued in the referral of cases from the state judiciary to the Entities and Brcko District. Implementation of the strategy requires enhanced cooperation between the courts and Prosecutors' offices, particularly at the State-level.

The processing of war crime cases by the Court of Bosnia and Herzegovina has continued to be satisfactory. However, the processing of war crime cases in the Cantonal and District courts remains limited and uneven. The ability of the Entities and the Brcko District to prosecute war crime cases continues to be hindered by the lack of human resources in the various Prosecutors' offices, as well as by limited facilities and lack of adequate witness protection and support services. Moreover, diverging practices on the applicability of different criminal codes between courts at different levels remains an issue to be addressed in order to guarantee equality of citizens before the law. With a case pending before the European Court of Human Rights, the application of different criminal codes continued to result in uneven sentencing.

The prosecution of war crime cases involving sexual violence remains low. Further efforts are needed to investigate and prosecute these crimes, as well as to enhance the protection and support for victims and witnesses. A comprehensive approach to improving the status of victims of rape and sexual violence remains an issue to be addressed. A State-level strategy for improving the status of victims of war crimes involving sexual violence has yet to be adopted.

The drafting of a new State-level law on Witness Protection Programme has started. The current legal framework on witness protection remains fragmented and provisions for the protection of witnesses during and after the criminal proceedings are limited and largely inadequate. The lack of human and financial resources is an issue to be addressed.

*Overall*, the development of an impartial, independent, effective and accountable judiciary in line with European standards remains at an early stage. The implementation of the Justice Sector Reform Strategy and of the National War Crimes Strategy needs to be stepped up. The fragmented legal framework across all jurisdictions places significant legislative and financial burdens on the judiciary. The lack of streamlined budgetary responsibilities continues to affect the independence and effectiveness of the judiciary. The frequent political attacks on the judiciary and the backlog of cases remain causes for serious concern.

*Anti-corruption policy*

Bosnia and Herzegovina has made very limited progress in tackling corruption, which remains widespread throughout the public and private sector. The legal framework for fighting corruption is largely in place. However, implementation of existing legislation is insufficient and remains to be fully aligned to ensure harmonisation of sanctions across the country. Corruption continues to negatively impact all spheres of life, economic development and the rule of law.

Very limited steps have been taken in the implementation of the 2009-2014 anticorruption strategy and action plan. Awareness raising campaigns have been launched. Awareness among institutions about the strategy and their respective roles in its implementation remained low. The implementation of the action plan is not monitored because the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption is not yet operational. The Director and two deputies of the Agency were appointed but the allocation of permanent premises and staff is outstanding.

The Law on Conflicts of Interest is in place. The Central Election Commission (CEC) has continued to perform its duties and has monitored asset declarations and conflicts of interest. However, the implementation of the law remains uneven. No steps have been taken to harmonize the legislative provisions at State and Entity level and to ensure a uniform application of the law in the country. The CEC competence to deal with conflict of interest covers the State-level and the Federation while Republika Srpska has its own Commission.

The 3<sup>rd</sup> evaluation report of the Group of States against Corruption (GRECO) highlighted a number of deficiencies in the legal framework to fight corruption. The relevant legal provisions continue to be dispersed in different legislative texts and at different levels across the country. As regards political party financing, infringements of political finance rules need to be clearly defined and sanctions need to be more effective. Asset declarations by political parties remain voluntary. The institutional independence of the CEC is largely ensured and it has kept an active role but its financial and human resources need further reinforcement. The country does not fulfil the requirements for participation in the OSCE working group on bribery in international business transactions, which is a precondition for accession to the OECD Anti-Bribery Convention. According to the addendum to the 2<sup>nd</sup> evaluation report of GRECO, only 7 of the 16 recommendations issued have been implemented or dealt with in a satisfactory manner, while nine are still only partially implemented.

Effective investigation, prosecution and conviction of corruption cases remained low. Some law enforcement operations led to the arrest of a number of civil servants suspected of various forms of corruption including favouring smuggling and customs fraud. However, the prosecution of corruption focused too often on minor cases, while a number of high level corruption cases have ended in the dropping of the charges, acquittals, or suspended sentences. A number of training events for police and prosecutors have taken place. However, further specialisation of prosecutors and improved coordination with the police is needed.

*Overall*, Bosnia and Herzegovina is still at an early stage in the fight against corruption. Corruption remains prevalent in many areas and is a serious problem throughout the public and private sectors. A legal framework to tackle corruption is in place, but political will to tackle the issue and improve institutional capacity remain weak. The implementation of the strategy and action plan needs to be stepped up. More decisive efforts are needed in order to establish a convincing track record in investigating and prosecuting of high level corruption cases.



## 2.2. Human rights and the protection of minorities

### *Observance of International Human Rights Law*

As regards ratification of **international human rights instruments**, Bosnia and Herzegovina has ratified all major UN and international human rights conventions. However, in a number of cases, the decisions of the Constitutional Court of Bosnia and Herzegovina have not been enforced, which led to cases being lodged before the **European Court of Human Rights** (ECtHR). During the reporting period, the ECtHR delivered 2 judgements finding that Bosnia and Herzegovina had violated rights guaranteed by the European Convention on Human Rights (ECHR). A total of 507 new applications were filed with the ECtHR since October 2010. In September 2011, 1350 allocated applications regarding Bosnia and Herzegovina were pending before the Court.

Little progress has been made in the **promotion and enforcement of human rights**. Despite the fact that the Constitutional Court of Bosnia and Herzegovina has been confirmed as the competent body to review the proper implementation of the outstanding decisions of the Human Rights Chamber (HRCh) and the Human Rights Commission (HRCOM), the enforcement of pending decisions remains an issue to be addressed.<sup>10</sup>

*Overall*, the legal and institutional framework for the observance of human rights is in place. However, Bosnia and Herzegovina made little progress in improving the enforcement of international human rights legislation. Credible efforts towards the implementation of the ECtHR decision in the Sejdic-Finci case in order to comply with the ECHR remains essential (*see Chapter 2.1-Democracy and the Rule of Law-Constitution*)

### *Civil and political rights*

The **death penalty** is prohibited by the Constitution of Bosnia and Herzegovina and by the Constitution of the Federation. The death penalty provision in the Constitution of Republika Srpska is not applied, but needs to be repealed.

With regard to **torture and ill-treatment** and the fight against impunity, the legal framework is in place and is generally respected. Little progress has been made to address the ill-treatment of detainees highlighted by the Council of Europe Committee on the Prevention of Torture (CPT). Bosnia and Herzegovina has still not appointed a representative to the CPT. Ill-treatment and poor health services, particularly as regards vulnerable prisoners, have continued. Despite some progress to improve the procedures for investigating cases of alleged ill-treatment, in particular in the Zenica and Dobojski prisons, further efforts are needed in this regard.

Little progress was made regarding the **prison system**. A Law on Execution of Criminal Sanctions was adopted in the Federation and is in place at State-level and in Republika

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<sup>10</sup> The Human Rights Chamber was established by Annex 6 to the Dayton/Paris Peace Agreement, as a judicial body dealing with complaints on human rights violations in relation to the ECHR. The mandate of the HRCh expired in 2003, without having resolved all the cases it received (15,191). In order to resolve the outstanding cases, the HRCOM was created within the Constitutional Court of Bosnia and Herzegovina. HRCOM's mandate expired in 2006. The Constitutional Court of Bosnia and Herzegovina became the competent body to review implementation of these cases in 2010.

Srpska. Bosnia and Herzegovina's prison system is fragmented and lacks a uniform legislative framework for implementing criminal sanctions.

There has been some further improvement in prison conditions. In both Entities, prison accommodation was further expanded with new or upgraded buildings. Efforts to introduce a system of electronic bracelets for house arrests continued. However, overcrowding remains an issue to be addressed. The situation remains problematic, in particular in the Federation where, on average, there is a gap of five years between a final conviction and actual imprisonment. Alternative sanctions are still not widely applied. There have been further delays in the construction of a high-security State prison which has not yet started. This continues to affect the country's capacity to deal with high-security prisoners.

Limited progress was made in improving the conditions of vulnerable prisoners. Construction of a new psychiatric facility in Sokolac is contributing to improving specialised facilities for psychiatric prisoners. However, psychiatric inmates continue to lack facilities in the prisons of both the Federation and the Republika Srpska. Greater efforts are needed to reinforce prison inspections. There is no effective coordination between the fifteen prison administrations in the country.

Limited progress was made in the area of **access to justice** in civil and administrative trials. The legal framework formally guarantees equality before the law. However, there have been some cases when the presumption of innocence and equal treatment have not been ensured during legal proceedings. The system of free legal aid in Bosnia and Herzegovina remains fragmented. The framework Law on Free Legal Aid has yet to be adopted. Free legal aid in civil cases continues to be mainly provided by privately funded NGOs.

Bosnia and Herzegovina's Constitution provides for **freedom of expression**. However, threats and violence against journalists have continued. Follow up by police and the judiciary remains insufficient. Political pressure on all media continued. The media continue to be highly fragmented and polarised along political and ethnic lines. The statute of the Public Broadcaster BHRT was amended in order to increase the control of the Steering Board over the editorial management, thus affecting editorial independence. Political pressures affecting the financial and political independence of the Communication Regulatory Agency (CRA) have continued. Amendments to the Law on Ministries and Other Bodies of Administration in Bosnia and Herzegovina remain to be adopted in order to ensure the CRA's independence. The appointment of a Director General and two Board Members of the CRA and of the CRA Council remains pending.

The Press Council of Bosnia and Herzegovina is functioning and cooperates with judiciary institutions. It reported an increase in the number of complaints filed by citizens regarding violations of the Press Code, indicating increased awareness among citizens of their legal right to react to unfair or inaccurate reporting, including hate speech. However, the lack of financial and human resources continues to hamper the efforts of the Press Council to enforce professional standards.

Implementation of the Freedom of Access of Information Act remains uneven among the public institutions subject to the law. Reporting to the Ombudsman Institution as stipulated by the law and compliance with Ombudsman's opinions and recommendations in related cases remained weak. (*See Chapter 4.2.6. – Information Society and Media*)

**Freedom of assembly and freedom of association** are enshrined in the country's Constitution and are broadly respected. However, cases of intimidation and violence against human rights advocates and civil society organisations continued, mostly involving activists investigating alleged corruption. An institutional mechanism for cooperation with civil society organisations is in place in the Brcko District but remains to be established at State-level and in both Entities. The administrative capacity for cooperation with NGOs and the development of Civil Society remained weak. The consultation process with civil society during the legislative drafting process is not fully enforced. Resources for the Civil Society Board and funds allocated to civil society organisations dealing with environment and human rights issues remain inadequate. The development of civil society in Bosnia and Herzegovina requires further support and greater transparency in the criteria used for funding allocations.

The constitutional and legal guarantees of **freedom of thought, conscience and religion** are generally respected. Cases of discrimination on religious grounds continued. Incidents aimed at religious symbols, clerics, believers and property affected in particular those who constitute a religious minority in certain communities.

*Overall*, civil and political rights in Bosnia and Herzegovina are broadly respected. Some progress has been made in improving prison conditions, but a comprehensive reform of the prison system has not started. Access to justice and equality before the law remain hampered by the fragmented legal and institutional framework in the country. Very little progress was made as regards freedom of expression, freedom of assembly, association and freedom of religion. Political pressure on the media has continued. The continuing challenges to the independence of the Communication Regulatory Agency and of the Public Broadcaster remain issues of concern. Further efforts are needed in order to support the development and funding of the civil society sector.

*Economic and social rights (see also Chapter 4.1.8 – Social policies, employment and public health)*

Legal provisions guaranteeing **women's rights and gender equality** are in place. Bosnia and Herzegovina adopted an Action Plan on the implementation of the UN Security Council Resolution 1325 regarding Women, Peace and Security. Political participation of women has further increased, but remains low. Despite an increase of female members in Parliamentary Assemblies established following the 2010 elections, the 40% quota for women within the public administration, as stipulated in the Gender Equality Law, has not been reached. Limited progress was made to increase female participation in the labour market.

Harmonisation of the Entity and Cantonal laws with the State-level Law on Gender Equality made very slow progress. In spite of increased funding, the administrative capacity for ensuring gender equality at State and Entity levels remains weak. This hampers adequate monitoring and implementation of the Gender Equality Law and the Gender Action Plan. Very limited progress has been made as regards awareness raising campaigns and in promoting specialised training for civil servants.

As regards domestic violence, some progress was registered in Republika Srpska with the adoption of a new Strategy for combating domestic violence. Progress in implementing the State-level Strategy to prevent and combat domestic violence remains slow, in particular with regard to harmonisation of legislation and data collection. Further specialised training for law enforcement officers and the judiciary is needed.

Some progress has been made in the area of **children's rights**. Early childhood development policies have been adopted in both Entities. A revised State-level Action Plan for Children for 2010-2014 was adopted. Implementation of the child protection strategy for children without parental care in Republika Srpska has started. Monitoring of children's rights by civil society has been strengthened. A revised Strategy to Combat Violence against Children remains to be adopted. Disparities remain between the child allowances of the Entities and Cantons and the allowances do not correspond to the needs of children and families. Children continued to suffer from domestic violence and trafficking.

Some progress has been made in improving the general framework for education. The Council of Ministers adopted an initial Baseline Qualifications Framework for life-long learning. (See Chapter 4.1.9 - Education and Research) However, the Conference of Education Ministers, which was established to improve coordination amongst the 14 ministries of education, has not met since mid 2010. Little progress was achieved in making schools more inclusive. Some municipalities throughout the country started applying the Index for Inclusion, which is a self-assessment tool allowing schools to improve inclusion, with the support of the community. In the Federation, a coordination body for Cantonal Education Ministers was established in order to consider the issue of divided schools. However, much more needs to be done to effectively address the number of divided schools (or '2 schools under 1 roof'). Separation of children within schools along ethnic lines and the existence of '2 schools under 1 roof' in three Cantons and mono-ethnic schools continued. *De facto* ethnic-based separation and discrimination in public schools remain a serious concern. Ethnically based and divided education systems remain an obstacle to sustainable returns.

Little progress was made in improving conditions for the **socially vulnerable and people with disabilities**. In the Federation, the Strategy for people with disabilities has been adopted. In Republika Srpska, the Strategy for persons with disabilities is being implemented. The entitlement to rights and benefits for disabled persons is not based on needs. As a result, certain categories of persons with disabilities do not receive adequate financial benefits. The lack of harmonisation between the social protection systems of the Entities and Cantons remained. The Social Inclusion Strategy in Republika Srpska and at State-level have yet to be adopted. The Council of Disabled Persons has still not been established.

With regard to **anti-discrimination policies**, an anti-discrimination law is in place. However, it does not include age and disability and allows for a broad range of exceptions. Little progress was made in harmonising other laws with the anti-discrimination law. Implementation of the anti-discrimination law remained weak. Very few complaints about discrimination have been registered. Awareness among citizens of the legal remedies that are available in case of discrimination needs to be strengthened.

Discrimination against lesbian, gay, bisexual and transgender (LGBT) people remains widespread. LGBT activists have been subjected to threats and harassment. Hate speech and intolerance towards LGBT persons by media and politicians remain issues of concern.

As regards **labour and trade unions rights**, legislation was amended to ensure that employees in the Federation obtain social benefits during maternity leave. However, the overall legal framework remains to be harmonised across the country. The fragmentation of the legislative framework for social benefits and pensions remains an issue to be addressed. The establishment of a State-level Economic and Social Council is still outstanding. Criteria and legal framework for the recognition of social partners at State-level are outstanding.

With regard to **property rights**, the vast majority of cases of property repossession requests have been resolved. However, some repossession requests remain outstanding since the mandate of the Commission for Real Property Claims of Displaced Persons and Refugees ended. There is no database regarding outstanding claims and funding is insufficient. Property registers are largely unreliable.

*Overall*, economic and social rights are broadly respected. Bosnia and Herzegovina adopted an Action Plan on the implementation of UN Security Council Resolution 1325. However, more efforts are needed in order to ensure implementation of the Gender Equality Law and the Gender Action Plan, to address domestic violence against women and children and to make schools more inclusive. Implementation of the anti-discrimination law remained weak. Greater efforts are needed to improve conditions for the socially vulnerable and people with disabilities, and to strengthen labour rights and social dialogue, as well as the role of trade unions.

#### *Respect for and protection of minorities, cultural rights*

The legal framework for the protection of **minorities**<sup>11</sup> is largely in place. Little progress has been made in implementing the laws on national minorities. The National Minority Councils' influence over policy making remains limited, in part due to the lack of political and financial support. The cultural rights of national minorities, including their participation in public life, need to be strengthened.

Because national minorities do not belong to the three constituent peoples, they have continued to be excluded from representation in the State-level House of Peoples and the tripartite Presidency (*see Chapter 2.1– Constitution*). No progress has been made in implementing the European Charter for Regional or Minority Languages. Representation of minorities in the media continued to be weak. The nomination of the members from Bosnia and Herzegovina to the Council of Europe Advisory Committee under the Framework Convention for Protection of National Minorities remains outstanding.

Some progress was achieved as regards the Roma minority. Four action plans under the Roma Strategy are in place. Progress was made in the implementation of the Roma action plans on housing and employment. However, there is only little progress to report in implementing the action plan on health. Efforts to ensure effective implementation of the action plan on the educational needs of Roma and other minorities need to be stepped up, and adequate financial resources for implementation need to be ensured. Sustainability in implementing all four action plans should be further addressed. Coordination among authorities at State and Entity level and with lower levels needs to be reinforced in order to ensure that the Roma Action Plans are implemented in a transparent and efficient manner. Bosnia and Herzegovina is participating in the Roma Decade of Inclusion. However, there is still no established mechanism for monitoring the implementation of the action plans and the allocation of funds at all levels. Limited steps have been taken by Cantons and municipalities to adopt, analyse and revise by-laws and introduce provisions to protect the Roma in the areas of employment, health, housing and education.

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<sup>11</sup> According to the Law on the protection of rights of persons belonging to national minorities, there are 17 national minorities in Bosnia and Herzegovina. The three constituent peoples – Bosniaks, Croats and Serbs – do not constitute national minorities.

The State-level social inclusion strategy for 2008-13, which targets the Roma population as a priority group, has not yet been adopted. Greater efforts are needed on birth registration and on the provision of free legal aid for civil registration. Measures need to be taken to address the situation of the Roma, mainly women, who are at risk of statelessness. Participation of Roma representatives in the decision-making process remains very low. The situation of Roma women and children is particularly difficult. Many Roma children are not registered at birth and therefore cannot enrol in school, have no health insurance and are subject to trafficking and exploitation. The Roma continue to be the most vulnerable minority.

As regards **refugees and internally displaced persons**, at the end of 2010, 113,365 internally displaced persons, including 7,492 in collective centres, and 7,000 refugees were living in Bosnia and Herzegovina. Some steps have been taken to implement the revised Strategy for implementation of Annex 7 to the Dayton/Paris Peace Agreement, particularly regarding funding for vulnerable groups living in collective centres. Some progress was made in the allocation of the budget for sustainability measures under the revised Strategy. However, procedures for allocating return assistance are not fully in place. Discrimination in access to employment, health care, pension rights and the slow pace of demining, remain barriers to the sustainable return and local integration of internally displaced persons.

With regard to landmines from the 1992-1995 conflict, some progress was made in the implementation of the Mine Action Strategy, but some areas have still not been cleared. As of August 2011, 3 persons were killed and 4 injured in 6 landmine accidents. The Law on anti-mine actions has yet to be adopted. In order to meet the goal of clearing the country of mines by 2019, the law needs to adequately address fundraising responsibilities, administrative and management capacity and coordination of demining measures.

*Overall*, the framework for the protection of minority rights is in place and minority rights are broadly respected. Despite good progress in implementing the action plans on housing and employment, Roma continue to face very difficult living conditions and discrimination. More efforts are required in order to implement the action plans on health and education and as regards registration of births. Access to pension rights, health care and social protection for refugees needs to improve. Limited steps have been taken to implement the revised strategy for implementation of Annex 7 to the Dayton/Paris Peace Agreement. Difficulties with economic reintegration, access to health care, social protection, pensions and employment of minority returnees remain major obstacles to sustainable return and local integration.

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

Implementation of the **Dayton/Paris Peace Agreement** continued but political representatives in Republika Srpska frequently challenged the territorial integrity of the country. (*See Chapter 2.1 – Constitution*).

Cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)** has continued to be satisfactory. At the operational level, cooperation between the ICTY and the State-level and Entity authorities was adequate, and access to witnesses and archives remained good. The *local prosecution of war crimes cases* has continued. All the cases transferred by the ICTY to the Special War Crimes Chamber of the State Court under the 11-bis rule<sup>12</sup> have now been completed. During the reporting period the State Court and

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<sup>12</sup> Cases transferred by the ICTY for local prosecution

Prosecutor's Office have continued to perform their duties well. A significant number of war crimes cases and indictments have been launched by the prosecutors' offices in Bosnia and Herzegovina. Some progress has been made in implementing the National War Crimes Strategy. (*See Chapter 2.1-Judicial System*)

Cooperation between the courts and the Prosecutors' offices from Bosnia and Herzegovina, Croatia and Serbia is ongoing. Implementation of their bilateral agreements on the mutual execution of sentences in criminal matters and enforcement of court rulings is underway. Efforts to prosecute war crimes cases continued to be hampered by legal obstacles to extradition in the Criminal Procedure Code, but some practical steps have been taken to overcome them. The first cases have been pursued under an agreement with Croatia whereby persons sentenced for war crimes in Croatia who fled to Bosnia and Herzegovina can serve their sentences there.

Bosnia and Herzegovina has aligned with the Council Decision advancing universal support for the International Criminal Court and promoting the widest possible participation<sup>13</sup>. However, it still maintains the 2003 bilateral immunity agreement with the United States granting exemptions from the jurisdiction of the **International Criminal Court**. This does not comply with the EU Common Positions on the integrity of the Rome Statute or the related EU guiding principles on bilateral immunity agreements. Bosnia and Herzegovina needs to align with the EU position.

The Parliamentary Assembly of the **Council of Europe (CoE)** monitors the progress made by Bosnia and Herzegovina in fulfilling the obligations and commitments relating to its membership of the CoE. Bosnia and Herzegovina has appointed members to the CoE Parliamentary Assembly, but not to the advisory bodies. The implementation of the requirements stemming from the CoE Conventions remains insufficient.

Significant progress was made with regard to the **Sarajevo Declaration Process**, launched through the Sarajevo Declaration of 31 January 2005. Bosnia and Herzegovina, Croatia, Montenegro and Serbia cooperate within this process to find solutions for refugees who were displaced as a result of the armed conflicts in ex-Yugoslavia between 1991 and 1995. Countries have continued to progress on a number of outstanding issues such as data exchange, civil documentation, public information, pensions and trust fund mechanisms, in the framework of the established regional working groups. Following the meetings of June and September 2011, Bosnia and Herzegovina, Croatia, Montenegro and Serbia agreed on a number of issues, including on the text of a joint declaration to be signed at a ministerial conference in November 2011 in Belgrade. A regional multi-year programme aimed at addressing the needs of the most vulnerable refugees, has also been agreed, together with a donors' conference to be held in the first half of 2012 in Sarajevo.

As regards **missing persons**, as of September 2011, there were still approximately 14,000 people missing from the conflicts in the region. Of these, some 10,000 were related to the conflict in Bosnia and Herzegovina, 2,000 to the conflict in Croatia and over 1,800 to the conflict in Kosovo. In January 2011, the State Prosecutor's Office took over responsibility from local prosecutors for conducting exhumations of mass graves. Limited progress was made in the implementation of the Law on Missing Persons. The International Commission on missing persons (ICMP) and the State-level Missing Persons Institute (MPI) launched the

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<sup>13</sup> Council Decision 2011/168/CFSP of 29 March 2011.

database of the Central Records on Missing Persons (CEN). Adequate funds were allocated by the Council of Ministers to support the work of the MPI. However, political pressures and attempts to undermine the work of the MPI have continued. The existence of secondary mass grave sites continues to pose a challenge for the identification of missing persons in Bosnia and Herzegovina.

**Regional cooperation and good neighbourly relations** form an essential part of Bosnia and Herzegovina's process of moving towards the European Union. Bosnia and Herzegovina continued to be an active participant in regional initiatives, including the South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty, the European Common Aviation Area Agreement and the EU Strategy for the Danube region. In March, within the framework of the SEECP, Bosnia and Herzegovina endorsed the Regional Strategic Document and Action Plan on Justice and Home Affairs 2011-2013. Many regional activities organised by the RCC Secretariat, which is based in Sarajevo, have been carried out. Bosnia and Herzegovina adopted a decision to recognise the Kosovo customs stamps, which is important for CEFTA implementation. Bosnia and Herzegovina continues to actively support the Igman initiative on reconciliation, which brings together NGOs from Bosnia and Herzegovina, Croatia, Serbia and Montenegro and the RECOM initiative.

**Bilateral relations with other enlargement countries** remained stable. As a follow up to bilateral agreements on police cooperation between Bosnia and Herzegovina and countries in the region, a decision was adopted to establish a network of police officers of Bosnia and Herzegovina in the countries in the region, EUROPOL and certain EU countries. In April, the Presidents of Bosnia and Herzegovina, Turkey and Serbia met in Belgrade. This format was repeated in other meetings at different ministerial levels.

Relations with *Albania* have remained good. The implementation of existing bilateral agreements and protocols has continued to proceed smoothly.

Relations with *Croatia* have intensified. The Presidency of Bosnia and Herzegovina visited Croatia on several occasions during the reporting period. Croatia has expressed its support for the European integration of Bosnia and Herzegovina. Limited progress was achieved in resolving outstanding issues, including on the use of the port of Ploce, border demarcation, property issues, dual citizenship and refugee return. The inter-state Commission for Borders continued to meet but failed to agree on the outstanding border demarcation issues. The countries signed two agreements linked to the Sava river. A readmission agreement with shortened procedure and a police cooperation agreement on fighting trans-border crime, which provides for the exchange of information on investigations and the appointment of police liaison officers, were signed. The first meeting of a joint working group was held in April in Sarajevo to discuss the revision of the Local Border Traffic Agreement and the Agreement on free transit through the port of Ploce and Neum in Bosnia and Herzegovina. The President of Croatia attended the July commemorations in Srebrenica.

Relations with *the former Yugoslav Republic of Macedonia* continued to be good. Negotiations started on agreements on cooperation in the field of health and medical sciences, mutual enforcement of court decisions in criminal matters and in legal aid in civil and criminal matters.

Relations with *Montenegro* have continued to improve. Three agreements were signed in the area of border crossings for local transport, border crossings for international transport and



defence. Agreements on cooperation in the field of tourism and exchange of data with regard to social insurance entered into force. The delimitation of the border remains pending.

Relations with *Serbia* have improved further. An agreement in the field of education, culture and sport entered into force. Five agreements were signed in the field of tourism, protection from natural and other disasters, veterinarian cooperation, police cooperation and exchange of data with regard to social insurance. An agreement on the temporary employment of Bosnia and Herzegovina citizens in Serbia was signed. In July, President Tadic paid an official visit to Sarajevo and met with Presidency members. However, the border demarcation remains an open issue.

In the framework of the Special Parallel Relations Agreement between the Republika Srpska and Serbia, the Republika Srpska Ministry of Economic Affairs and Regional Cooperation and the Ministry of Foreign Affairs of Serbia signed Memoranda of Understanding in several areas of cooperation. The government of Republika Srpska and the government of Serbia held a joint government session in Banja Luka.

There are no official relations with *Kosovo*<sup>14</sup>, as Bosnia and Herzegovina has not recognised Kosovo as an independent state. The country does not recognise Kosovo passports and no steps have been taken to set up procedures for citizens of Kosovo to obtain visas comparable to those issued by the EU Member States that have not recognised Kosovo.

Relations with *Turkey* intensified. A cooperation agreement in the field of health entered into force. Negotiations to amend the bilateral Free Trade Agreement began. The text of a first readmission agreement was initialled. In October 2010 and in September 2011, the Turkish Foreign Minister visited Bosnia and Herzegovina to encourage bilateral economic cooperation and foreign direct investment.

*Overall*, Bosnia and Herzegovina's cooperation with the ICTY has continued to be satisfactory and a number of significant steps have been taken to process war crimes and to find the missing persons from the 1992-1995 conflict. The country has continued to participate actively in regional cooperation and to maintain good neighbourly relations. More decisive efforts are needed in order to settle the remaining border and property issues and to remove legal obstacles to extradition with neighbouring countries.

### **3. ECONOMIC CRITERIA**

In examining the economic developments in Bosnia and Herzegovina, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

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

##### *Economic policy essentials*

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<sup>14</sup> Under UNSCR 1244/1999

Difficulties with forming governments at State and Federation levels after the general elections in October 2010 and the failure of the Fiscal Council to adopt the Global Framework for Fiscal Policies for 2011-13 had a bearing on economic and fiscal policy. In a situation of increased uncertainty over the short- and medium-term path of fiscal policy, the authorities submitted their fifth Economic and Fiscal Programme for 2011-13 in January 2011. The programme is thus fragmented and does not reflect a coherent formulation of economic and fiscal policies. It is not fully integrated into budgetary procedures and its objectives are not adequately quantified or backed by concrete policy measures. The performance under the International Monetary Fund (IMF) Stand-By Arrangement remained broadly satisfactory until October 2010 when the IMF Board approved the second and third reviews. However, due to the difficulty of forming a government at State-level, further programme discussions were delayed. The first World Bank Development Loan was disbursed in October 2010. *Overall*, the consensus on economic and fiscal policy essentials has weakened.

#### *Macroeconomic stability*

After the recession in 2009 with a drop in real GDP of 2.9%, the country moderately recovered in 2010. It recorded a positive real growth rate of 0.7%, driven by external demand. Domestic demand picked up, supported by a relatively stable inflow of remittances. Industrial production increased slightly in 2010 led by export-oriented industries, but unemployment remained very high. Per capita income, measured in purchasing power standards (PPS), fell to 30% of the EU-27 average in 2010 from 31% in 2009. As a result of fiscal adjustment measures implemented under the IMF programme and increased revenues, the budgetary situation eased. Due to improvements in the trade and current account deficits and the comfortable level of foreign reserves, the external financing needs decreased in 2010. The indicators available for 2011 suggest that the economic recovery is gaining strength as industrial production increased by 8.1% year-on-year in the first seven months of the year. *Overall*, the economy is slowly gaining steam after the 2009 recession, but the recovery is fragile.

The current account deficit fell further from 6.2% of GDP in 2009 to 5.6% in 2010. The trade deficit fell by 4.8%, shrinking from 27.8% of GDP in 2009 to 25.9% in 2010, which contributed to the improvement of the current account. Exports rose by 27.7% nominally, and imports by 10.2%. Surpluses in the services and income accounts decreased by 8.6% and 23.2%, respectively, while that of the current transfer account increased by 3.1%, supported by the relatively stable flow of remittances. The current account deficit was financed mainly by new loans from abroad. However, the trend of an improving trade balance was reversed in the second half of 2010 when the nominal increase of imports exceeded that of exports. This deterioration continued in the first half of 2011 when the trade gap increased by 18.3% year-on-year. Imports and exports increased both by 18.3%, mining and manufacturing being the main sectors recording export growth. Bosnia and Herzegovina's external public debt increased by 20.2% in 2010, from 21.8% of GDP in 2009 to 25.7% in 2010, mainly due to the disbursements made in the context of the IMF and World Bank programmes. In the first half of 2011, the external public debt decreased slightly by 1.5%. Public international creditors account for 89% of the country's external public debt. The largest creditor remains the World Bank group. Official foreign exchange reserves decreased by 5.7% in the first half of 2011 from end-2010, though still covering around five months of imports. *Overall*, external imbalances have slowly started to rise after the sharp contraction experienced in 2009 and the first half of 2010, although the current account deficit is still much lower than before the crisis.

The average unemployment rate in 2010 stood at a very high 27.2%. Registered unemployment reached 43.1% in June 2011, while according to the Labour Force Survey (LFS) following the International Labour Organisation (ILO) methodology conducted annually in April/May, unemployment increased to 27.6 % in 2011 from 27.2% in 2010. It was particularly high among the young population (57.9% for people aged between 15 and 24, according to the LFS). In the first half of 2011 the highest year-on-year growth in employment was registered in education, real estate and health, while employment fell in agriculture, mining and manufacturing industries, as well as in trade and construction. Despite the already large size of the public sector in Bosnia and Herzegovina, the number of employees in the public administration increased further, by 2.1% year-on-year in the first six months of 2011. Average monthly nominal gross wages increased by 1.8% in 2010 and remained relatively stable in the first seven months of 2011. Structural rigidities such as the high rates of social contributions, poorly targeted social transfers and low labour mobility, are continuing to hamper job creation and the propensity to work. *Overall*, labour market conditions remained poor and were not supported by the weak growth dynamics.

Annual inflation reached 2.1% in 2010, up from -0.4% in 2009. The inflationary trend was mainly driven by the rise in food and transport prices towards the end of the year. Inflation continued to rise in the first seven months of 2011, reaching 3.9% in July, pushing the 12-month moving average inflation rate up to 3.1%. The monetary policy of the Central Bank continued to be conducted under a currency board arrangement, with the euro as the anchor currency, enjoying a high level of confidence and credibility. Monetary policy settings remained unchanged throughout 2010. As of February 2011 the minimum reserve requirement for short-term deposits was lowered from 14% to 10%. Nevertheless, the banking system's reserves with the Central Bank remain significantly above the minimum required level. The M2 monetary aggregate increased by 6% year-on-year in July. *Overall*, monetary and financial stability have been preserved while inflation is picking up.

The fiscal performance in 2010 benefitted from the recovering economic activity, which resulted in increasing revenues, and from the adjustment measures implemented under the IMF programme. The consolidated budget deficit fell to 2.5% of GDP, which is well below the 2009 outcome of 4.5%. However, the share of general government in GDP remains high, with 2010 revenues at 44.4% of GDP. Adjustment measures on the expenditure side included cuts in wages and benefits in the public sector, which resulted in only a marginal 0.5% rise of the consolidated wage bill in nominal terms. Consolidated revenues increased by 5% in 2010. 44% of the revenues originated from indirect taxes which increased by 6.7%, driven by the recovering economic activity, the development of imports and import prices and the increase of excise duties on tobacco and oil derivatives which counteracted the continuous reduction of duties and tariffs as set out in the Interim Agreement on trade, in force since mid-2008. Expenses increased by 1.6% year-on-year in 2010. Current spending dominates the budget with wages accounting for 29.2% of overall expenditure and subsidies and transfers (mainly social benefits) for 39.2%. The balance of the collected social contributions against the paid out social benefits returned on the positive side due to the simultaneous rise of the contributions and drop of the benefits. The flat income tax rate in Republika Srpska was raised from 8% to 10% as of 2011 and the non-taxable income threshold was abolished. Following amendments to the Law on Social Contributions in Republika Srpska, the overall social contribution rate increased from 30.6% to 33% of the gross salary as of January 2011. Excise duties on tobacco were raised as of 2011.

Budget planning for 2011 and beyond, as well as the sustainability and credibility of fiscal policy in Bosnia and Herzegovina, were seriously hampered by the non-adoption of the

Global Framework for Fiscal Policies for the periods 2011-2013 and 2012-2014. The Parliament of Republika Srpska adopted the Entity's 2011 budget in December 2010. It planned the same nominal expenditure as the budget for 2010. In the Federation, a temporary budget was in place in the first quarter. The Federation 2011 budget was adopted in March and showed a total amount of expenditure planned 9% lower than in 2010, with high uncertainties surrounding its financing. At the State-level, temporary budgets were in place during the first three quarters of 2011. The 2011 State-level budget was adopted by the Presidency in April, showing an increase in volume by 2% compared to 2010. However, it remains to be adopted by the Parliament. All budgets were established in the absence of a medium-term budgetary strategy. The Federation revised in July its 2011 budget to allow for some increase of specific social benefits, partly compensated by cuts in investment and the wage bill. Republika Srpska is planning to rebalance its 2011 budget in October. In May 2011, the distribution coefficients for the allocation of indirect revenues from the Single Account of the Indirect Taxation Authority were corrected for the first time since 2008. The share for the Federation was lowered slightly from 64.39% to 63.98% in the benefit of Republika Srpska's share which went up slightly from 32.06% to 32.47%. The share for Brcko District remained at 3.55%. The shares are based on final consumption data. *Overall*, the reliability and predictability of fiscal policy in Bosnia and Herzegovina suffered from the failure to agree on Global Fiscal Frameworks which is a serious obstacle for medium-term budgetary planning and sustainability.

General government debt, both domestic and foreign, stood at 38.8% of GDP in 2010, up from 34.5% in 2009. External debt accounts for 25.7% of GDP and domestic debt for 13.1%. Domestic public debt is managed and served by the Entities (49.5% Federation, 49% Republika Srpska, 1.5% Brcko District). Verification of claims related to old foreign currency savings has advanced. Both Republika Srpska and the Federation continued issuing bonds in 2010 and 2011 to service the debt. In addition, Republika Srpska issued for the first time short-term T-bills in May and June 2011 serving as temporary financing to Republika Srpska cash-based budget deficit. The offers were met by high demand and achieved relatively favourable conditions. *Overall*, even though the debt-to-GDP ratio is still relatively moderate, its upward trend needs to be monitored carefully.

Although there is evidence of an ongoing trend of economic recovery, the incomplete reform process acts as an impediment to laying the foundations for solid and more domestic-driven growth in Bosnia and Herzegovina. The growing trade gap and increasing current account deficit suggest that external imbalances are again taking shape. The productive capacity and competitiveness of the economy remain weak, as domestic sources of growth are not adequately exploited and national savings remain low. The currency board arrangement enjoys a high level of confidence and credibility, while the failure to agree on a Global Framework for Fiscal Policies for 2011-2013 and 2012-2014 severely threatens the transparency, reliability and sustainability of public finances and is a serious impediment for short- and medium-term budgetary and general economic planning. *Overall*, the worsening quality of budgetary processes is putting a strain on the viability of macroeconomic policies, even though financial and monetary stability has been preserved.

#### *Interplay of market forces*

The private sector's share in GDP is estimated to have remained stable at around 60% of GDP in 2010. In Republika Srpska there has been no further progress in the privatisation agenda. Following a government decision not to initiate their privatisation, strategic companies such as the power utility, Banja Luka airport and the postal company remain public. Around 69%

of the initial stock of State-owned capital intended for privatisation had been sold by September 2011, unchanged from a year earlier. In the Federation, only one out of nine companies included in the revised privatisation plan has been partly privatised by stock exchange transactions with the achieved price being less than half of the company's estimated value. Attempts to privatise the remaining eight companies were unsuccessful, in some cases in spite of repeated offerings. None of the companies considered "strategic" such as the power utility and a tobacco factory were subject to privatisation. The planned restructuring and liquidation of socially-owned enterprises has made slow progress. Most prices are liberalised, even though a number of administered prices remain (e.g. for utilities, including electricity and gas). *Overall*, the planned privatisation process did not advance for the third consecutive year.

#### *Market entry and exit*

Following the economic crisis, the number of newly registered companies dropped by around 50% in 2010. Property registration procedures were significantly shortened during 2010 in some courts, for example from 84 to 33 days in the Sarajevo Court. The time needed to start a business was reduced from 60 to 55 days, on average, over 2010. Court registration timelines and costs are harmonised between the Entities, including the notary fees. However, the process for obtaining all the necessary documents and permits remains lengthy and companies must still register in both Entities if they want to do business in the whole country. Under the second stage of the "legislative guillotine" project in the Federation, seven bylaws have been adopted in various ministries to streamline 109 business-related administrative procedures, and some administrative improvements have also been implemented at Canton and municipal levels. Labour tax procedures have been streamlined. *Overall*, some improvements can be reported, particularly in registration procedures.

#### *The legal system*

The legal system in Bosnia and Herzegovina remains complex. Even though the standard of legislation is relatively high in some areas, implementation and application of laws in practice is often poor due to the weak enforcement capacity of key institutions. The average time to resolve a dispute before court in order to enforce a contract remains high at 595 days. The rule of law is weak and the judicial system often does not function efficiently, is subject to obstruction by the parties and does not cover commercial activities adequately. *Overall*, weak rule of law, corruption and unreliable contract enforcement continue to hamper the business environment.

#### *Financial sector development*

The financial sector is dominated by banks that are engaged mainly in traditional credit and savings activities. The share of claims on the private sector in relation to GDP decreased to around 55% in early 2011, from 58% a year earlier. Twenty-nine banks are operating in the country, one less than in the previous year as one bank in the Federation is undergoing a liquidation procedure. Two banks are under provisional administration. Twenty-one banks are under foreign ownership, seven under domestic private ownership and one is majority State-owned. Despite losing some 2.4% of their share, the five largest still account for more than half of the total assets of the banking sector. Banks with foreign ownership accounted for approximately 90% of the total banking system assets in 2010. Banking sector assets remained relatively stable between the third quarter of 2010 and the second quarter of 2011. The capital adequacy ratio decreased slightly from 15.6% in the third quarter of 2010 to

15.5% in the second quarter of 2011, comfortably above the legal minimum of 12%, which itself is significantly higher than the 8% required in the Basel II Accord.

After an aggregate net profit of some € 12.6 million in 2009, the banking sector finished 2010 with an aggregate net loss of € 63.6 million. The quality of the loan portfolio continued to deteriorate. The share of non-performing loans to total loans reached 11.8% in the second quarter of 2011, the highest level since 2001, up from 9.2% in the third quarter of 2010, while the volume of loans increased. Nevertheless, banking profitability indicators showed a remarkable upward trend in the second quarter of 2011. The return on average equity increased from -3.5% in the third quarter of 2010 to 3.5%, while the return on average assets rose from -0.4% to 0.4%. Liquidity indicators deteriorated slightly during the same period with the rates of liquid to total assets falling from 29.3% to 26.2% and of liquid assets to short-term financial liabilities from 50.3% to 46.2%. Twenty-five banks are participating in the deposit guarantee scheme. Its coverage level remained unchanged at around € 18,000. In March 2011, Republika Srpska amended the Law on the Banking Agency, establishing a banking system ombudsman and widening the Agency's responsibilities for supervision and protection against money laundering and financing of terrorism. The amendment also assigns the Agency customer protection functions. *Overall*, despite the increasing non-performing loan ratio, financial stability was safeguarded.

Annual credit growth continued its upward trend and reached 6.7% in July 2011, though from a low base. Loans to households grew slightly by 2.8%, while those to private enterprises increased by 7.7%. The recovery of deposits has lost pace in an annual comparison, growing by 2.2% in July. Households remained the main contributors to this development, increasing their savings by 10.7%, while the corporate sector reduced its deposits by 6.6%. As a consequence of these developments, the loans-to-deposits ratio climbed from 113.5% in October 2010 to 120% in July 2011. The spread between average loan and deposit interest rates of commercial banks decreased by 18 base points in the fourth quarter of 2010 compared to the previous quarter, reaching 7.87 percentage points, mainly due to reduced lending rates. This level points to still high intermediation costs. *Overall*, after the sharp correction experienced during the financial and economic crisis, credit activities are gaining strength again.

In the first half of 2011, local stock markets regained some previously lost ground, recording an upswing of 4% and 7.2% for the main indices of the Sarajevo and the Banja Luka stock exchanges, respectively. Their combined market capitalisation recovered somewhat to around 47% of GDP in the first seven months of 2011, up from 44% in mid-2010. The cumulative turnover almost doubled year-on-year in January-July 2011, mainly influenced by two T-bills issues of Republika Srpska (May-June 2011). The insurance sector remained small and relatively weak, accounting for 1.9% of GDP in 2010, representing marginal increase. The annual growth of premiums picked up slightly to 2.9%, as compared to 1.4% annual rise in 2009. The market was dominated by the non-life insurance segment, which accounted for 84.2% of the total. The number of companies active on the market decreased to 25 at the end of 2010, after the Federation's Insurance Supervisory Agency revoked the licence of Hercegovina Osiguranje. *Overall*, financial intermediation by the non-banking sector remained shallow.

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

*Existence of a functioning market economy*

External imbalances have been increasing and fiscal imbalances remain high, even though adjustment measures made under the international support programmes contributed to some fiscal consolidation. The failure to adopt the Global Framework for Fiscal Policies for 2011-2013 and the delays in forming governments at State and Federation levels weakened not only the soundness, transparency, sustainability and reliability of public finances and of economic policies, but also the planning and decision-making of economic agents. The sluggish progress in the reform of the social benefits system, the still slow pace of economic restructuring, especially in the Federation, prevailing obstacles to private sector development and the composition of budgetary expenditures, increasingly dominated by current spending, at the expense of growth-enhancing activities, continue to undermine a more growth-oriented allocation of resources and a strengthening of domestic sources of growth. Unemployment remains very high. Progress towards creating a single economic space within the country has been limited. *Overall*, the functioning of market mechanisms remained hampered by distortions, the excessive role of the State and lack of competition, not allowing efficient allocation of resources.

### *Human and physical capital*

Progress in the field of education and training has been limited. The Council of Ministers adopted the concept of the Qualifications Framework (Baseline Qualifications Framework) in Bosnia and Herzegovina. However, the mismatch between the qualification needs of the labour market and the profile and number of graduates coming out of the vocational and educational training system adds to other structural weaknesses, such as low labour mobility, and remains a concern. Cooperation between the education sector and employers is still weak and information on human capital endowment remains scarce. *Overall*, the proper functioning of the labour market continues to be hampered by structural rigidities and the weak performance of the education and training system.

Activities to improve the railway infrastructure in pan-European corridor Vc progressed during 2010. The Railways Regulatory Body introduced a set of regulations in compliance with the EU railway directives. Maintenance and upgrading of roads continued, but progress was slow, as some of the construction planned did not take place due to financial difficulties on the part of some of the contractors. Both Republika Srpska and the Federation governments terminated contracts with Slovenian companies at end-2010 after several months of inactivity on important highway projects. Net foreign direct investment (FDI) flows dropped further by more than 70% in 2010, falling to a mere 0.4% of GDP. Outflows were recorded in financial intermediation and wholesale trade, while the manufacturing sector was the main source of inflows. FDI outflows were nevertheless reversed in the third quarter of 2010 and there are indications that net FDI was slowly recovering in the first half of 2011. *Overall*, in an admittedly difficult market environment, domestic and foreign investors became more hesitant. Infrastructure improved slightly, but continues to require repairs and modernisation.

### *Sector and enterprise structure*

Electricity and gas utilities continue to be public stock companies. Market liberalisation remains insufficient as most utility providers still do not apply market prices. Although the market was opened for non-household consumers, they have little incentive to change suppliers, as regulated tariffs remain below market prices. Progress towards a competitive telecommunications market has been limited. The incumbent operators continue to act as *de facto* monopolies in their fixed-line market segments and as oligopolies in the mobile

segment. The incumbent operators published their reference unbundling offers, however, and four contracts were signed with alternative operators over the last two years. New licences were granted for Internet services and network operators. The level of broadband Internet access has increased. *Overall*, little progress was achieved on the liberalisation of network industries.

Due to the impact of the economic crisis, the sector structure of the economy continued to experience a shift towards an increase in services in 2010, and industrial production improved slightly. Services accounted for 67.7% of gross value added, industry and construction for 27% and agriculture for 8.6%. The traditionally high share of public administration, education and health declined slightly to 22.8%. The large informal sector, which is fuelled by weaknesses in tax and expenditure policies and in law enforcement, including the fight against corruption, is an important challenge. *Overall*, there have been no major changes in the structure of the economy. The informal sector remains an important challenge.

#### *State influence on competitiveness*

Direct budget subsidies to industry and agriculture remained at 1.7% of GDP in 2010. Indirect subsidies continue to be sizeable. In Republika Srpska, for example, the government approved a loan to Banja Luka airport in March 2011. Bosnia and Herzegovina has not established a State aid authority as required by Article 36 of the Interim Agreement, an obligation due for more than a year. *Overall*, State influence over competitiveness remains high.

#### *Economic integration with the EU*

Bosnia and Herzegovina remains an open economy. Total trade (the sum of the volume of exports and imports) increased to 85.5% of GDP in 2010, after a drop to 75.3% in 2009. The EU continues to be the country's largest trading partner, with shares of 56.5% of total exports and 45.6% of total imports in the first seven months of 2011 (goods only). While the share of exports to the EU has increased slightly, the share of imports has decreased slightly. The other main trading partners remain the countries of the CEFTA region, accounting for 33.2% of exports and 24.9% of imports. In 2010, the real effective exchange rate based on the country's 20 largest trading partners appreciated by 1%. *Overall*, the level of trade integration with the EU remained high.

## **4. EUROPEAN STANDARDS**

This section examines Bosnia and Herzegovina's capacity gradually to approximate its legislation and policies with the *acquis* in the areas of the internal market, sectoral policies and justice, freedom and security, in line with the Interim Agreement (IA) / Stabilisation and Association Agreement (SAA) and the European Partnership priorities. It also analyses Bosnia and Herzegovina's administrative capacity. In each sector, the Commission's assessment covers progress achieved during the reporting period, and summarises the country's overall level of preparations.



## 4.1. Internal market

### 4.1.1. Free movement of goods

There was some progress in the area of free movement of goods. However, a development strategy for the quality infrastructure as a whole and a horizontal coordination mechanism are not in place. A public-private dialogue on the market needs remains to be established.

Some progress can be reported in the field of **standardisation**. The Institute for Standardisation of Bosnia and Herzegovina (BAS) adopted 2,695 European standards (ENs) as national standards, bringing the total to 12,306 ENs. Altogether, there are 49 technical committees. The BAS performed the first annual check of its quality management system. However, a comprehensive strategy and an action plan for becoming a full member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC) remain pending.

There was little progress on **conformity assessment**. A decision on recognition of foreign conformity assessment documents was adopted. The system for type approval of motor vehicles was put in place. However, the Law on technical requirements for products and conformity assessment remains to be revised to comply with the *acquis*. Conformity assessment is not being performed on either locally manufactured or imported products before they are released onto the market. Appropriate procedures for designation of conformity assessment bodies remain to be established.

Some progress was made as regards **accreditation**. The Institute for Accreditation of Bosnia and Herzegovina so far accredited a total of 40 conformity assessment bodies. The Institute's scope of work was extended to product certification and four new technical committees were established. However, the Law on accreditation is not fully in line with the horizontal *acquis*. The conditions for future international recognition of tests, calibration results and certification remain to be fulfilled. The role of accreditation in authorising conformity assessment bodies at both State and Entity levels needs further consideration and a clear policy.

There was some progress in the area of **metrology**. The State-level Institute of Metrology (IMBiH) proceeded with establishing and equipping national laboratories to realise and maintain measurement standards for mass, temperature, length, electric current and time and frequency, as well as hardness, humidity, heat measurements, density and viscosity, velocity of air and gas flow and systems for measuring volume and flow of liquids other than water. Bosnia and Herzegovina became an associate member of the General Conference on Weights and Measures and the IMBiH became a signatory of the Mutual Recognition Agreement of the International Committee for Weights and Measures. The IMBiH hosted the fifth General Assembly of the European Association of National Metrology Institutes (EURAMET). However, a development strategy for the metrology system and the new draft Law on metrology, merging the existing legislative framework and creating the basis for the implementation of the *acquis*, remain to be adopted. The IMBiH needs further human resources to fulfil its tasks even though it increased its staff. Cooperation and coordination between the IMBiH and the metrology institutes of the Entities that would help to create harmonised competence criteria for laboratories dealing with verification remained weak.

Some progress was made on **market surveillance**. The market surveillance strategy for non-food consumer products in Bosnia and Herzegovina for 2011-2015 was adopted. The Market Surveillance Agency increased its staff. It coordinated proactive and reactive market

surveillance activities. The Agency regularly publishes RAPEX (Rapid Alert System for Non-Food Products) notifications on its website. It participates in the PROSAFE (Product Safety Enforcement Forum of Europe) General Assembly as a full member. However, the market surveillance system remains largely based on mandatory standards and pre-market control. Framework legislation is not based on the horizontal *acquis* for harmonised products. The framework for non-harmonised products requires further improvement, as does coordination between the relevant authorities. Further efforts need to be made regarding institutional capacity to ensure efficient market surveillance.

Little progress was made as regards the 'New and Global Approach' *acquis*. The Directives on non-automatic weighing instruments and pressure equipment were transposed. However, line ministries and institutions in charge of transposing and implementing directives do not have sufficient capacity to perform these tasks. A proper mechanism is needed for internal consultation before adopting new technical regulations that would have an impact on trade.

Little progress was made as regards the 'Old Approach' *acquis*. The State-level Agency for Medicines and Medical Devices adopted a policy on medicines and medical devices and a rulebook on the examinations for pharmaceutical inspectors. The Federation adopted bylaws implementing the Law on pharmaceutical activity. Generally, the national system for authorisation, distribution and use of veterinary medicinal products offers guarantees equivalent to EU rules. However, further efforts remain to be undertaken regarding the labelling of such products, resulting residue problems and the streamlining of the institutional responsibilities. The capacity of the Agency for Medicines and Medical Devices remains to be strengthened. The division of responsibilities for transposing the 'old approach' *acquis* remains to be further clarified.

There was progress in the area of **consumer protection**. The 2011 State-level annual consumer protection programme as well as the report on the execution of the 2010 State-level annual consumer protection programme was adopted. The technical capacity of the relevant State-level and Entity institutions and their information activities to the public increased. Relations between the government and non governmental organisations improved. The Ombudsman's Office for Consumer Protection was sufficiently strengthened to fulfil the duties laid down by the Consumer Protection Law. The efficiency and output of the Office increased. In 2010 the Ombudsman handled 317 cases, of which 295 were resolved. The Ombudsman delivered 35 expert opinions, provided 880 items of legal advice and answered 1,515 requests for information. The Ombudsman issued recommendations and guidelines in the Telecommunications sector, a special report in the sector of consumer credits after the adoption of guidelines, as well as recommendations to consumers in the area of food safety.

*Overall*, preparations in the fields of standardisation, accreditation, conformity assessment, metrology, market surveillance and consumer protection are moderately advanced. Further efforts are needed to adopt a legislative framework harmonised with the horizontal *acquis* and to continue transposing the product-specific *acquis*. Strengthening the institutional capacity and creating structures for coordination between the relevant institutions are essential. Prioritisation of legal alignment and related capacity-building remains to be done in accordance with market needs. Major steps need to be taken to achieve a fully functioning single economic area.

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

No progress can be reported on **movement of persons**. Different labour legislations and social security systems between the Entities and also between Cantons continue to be an obstacle to the movement of workers within the country. Alignment with European standards remains at an early stage.

Little progress was made in the area of *coordination of social security systems* between the Entities and between the Cantons. An agreement amending the social insurance agreement between Bosnia and Herzegovina and the Republic of Slovenia was signed. However, an agreement between Bosnia and Herzegovina and the Republic of Slovenia regarding the employment of citizens of Bosnia and Herzegovina in the Republic of Slovenia, a step towards coordinated systems, remains to be ratified.

As regards **freedom to provide services**, no progress was achieved in the preparations for transposing the Services Directive.

Some progress can be reported in the area of *financial services*. Republika Srpska amended the Law on the Banking Agency to expand the regulatory/supervisory functions of the Agency and established an Ombudsman for financial services. Both Entities adopted implementing legislation governing credit, operational and market risks and new charts of accounts for financial institutions. The Entities' banking supervisory agencies extended the temporary measures on loan repayments for another year. Recommendations on banking laws and regulations issued by the Basel Banking Supervision Committee (Basel II) remain to be implemented in both Entities. Coordination of banking supervision improved. Joint supervision teams conducted inspections of branches. The Financial Coordination Unit was established within the Ministry of Finance and the Treasury of Bosnia and Herzegovina and staff was appointed to it (*See Section 3.1 - The existence of a functioning market economy*).

However, the legislation on the Banking Ombudsman is not harmonised. The Federation did not adopt amendments to the Law on the Banking Agency, the Law on banks and the Law on micro-credit organisations to align them with the Law on prevention of money laundering. As Republika Srpska is implementing the new chart of accounts but the Federation is not, reporting is not harmonised between the Entities. Further improvements are required in coordination and cooperation between the Entity Ministries of Finance and Banking Agencies. Memoranda of understanding with supervisors of foreign banks present in the country remain to be signed. Further alignment with the *acquis* is required.

Little progress was made towards creating a single economic space for *insurance services*. Republika Srpska adopted implementing legislation regarding intermediation in insurance and insurance companies. The number of requests for mediation increased in Republika Srpska. On-site inspections proceeded smoothly. Out of fourteen insurance companies registered in the Federation, nine have branch offices in Republika Srpska. Five out of the eleven insurance companies from Republika Srpska have branch offices in the Federation.

However, the legislation remains partially harmonised with the *acquis*. Parts of the Solvency II Directive and the motor insurance *acquis* remain to be transposed. The legal gap between the Entities is widening because legislative amendments are at different stages. The Law on the Insurance Agency of Bosnia and Herzegovina remains to be amended to reinforce the Agency's regulatory powers. The Federation's Insurance Ombudsman's Office remains to be established. State-level capacity to conduct arbitration in case of litigation between the

Entities' Insurance Agencies remains to be established. There is no effective mechanism for enforcement of decisions of the State-level Insurance Agency. Memoranda of understanding with foreign supervisory authorities remain to be signed. The licence of one company in the Federation was revoked. An insurance company registered in one Entity can operate in the other only if it establishes a branch there. The branch office reports to the supervisory authority of the host Entity, which is not in line with EU requirements. The insurance supervisor from the home Entity has no powers to perform inspections on the branches.

There was some progress in the area of *capital markets*. The legislative framework in the Entities is partly in line with the *acquis* and to some extent harmonised between the Entities. A State-level working group was established to review existing legislation on market transparency, market abuse and prospectuses and to identify areas that require further alignment with the *acquis*. Republika Srpska further streamlined procedures and conditions for securities issues with the Company Law and specified conditions for emission of bonds issued by the Republika Srpska government. The Republika Srpska Securities Commission signed the International Organization of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding.

However, amendments to relevant legislation remain to be adopted in both Entities. Brcko District did not adopt a Law on the securities market. Regulatory authority and oversight remain fragmented. Participants in the securities market with their head office in one Entity can operate in the other Entity only after obtaining a license there.

Uneven progress can be reported in the field of *postal services*. The Agency for Postal Traffic adopted general conditions for the provision of postal services. However, a postal strategy at State and Federation levels does not exist. The State-level Law on postal services remains to be revised to ensure further harmonisation with the *acquis*. The administrative capacity at the State-level Ministry of Transport and Communications regarding postal services remained weak. The Federation Law on postal traffic was not adopted. Entity postal legislation remains to be harmonised to ensure legal clarity for potential market entrants who at the moment often need to comply with different sets of rules. The universal service obligation is set above the minimum requirement of the postal *acquis* and, in Republika Srpska, also above the threshold set in the current State-level law. The situation is the same as regards the scope of the reserved area, which is broad in comparison to the postal *acquis*.

No progress was made on the **right of establishment**. Internal harmonisation of legislation is pending. A single economic space regarding registration of foreigners to conduct business throughout the entire country does not exist, which continues to hamper business activity. The reciprocity principle is not fully applied for natural persons acquiring ownership. Bosnia and Herzegovina made no progress towards recognition of EU professional qualifications.

Limited progress was made in the area of **company law**. The Entities' Laws on business companies are partly in line with the *acquis* and to some extent harmonised with each other. The legislation on corporate *accounting and auditing* is broadly in line with the *acquis* and almost fully harmonised between the Entities. Coordination between the Entities in their legislative work improved. Some business registration procedures were harmonised. The Federation established a Chamber of Auditors to undertake quality assurance reviews of audits; its 2011 work and financing plans were adopted and members to its quality assurance review committee appointed.

In Republika Srpska, the Federation of Certified Auditors and Accountants conducts quality assurance reviews and the Ministry of Finance performs the independent oversight of audits in line with the adopted annual work programme. The Entities apply International Financial Reporting Standards (IFRS) to all companies irrespective of their size. Since January, in Republika Srpska IFRS for small and medium-sized enterprises may be used on a voluntary basis by commercial companies with public responsibility which are still required to apply IFRS.

However, further alignment with the EU *acquis* is needed on cross-border mergers for Republika Srpska and on take-over bids for Republika Srpska and the Federation. A Law on takeovers of joint stock companies remains to be adopted in Brcko District. There is no system for sharing data between different institutions keeping registers containing company-related information and data. The systems for quality control and independent oversight of auditors remain to become fully operational. An independent Public Oversight Board remains to be set up in the Federation.

*Overall*, preparations in the area of movement of persons, services and right of establishment remain at an early stage. Some progress was made on simplifying the business environment and ensuring a harmonised framework across the country in the area of company law, corporate accounting and auditing. Alignment of the legislative framework for financial services remains to be completed. Enforcement and supervision mechanisms need strengthening. Further steps remain to be taken to establish the legal framework for providing universal postal services across the whole country.

#### *4.1.3. Free movement of capital*

No progress can be reported in the free **movement of capital**.

Republika Srpska adopted amendments to the Law on foreign investments aligning its legislative framework with the State-level law, further liberalizing investments in the field of military industry, shortening deadlines and reducing administrative procedures, thereby simplifying the procedure of foreign investment registration. Bosnia and Herzegovina continues to apply relatively liberal rules on inward capital flows. However, restrictions remain on outward transfers by residents. Residents may hold accounts abroad only for specific purposes and the amounts that may be transferred are restricted. The legal framework is not harmonised. In both Entities the legislation limits the amount that non-residents may freely transfer. When it comes to attracting foreign investment, throughout the country, coordination for designing and implementing legal reform in this area is lacking. Capital markets in Bosnia and Herzegovina are not fully functional.

Foreign investment in the banking sector reached 85%. Overall, foreign direct investment further decreased in 2010. Restrictions on foreign direct investment continue to apply in the media sector, where a 49% limit on foreign capital exists. Privatisation of State enterprises came to a standstill.

Within the Central Bank, Bosnia and Herzegovina has a modern **payment system** for giro clearing and real-time gross settlement operations. In 2010 giro clearing and real-time gross settlement operations accounted for 31% of the number of transactions and 36% of the value of internal traffic in the country. Within the commercial bank system they made up 69% of the number of transactions and 64% of the value of transactions between clients with accounts in the same bank.

*Overall*, preparations in the area of free movement of capital remain moderately advanced. Further measures are required to align the legal framework with the *acquis* and to ensure country-wide harmonisation and the creation of single economic space.

#### 4.1.4. *Customs and taxation*

Good, but uneven progress was made in the **customs** field. The customs tariff was fully harmonised with the 2011 EU Combined Nomenclature. Rules of origin are used in accordance with the Interim Agreement. Operational instructions on use of the ATA carnet (international customs document) were prepared and the Indirect Taxation Authority (ITA) staff trained. Operational instructions for vehicles subject to the approval procedure were issued and implementation started. However, the Customs Law needs to be in line with the EU Customs Code and the legislation on free zones and intellectual property rights with the *acquis*. The number of traders applying for simplified procedures remained relatively small. Further efforts are needed to facilitate trade. Customs controls are too frequent and not targeted well due to the lack of a fully developed risk analysis system. Enforcement of intellectual property rights (IPR) remains weak.

Little progress can be reported in the case of **taxation**. An agreement on avoidance of double taxation related to income and property tax with Austria was ratified. Republika Srpska introduced the system of fiscal cash registers. However, the Federation postponed implementation of this system and Brcko District did not introduce it. Although a tax rate of 10% is being applied in all Entities, the personal income tax systems are not harmonised between the Entities. Different procedures persist, leading to a complex tax environment, which makes the country less attractive for foreign investors. Rules and procedures on direct taxation remain to be harmonised. A permanent formula for allocation of indirect tax revenue between the State, the Entities and Brcko District remains to be agreed. Further alignment with the VAT *acquis* and the EU excise legislation is needed. In the area of business taxation, some measures do not comply with the EU Code of Conduct (e.g. legislation on free zones).

As regards **administrative and operational capacity**, little progress was made. The ITA prepared a Business Change Management Plan. However, its organisational structure needs to be further strengthened, including appointment of a permanent top management and establishment of a strategy unit. The ITA is operating without a business strategy and associated IT, human resources and comprehensive training strategies. Its IT systems, in particular regarding customs, remained weak. The role of the Internal Audit Unit needs to be enhanced. Advanced training on intelligence techniques for tax staff, risk analysis, IPR enforcement, customs laboratories and internal audit remains to be delivered. Cooperation and coordination within the ITA and with other authorities remains weak. The ITA is not sharing sufficient data with the Agency for Statistics of Bosnia and Herzegovina, which hampers the production of reliable statistics (*See Section 4.2.8 – Statistics*). The functions performed by customs laboratories remain limited.

*Overall*, preparations in the area of customs and taxation are limited. Positive developments include the use of the ATA carnet, introduction of a customs-related approval procedure and the improved knowledge and use of rules of origin. Substantial efforts are required to align legislation more closely with the *acquis* and ensure effective implementation of legislation and the Interim Agreement. Strategies remain outstanding. The Law on customs enforcement of IPR remains to be agreed. The free zones arrangements remain to be aligned with the *acquis*. The use of an intelligence system for the tax authorities remains to be enhanced. The ITA's administrative capacity needs strengthening and a permanent director remains to be

appointed. Closer cooperation is essential, particularly between the ITA and the Agency for Statistics of Bosnia and Herzegovina. IT systems are not fully in line with EU requirements.

#### 4.1.5. *Competition*

Some progress was recorded in the area of **antitrust**. The Competition Law is mostly in line with the EU *acquis*, but needs further alignment. The Competition Council's (CC) activities focussed on mergers and abuses of dominant market positions. The CC adopted five antitrust decisions and thirteen merger decisions. The CC imposed fines totalling approximately € 40,000 on companies that had infringed the competition rules. Seven mergers were prohibited, five authorised subject to remedies and six were authorised unconditionally. However, the CC's administrative capacity with a total of 26 staff appears insufficient to carry out the tasks assigned to it. CC staff needs further training to increase the authority's investigative capacity.

Republika Srpska adopted the Law on amendments to the Law on public enterprises. However, Bosnia and Herzegovina did not fulfil its commitment under the Interim Agreement, to apply, by 1 July 2011, Community principles to public undertakings and undertakings to which special and exclusive rights were granted.

Little progress was made in the field of **State aid**. The Council of Ministers adopted a draft State Aid Law. However, it remains to be adopted by the Parliament. A State-level operationally independent authority for the control of State aid, in line with the Interim Agreement, remains to be established. Transparency of all State aid granted in Bosnia and Herzegovina is not ensured.

*Overall*, preparations in the area of competition remain at an early stage. Bosnia and Herzegovina needs to intensify its efforts to adopt State aid legislation in line with the *acquis* to comply with the Interim Agreement and to set up the institutional framework necessary for effective control of State aid. The country's commitment under the Interim Agreement with regard to public undertakings remains to be fulfilled.

#### 4.1.6. *Public procurement*

No progress was made in the area of **public procurement**. Guidelines on electronic public procurement were adopted and the technical preparations for electronic publication of tender notices on the Public Procurement Agency (PPA) website were completed. The PPA and the Public Procurement Review Body (PRB) retained their staffing levels. However, implementation of the strategy for development of the public procurement system for 2010-2015 is delayed. The 2004 and 2007 public procurement *acquis* remains to be transposed. Provisions concerning public-private partnerships and services and works concessions at all levels guarantee neither competitive and transparent procedures nor an independent review of the procedure in line with the *acquis*. The legislation and the system of awarding concessions remain fragmented. The administrative set-up for regulating and managing concessions is very complex. Issues such as overlapping powers, high administrative costs and lack of formal cooperation between the levels of authority require attention.

Neither the PPA nor the PRB are sufficiently proactive in disseminating information on the public procurement system and providing contracting authorities and economic operators with practical assistance. Cooperation between the PPA and the PRB is not functioning efficiently. The PRB is not implementing all its rules of procedure, which resulted in a prolonged conflict

within the PRB. In several instances the PRB issued contradictory rulings in similar situations. Although between December 2010 and March 2011, the PRB implemented the legal requirement to publish its decisions, this stopped since. Monitoring of public procurement procedures across the country requires further strengthening, along with the capacity of contracting authorities to apply the law. The professional ability of procurement officers to implement public procurement procedures properly is unsatisfactory. The cost of publishing contract notices in the Official Gazette remains disproportionately high for contracting authorities.

*Overall*, preparations in the field of public procurement remain at an early stage. A new Public Procurement Law fully incorporating the *acquis* remains to be adopted. Coordination and cooperation mechanisms between the relevant institutions require significant improvement, as do the operations of the PRB.

#### *4.1.7. Intellectual property law*

Progress was made in **intellectual property rights**. State-level laws governing industrial property and copyright and related rights entered into force and implementing regulations were adopted. Three Councils were established as advisory and coordination bodies of the Institute for Intellectual Property and began to implement their work programmes. Training of these Council members was initiated. Further measures were taken to improve the functioning of the Institute for Intellectual Property and to disseminate information about intellectual property. The institute expanded its premises and increased its staff from 48 to 50. However, another 22 posts remain to be filled.

Some progress can be reported in the area of **industrial property rights**. The Institute for Intellectual Property received 49 patent applications and processed 270, including some from previous years. When it comes to trademarks, the Institute received 716 applications and processed 1,345, including ones from previous years. The Institute received 22 industrial design applications and issued 10 decisions granting industrial designs. One application for protection of geographical indications was received and a decision regarding registration issued. The Board of Appeal of the Institute received 12 new applications and completed 27 appeal proceedings out of a total of 90 applications.

The Indirect Taxation Authority referred two files to the Prosecutor's Office and seized counterfeit goods. The Bosnia and Herzegovina Court ruled for the first time on a case of copyright violation. However, high levels of counterfeiting and piracy persist in the country. A reliable system for collecting, analysing and exchanging data among the various institutions involved is lacking. Enforcement remains to be improved; an enforcement strategy involving all relevant stakeholders does not exist. Coordination between enforcement bodies at various levels is lacking.

*Overall*, preparations in the area of intellectual, industrial and commercial property rights are well advanced. Further efforts are required to improve enforcement and coordination between all stakeholders.

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

There was little progress on **employment policy**. Republika Srpska adopted its Employment Strategy for 2011-2015. The Entities finalised plans for implementing the Bosnia and Herzegovina Employment Strategy and action plans to implement strategic documents.



However, no employment strategies exist in Brcko District. A new Law on mediation in employment and entitlements during unemployment remains to be adopted in the Federation.

There was no improvement regarding the labour market situation. The high unemployment level further increased and hardly any jobs were created. According to administrative data, in June the unemployment rate was 43.1%, an increase of 0.6 percentage points compared to a year earlier. A cooperation agreement between the State-level Labour and Employment Agency and the State-level Agency for Statistics was signed to improve cooperation in the field of labour market statistics. All Entities are implementing programmes for young graduates to facilitate their entry into the labour market. The Federation committed itself to financing and implementing the Social Safety Nets and Employment Support Project from 2010 to 2014. The Federation adopted a new plan on inspection of the informal labour market for all Cantons. A more integrated approach to employment, encompassing all relevant sectoral policies would be needed to address the country's considerable labour market challenges. Entity governments continue to lack the capacity to implement appropriate active labour market measures. The large number of labour and employment institutions at State, Entity and Canton levels and the lack of coordination between them remains a cause for concern. Considerable efforts remain to be made to develop reliable labour market data, a prerequisite for developing labour market policy (*See Section 3.1 – Macroeconomic stability*).

Modest steps were taken to improve the functioning of employment services. The rulebook on internal organisation of the State-level Labour and Employment Agency was adopted. Based on the Republika Srpska Law on mediation in employment and rights of unemployed persons, the Republika Srpska Employment Bureau was established as a public institution. This is a first step towards the reform of the employment service. Several rulebooks were adopted on mediation in employment and active job-seeking. However, unified standards and methods for data collection are lacking. Employment services are focusing on activities related to unemployment benefits rather than on mediation and services for job-seekers. There was no improvement in coordination between the education and labour market sectors to develop an education and training system that will meet the needs of the labour market.

There was no progress in **social policies**. Existing *labour laws* in the Entities remain to be aligned with the *acquis*.

No progress can be reported regarding *health and safety at work*. In the Federation no Law on health and safety at work is in place. Labour inspectorates remained understaffed and unable to monitor compliance with health and safety at work standards. Reliable data on accidents at work are not available. This is a particular problem in the Federation, where records are held at Canton level.

No progress can be reported in the *social dialogue*. The Federation adopted legislation establishing the Agency for Peaceful Resolution of Collective Labour Disputes. However, the State-level Law on social partners' representativeness remains to be adopted. No agreement was reached on the membership criteria for a State-level Economic and Social Council. The legal framework is not in place and the rules for recognition and registration of social partners need to be clarified. Social dialogue remains hampered by the complex system of government and the fragmentation of legislation.

Little progress can be reported in the area of *social inclusion, including anti-discrimination*. Both Entities and the Brcko District adopted programmes to promote employment and self-employment of Roma. Brcko District adopted a decision establishing a Social Inclusion

Council to provide assistance to socially excluded persons. However, the social inclusion strategies of Republika Srpska and at State-level remain to be adopted. Implementation of the Republika Srpska Law on professional rehabilitation, training and employment remains low considering the number of employed persons with disabilities. No steps were taken to remedy the shortcomings of the Anti-Discrimination Law, notably the absence of age- and disability-related provisions and the broad scope of the exceptions. Implementation of the law needs to improve. Implementation of the UN Convention on the rights of persons with disabilities was weak (*See Political criteria 2.2 - Human Rights and the Protection of Minorities*).

Little progress was made in the area of *social protection*. Republika Srpska adopted a pension reform strategy. However, Republika Srpska's new Pension System Law remains to be adopted. There was no progress towards pension system reform in the Federation. The pension system remained fragmented. Implementation of framework legislation to reform social protection systems towards a needs-based approach did not advance. The legal framework does not provide the most vulnerable categories with adequate assistance (*See Political criteria 2.2 - Human Rights and the Protection of Minorities*). The discrepancies in social assistance, services and entitlements across the country add to the widespread inequity. No steps were taken to end the disparities between Entity social protection systems and between Cantonal systems within the Federation.

Good but uneven progress can be reported in **public health policy**. The Council of Ministers adopted a revised roadmap for EU integration for the health sector. The Federation adopted a strategy on sexual and reproductive health. The Federation and Republika Srpska adopted legislation implementing the laws on healthcare and organ transplantation. The Federation adopted amendments to the Law on health insurance harmonised with the provisions of the Law on the unified system and registration control and collection of contributions. It amended the Law on limited use of tobacco products in line with provisions of Framework Convention of the WHO on Tobacco Control. It adopted amendments to the Law on the improvement of quality, safety and accreditation in health care. The Federation adopted bylaws implementing the Law on blood and blood components. Republika Srpska adopted a rulebook on infectious diseases. The conference of health ministers met regularly. The institutional capacity to produce reliable statistical data on health improved and a common set of reporting indicators harmonised with European standards was developed.

However, the Entities made no progress with implementing their healthcare reform strategies. Harmonisation and coordination of reform activities between Entities need to be improved. The revised EU roadmap is not facilitating the alignment process. It outlines a list of obligations without specifying the action, deadlines and responsibility for implementation. The institutional and legislative framework remains fragmented. No steps were taken to address the problems of inadequate coverage of health insurance and non-transferability of health funds. Implementation of international health regulations is slow. There was no progress regarding mechanisms for reporting and exchanging information on communicable diseases. An action plan for meeting core capacity requirements in the event of outbreaks of diseases remains to be adopted.

Progress can be reported in the area of mental health. The Federation amended the Law on protection of persons with mental disorders improving the protection of human rights and dignity of persons with mental disorders as well as the legal protection of legally incapacitated adults. The Regional Health Development Centre for Mental Health in South-Eastern Europe in Sarajevo became operational. However, further actions remain to be taken towards promoting inclusion of people with mental health problems and their empowerment.

Community based mental health services of high quality that are focused on recovery need further support.

*Overall*, preparations in the areas of employment, social policy and public health are at an early stage. Further efforts need to be made on anti-discrimination and social protection. Legislative approximation remains to be intensified and social inclusion strategies to be adopted.

#### 4.1.9. *Education and research*

Little progress can be reported in the field of **education**.

The Council of Ministers adopted the concept of the Qualifications Framework (Baseline Qualifications Framework), which defines qualifications levels based on learning outcomes for all qualifications in Bosnia and Herzegovina and establishes the basis for further work. Eight out of ten Cantons harmonised their laws on pre-school education with the framework legislation. Sarajevo Canton introduced mandatory pre-school education.

However, pre-school attendance across the whole country remained very low. Ethnic-based separation in public schools remains an issue of serious concern (*See Political criteria 2.2 - Human Rights and the Protection of Minorities*).

No progress can be reported in the Federation on harmonisation of the laws on vocational education and training with the Framework Law as eight Cantons did not pass new legislation. State-level strategies and framework laws remain to be implemented. There are no Framework laws on recognition of qualifications in line with the Lisbon Recognition Convention and adult education. There are no harmonised procedures in place to recognise qualifications obtained abroad. Implementation of the higher education qualifications framework remained at a pilot level. Two Cantons did not harmonise their laws with the Framework Law on higher education.

The State-level Agency for Development of Higher Education drafted guidelines and standards to accredit higher education institutions and trained experts. Republika Srpska established the Agency for Accreditation in Higher Education in line with the Framework Law on higher education. However, the accreditation process did not start as mandated by the Framework Law on Higher Education. Despite a staff increase, the State-level Agency for Pre-school, Primary and Secondary Education is not fully operational. The State-level Centre for Information and Recognition of Documents in the Field of Higher Education is not operational. The Republika Srpska Institute for Adult Education is not fully operational. There is no similar structure in the Federation.

There was some progress in the area of **culture**. Bosnia and Herzegovina started to participate in the Culture Programme. Focal points were established at State and Entity levels. Mapping of the cultural sector and development of statistical indicators in line with EUROSTAT methodology were completed with the support from the UN Millennium Development Goals Culture for Development Programme. Communication with relevant international agencies intensified. In cooperation with UNESCO and UN MDG the capacity of the State Commission for cooperation with UNESCO within the Ministry of Civil Affairs was strengthened. Republika Srpska established a cultural council as an advisory body to the Ministry of Education and Culture to follow up the implementation of the Republika Srpska

Development Strategy for culture. However, the Bosnia and Herzegovina action plan for culture remains to be adopted.

Some progress was made in the area of **research and innovation policy**. Participation in the Seventh EU Research Framework Programme (FP7) slightly increased. Cooperation with COST and EUREKA started. The Ministry of Civil Affairs provided financial assistance for Entities preparing projects for FP7, COST and EUREKA. However, the administrative and research capacity to fully take advantage of association to FP7 and the means to actively stimulate the scientific community remained weak. Participation and success rate in Marie Curie actions is weak as well as the involvement of the private sector.

Some efforts were made to integrate into the European Research Area (ERA) and contribute to the Innovation Union (IU). The country joined the EURAXESS network aiming at mobility of researchers; the bridgehead organisation coordinating the national EURAXESS network was established at the University Banja Luka. The funding slightly increased mainly for researchers, modernization of infrastructure and equipment and publications notably by joining the COBISS library-information system. Republika Srpska and other Entities increased investment in research and development. However, overall, investment in research remained low, in particular by the private sector. As Entities and Cantons fund their policies through their budgets, it is difficult to streamline research policies and avoid fragmentation, one of the key ERA objectives. Accurate statistics on science and technology are missing.

*Overall*, alignment with European standards in the areas of education and culture is at an early stage. Strategies and framework laws need to be implemented and the Baseline Qualifications Framework to be further developed and implemented. State-level agencies for education and quality assurance structures need to be made operational. The country's participation in the Culture Programme contributes to the implementation of the EU *acquis*. In the area of research and innovation, preparations for future integration into the ERA and the Innovation Union started but serious efforts remain to be made and close monitoring is required.

#### *4.1.10. WTO issues*

Progress was made in the negotiations for accession to the World Trade Organisation (WTO). The WTO working party met for the eighth time. Bosnia and Herzegovina proceeded with its bilateral negotiations on market access for goods and services (bilateral agreements in the area of services were concluded with Canada, Norway and Switzerland) and with multilateral negotiations on domestic support for agriculture and export subsidies.

## **4.2. Sectoral policies**

### *4.2.1. Industry and SMEs*

Little progress was made in the area of industry and SMEs.

There was little progress in **industrial policy**. The Entities implemented industrial policies based on action plans. Republika Srpska introduced measures to stimulate exports and maintain employment levels in sectors affected by the economic crisis. However, the country development strategy including industrial policy elements remains to be adopted. The absence of harmonised statistics does not allow for the creation of an effective strategic framework for industrial policy planning.

Little progress can be reported on **SMEs**. With the appointment of its members, the council for development and promotion of entrepreneurship became operational as an advisory body to the Council of Ministers. The Republika Srpska SME council came into operation. The Department for Entrepreneurship within the Ministry of Foreign Trade and Economic Relations (MoFTER) was reinforced. Both Entities provided assistance to SMEs in the form of financial support measures. Bosnia and Herzegovina participated in the implementation of the Small Business Act.

However, implementation of the State-level SME strategy was weak. The State-level Law and a revised Federation Law on promotion of SMEs and entrepreneurship remain to be adopted. Amendments to the Law on the Foreign Investment Promotion Agency (FIPA) providing for the establishment of an SME support unit within the FIPA remain to be adopted by the Parliament. The nomination of the Brcko District council for development and entrepreneurship promotion is outstanding. Preparations for setting up a State-level business register for the production of business statistics are at an early stage. Despite some progress made by the Federation on creating an information system, a single SME registration system for the whole country to simplify conducting business in both Entities remains to be established.

The export promotion strategy, harmonised with the development strategy and the social inclusion strategy, remains to be finalised. No funding was allocated for export support programmes implemented by the Export Promotion Agency. The Department for Export Promotion within the MoFTER lacks resources.

Some progress was made in the area of tourism. Republika Srpska adopted the Strategy of Tourism Development 2010-2020 and adopted new legislation on tourism and sojourn tax.

*Overall*, Bosnia and Herzegovina's preparation in the fields of industrial policy and SMEs remained at an early stage. The country lacks a comprehensive industrial policy. A sound framework for SME policy is being developed. Coordination between the Entities is essential to promote economic development.

#### 4.2.2. *Agriculture and fisheries*

Little progress was made on alignment with European standards in the field of **agriculture and rural development policy**.

Legislation implementing the Framework Law on agriculture, food and rural development was adopted. The Federation approved the extension of the Mid-term Agriculture Development Strategy (2006-2010) for two years. However, a country-wide rural development strategy and the Law on wine remain to be adopted. Implementation of the State-level strategic plan and the harmonisation programme for agriculture, food and rural development is pending. The Republika Srpska rural development strategy and action plan and the Federation harmonisation programme for agriculture, food and rural development remain to be harmonised with the State-level framework. An overall lack of implementing legislation is impeding coordination of harmonised strategies and legislation in this area.

The Entities' Ministries of Agriculture hired new staff. However, administrative capacity and coordination structures at State-level remain to be strengthened. There was no staff increase within the Agriculture, Food, Forestry and Rural Development Sector of the Ministry of Foreign Trade and Economic Relations, which is responsible for coordinating agricultural

polycymaking. Coordination of rural development policy remained weak. No progress was made in preparations for the Instrument for Pre-Accession Assistance for Rural Development (IPARD). An agreement on the institutional structures for decentralised management is outstanding. Although the Director of the Office for Payment Harmonisation was nominated, the Office is not yet operational. Inter-sectoral coordination and participation by the non-governmental sector remained weak.

The amended Law on financial support to agriculture and rural development of the Federation defines the types of incentives between Cantons and the Federation. However, due to the absence of a rural development strategy, product subsidies feature more prominently in the financial support structure than rural development measures. There is no clear policy for providing subsidies, which are product-based and not aligned with the EU agricultural policy type of measures. The budget for agriculture and rural development in the Entities remained low. The lack of an efficient administration and effective rural credit schemes impedes the competitiveness of farmers and the agri-processing industry throughout the country.

Pilot research on farm structures took place. However, the Agricultural Information Strategy and the Law on the agricultural census remain to be adopted. Agricultural statistics and the agricultural information system remain to be improved. Land registration systems are not harmonised and land management requires strengthening. The lack of reliable statistics hampers the development of agricultural policy.

There was little progress in the field of **food safety**. Implementing legislation on certain food products, materials coming into contact with food, ionizing radiation and quick-frozen foodstuffs was adopted. However, the State-level legislation was transposed with differing provisions at Entity and Brcko District levels. The national food laboratory plan remains to be drawn up. Reference laboratories have yet to be designated. Responsibilities in the field of food safety remained fragmented. There was no progress in upgrading agri-food establishments. The capacity to implement official controls, including laboratory capacity, remains weak.

Some progress can be reported in the field of **veterinary** sector. Implementing legislation on infectious diseases, control measures for animal diseases, trichinella, residues of veterinary medicinal products and prohibited substances was adopted. A Decision on by-products of animal origin was adopted. The national residue control plan was significantly improved. Vaccination campaigns against brucellosis and classical swine fever were conducted. However, the State-level Veterinary Law remains to be amended to align it with the *acquis* and to harmonise legislation at Entity level. The financing for implementing the national residue control plan is not sustainable. National laboratories need further improvements to gain accreditation and to establish quality control systems for an effective residue control system. Coordination between the authorising bodies to ensure controls on the distribution and use of veterinary medicinal products on farms is limited.

There was some progress in the **phytosanitary** sector. Implementing legislation on the establishment of a phytosanitary register and plant passports, measures for control of harmful organisms in plants, plant products and regulated facilities and phytopharmaceuticals was adopted. The programme for monitoring the quarantine arrangements for potatoes is being implemented. However, legislation and inspection activities are not performed uniformly across the Entities, Brcko District and border inspection points. Human resources at all levels are not adequate to implement the legal provisions. The Entities use different pieces of legislation on the approval and registration of plant protection products, which are not

harmonised with EU rules. Reference laboratories for monitoring residues were not designated.

There was little progress in the area of **genetically modified organisms** (GMO). Activities to improve the system for controlling the use of GMOs started.

Little progress was made on **fisheries**. State-level legislation transposing the *acquis* remains to be drafted. In terms of quantity and value, imports of fish and fishery products from the EU decreased. Exports of these products to the EU increased. However, responsibilities for the fisheries sector remained fragmented.

*Overall*, preparations in the fields of agriculture and rural development, food safety, veterinary and phytosanitary policy and fisheries remain at an early stage. No comprehensive strategy exists for aligning with the *acquis* on agriculture and rural development. State-level capacity for policymaking and coordination is weak. Development of a functioning system to implement the food safety *acquis* remains a priority to increase trade in agricultural products. Official control capacity for the food safety, veterinary and phytosanitary fields and GMOs needs strengthening.

#### 4.2.3. *Environment*

Progress in the field of **environment** remained limited.

There was little progress in *horizontal legislation*. The parties to the Aarhus Convention approved Bosnia and Herzegovina's first national report on implementation of the Convention. The Federation published state of the environment reports. However, no such reports exist at State-level, in Republika Srpska or in Brcko District. Further efforts are required to transpose and implement the *acquis* through horizontal legislation. A Framework Law on Environment remains to be adopted. Transposition of the Strategic Environmental Assessment Directive is at an early stage. The Environmental Impact Assessment Directive remains to be fully implemented. Bosnia and Herzegovina did not start implementing the Espoo Convention on Environmental Impact Assessment in a Transboundary Context. The poor quality of environmental data and the lack of dissemination of data to the public and policymakers remain causes for concern. The active involvement of civil society in the law drafting process needs to be improved.

Little progress can be reported on *air quality*. Republika Srpska adopted an air protection strategy. The Federation adopted its Integrated Environmental Protection Strategy which includes the air protection strategy. However, the air quality monitoring systems in the Entities need further development.

There was little progress on *waste management*. Implementing legislation on management of animal by-products was adopted. The Federation adopted a decree on packaging and packaging waste. In Republika Srpska, a decree on the management of packing and packaging waste came into force. However, the waste management infrastructure remains to be further developed. Organisations for the recovery of packaging waste to implement the extended producer responsibility do not exist in the Entities. The lack of coordination on implementing packaging waste management systems remains a concern. Investment in waste management is insufficient. No practical steps were taken to establish systems for recycling and recovery of other waste streams. Capacity to manage industrial and hazardous waste is limited.

There was little progress in transposing the *acquis* on *water quality*. However, most of the legislation is not in place. Implementation of water laws, monitoring and river-basin planning is not harmonised between the Entities. Inadequate administrative capacity and lack of ready-made projects caused considerable delays in sectoral investment. Access to drinking water, untreated discharges of wastewater and flood management remain key challenges.

There was some progress on *nature protection*. Bosnia and Herzegovina adopted the National Biodiversity Strategy and an action plan (2008 - 2015). Republika Srpska adopted a Law on national parks and a nature protection strategy. However, key obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora were not implemented. Alignment with the Habitats and Birds Directives remains at an early stage.

There was limited progress in the fields of *industrial pollution control and risk management*. Bosnia and Herzegovina ratified the Convention on the Transboundary Effects of Industrial Accidents. However, the permit process is fragmented due to complex administrative procedures and structures. Due to scarce information public participation in decision-making is low. The administrative capacity for inspection activities needs to be significantly strengthened.

There was some progress in the field of *chemicals*. Republika Srpska adopted implementing legislation regarding biocidal products and the import and export of certain hazardous chemicals and products. There was no progress in the field of *noise*.

Regarding **climate change**, there was no progress on general policy developments despite nominating a focal point for the Working Group on Climate Change. However, significant awareness-raising is required at all levels. Climate change is not integrated into sectoral policies and strategies and there is no comprehensive strategy for climate change.

No progress was made on aligning with EU climate policies and legislation. The country needs to take practical steps to gradually take a greenhouse gas (GHG) reduction/limitation target to be able to implement the *acquis*, especially the EU emission trading scheme, and to join the EU effort-sharing.

Little progress was made at the international level. Bosnia and Herzegovina ratified the Beijing Amendment to the Montreal Protocol of the Vienna Convention on the Protection of the Ozone Layer. The country associated itself with the decision taken at the 22nd meeting of the Parties to the Montreal Protocol on the global transition away from HCFCs and CFCs. However, further steps remain to be taken to align with EU legislation on ozone-depleting substances and fluorinated gases. Although associated with the Copenhagen Accord, the country has no plans to formulate pledges for reducing its GHG emissions. The first National Communication under the United Nations Framework Convention on Climate Change (UNFCCC) was submitted, covering only the greenhouse gas inventory. The country did not participate in the climate work under the Regional Environmental Network for Accession (RENA). Convergence with the EU Monitoring Mechanism Decision remains to be strengthened.

**Administrative capacity** in the environment sector remained weak. A State-level Environmental Protection Agency remains to be established. Administrative capacity within the Ministry of Foreign Trade and Economic Relations on environmental and climate change issues is limited. Environmental institutions do not have the capacity to implement and enforce legislation at Entity, Canton and local levels. Integration of environmental concerns in



other sectors remains weak. There was no progress on the administrative capacity to address climate change, with no staff and resources allocated to climate work. The national authority designated to implement the Kyoto Protocol's Clean Development Mechanism is not yet in operation.

*Overall*, preparations in the field of environment remain at an early stage. Establishment of a harmonised legal framework for environmental protection, the State Environmental Protection Agency and a functioning environmental monitoring system remain the priorities. Improvements remain to be made to horizontal and vertical communication and exchanges of information on environmental and climate change issues between all authorities. Regarding climate change, considerable efforts are required on awareness-raising, aligning with and implementing the *acquis*, as well as strengthening administrative capacity.

#### 4.2.4. *Transport policy*

Progress can be reported on **trans-European transport networks**. Bosnia and Herzegovina is implementing and monitoring the multi-annual plan for 2011-2015 of the South-East Europe Transport Observatory. It is actively participating in implementing the Memorandum of Understanding on the development of the South-East Europe Core Regional Transport Network.

Work continued on additional sections of pan-European corridor V-c. The overhaul of the track and signalling on the Ploce-Bradina section is completed. A pre-feasibility study on the railway link to Montenegro was completed.

Good progress can be reported in the case of **road transport**. Republika Srpska adopted the Law on road traffic safety. Implementing legislation necessary for introducing the digital tachograph system was adopted; the equipment is in place and the system operational. Bosnia and Herzegovina started issuing ATA carnets (*See Section 4.1.4 - Customs and taxation*). Maintenance and upgrading of roads continued. However, the Law on transport of dangerous goods remains to be adopted.

Some progress can be reported in the area of **rail transport**. The Bosnia and Herzegovina Railways Regulatory Body issued licences under its responsibility and prepared *acquis*-compliant railway regulations. The condition of the rolling stock improved. The railways of the Federation published their network statement. However, the railways of Republika Srpska did not. Although the Entity-level railway companies were transformed into vertically-integrated railway companies, both are in a critical financial situation and infrastructure management remains to be fully separated from railway undertaking. The *acquis* on public service obligations (PSO) remains to be transposed and a PSO award authority to be set up.

No progress was made on **maritime transport**. Bosnia and Herzegovina is not a party to major International Maritime Organisation conventions such as the International Convention for the Safety of Life at Sea (SOLAS), including the International Ship and Port Facility Security Code, or the International Convention for the Prevention of Pollution from Ships (MARPOL).

Good, but uneven progress can be reported in the area of **inland waterways**. Demining and rehabilitation of the River Sava waterway started. The Presidency of Bosnia and Herzegovina adopted an agreement between the Government of the Republic of Serbia and the Council of Ministers of Bosnia and Herzegovina on navigation by inland waterway, a precondition for

reestablishment of the River Sava route. However, the river information system remains to be introduced. No progress was made in the area of **combined transport**.

Good progress was made on **air transport**. Bosnia and Herzegovina is implementing the first phase of the European Common Aviation Area (ECAA) Agreement. Transposition of the Single European Sky I legislation was almost completed. The Director of the air navigation services-provider was appointed. However, to ensure full compliance with the transposed *acquis*, the Aviation Law remains to be adjusted.

*Overall*, Bosnia and Herzegovina is on track in the areas of trans-European transport networks, road, rail and air transport as well as inland waterways, but is lagging behind on maritime transport. Further efforts need to be made towards aligning legislation with the *acquis*. Transport infrastructure strategies remain to be prepared and upgrading of transport infrastructure to be intensified.

#### 4.2.5. Energy

There was uneven progress regarding **oil stocks and security of supply**. The Energy Community *acquis* on security of gas and electricity supply has not been implemented. The Federation Law on oil remains to be adopted. No official figures are available on the country's level of oil stocks. A State-level energy development strategy remains to be adopted. This would also address the security of supply of oil, gas and electricity. The Entities have their own strategic planning without harmonised criteria or a common approach to investment priorities.

No progress was made regarding the **internal energy market**. The principle of a competitive and transparent electricity market, as required by the Energy Community Treaty, is included in the law of Brcko District. The State Electricity Regulatory Commission became the electricity regulatory authority for Brcko-District. A comprehensive review of the electricity legislation applicable at the various levels of government was launched with a view to making the legislation compliant with the *acquis* and enabling the country to fulfil the requirements of the Energy Community Treaty (*See Section 1.3 - Relations between the EU and Bosnia and Herzegovina*).

However, the Federation's new Electricity Law was not adopted. Existing laws do not fully comply with the *acquis* nor allow for an effective development of a competitive wholesale market. Tendering procedures and transparency issues remain to be addressed. The situation of the State-level transmission company (TRANSCO) did not improve. No business or investment plans were approved. The company's management operates in an acting capacity only. Only technical operations and minor maintenance tasks are being carried out. There was no improvement in communication with the independent system operator or its level of transparency. Cross-border capacity is allocated on an *ad hoc* basis rather than by open competition. The viability of TRANSCO as a country-wide enterprise and the fragmentation of the electricity market are causes for concern and pose an obstacle to full implementation of the Energy Community Treaty. The 2009 amendments to the legislative framework for electricity are not in compliance with the *acquis*. The independence of the regulatory commissions is not ensured. Republika Srpska and the Federation revised tariffs, but they remain below market prices.

No progress can be reported in the gas sector. There is no State-level Gas Law. Entities' provisions establish different rules for market participants, unbundling, third-party access or market opening, and are not fully in line with the EU *acquis*.

There was no progress as regards **energy efficiency**. The development of a State-level energy efficiency action plan to meet obligations under the Energy Community Treaty was further delayed.

There was little progress on **renewable energy**. The Entities introduced incentives (feed-in tariffs) for producers of energy that use renewable sources. However, they are not harmonised. A strategic approach to promote renewable energy is pending. The complexity of the organisational structure and decision-making system hinders effective promotion of renewable energy at State-level. More efforts are needed to create a regulatory environment that would foster increased use of renewable energy sources in all sectors. Bosnia and Herzegovina needs to make further efforts to improve the share of renewable energy in the country's energy consumption and to promote the use of biofuels in transport.

No significant progress can be reported in the area of **nuclear safety and radiation protection**. The State Regulatory Agency for Radiation and Nuclear Safety is without a Director. A national emergency plan and a strategy for radioactive waste management are yet to be developed, which remains a critical safety issue in Bosnia and Herzegovina. Compliance of the regulations in force with the EU *acquis* still needs to be verified.

Administrative capacity for energy issues within the Ministry of Foreign Trade and Economic Relations remained weak.

*Overall*, preparations in the field of energy are at an early stage. Further efforts are needed for the country to meet requirements under the Energy Community Treaty, improve security of supply and establish a functioning transmission company and an integrated energy market. The lack of cooperation and coordination between the Entities hampers the development of a fully functioning energy market and compromises improvements in security of supply. Bosnia and Herzegovina lacks a fully functioning transmission company and is still at the early stages of implementing the *acquis* on the internal gas and electricity markets. Development of a comprehensive energy strategy, including promotion of energy efficiency and renewable energy sources, remains essential. Further efforts are needed on oil stocks. Transposition of the nuclear safety and radiation protection *acquis* remains limited.

#### 4.2.6. *Information society and media*

Good, but uneven progress can be reported in the areas of **electronic communications and information technologies**. The Electronic Communications Law is largely based on the 1998 EU regulatory framework and partly on the 2002 framework. The continued discussions between the Entities and the State on their respective powers are delaying further alignment of legislation with the EU regulatory framework and weakening the position of the Communications Regulatory Agency (CRA).

The CRA issued a set of instructions aiming to lower barriers to market entry. The market share of the three incumbent fixed-line operators decreased to 85% for inbound/outbound international traffic and to 98% for national traffic. They continued to operate as *de facto* monopolies in their geographical areas. In terms of total service revenue, the market share of the three incumbent operators is about 90%.

The competitive situation regarding provision of fixed broadband services improved slightly, thanks to the presence of cable and fixed wireless access (FWA) networks. The CRA allowed mobile operators to use the GSM spectrum for the provision of 3<sup>rd</sup> generation mobile telecommunications (3G)/Universal Mobile Telecommunications System (UMTS) services. However, potential price squeezes remained as regards mobile virtual network operators (MVNOs). The framework envisaged for MVNOs remains to be put into practice.

Local loop unbundling is at an early stage. One additional 'local loop unbundling' contract was signed, taking the total number of contracts between incumbents and alternative operators to four. Implementation of competitive safeguards progressed at a very slow pace. Six operators offer carrier selection services and one pre-select services. Carrier pre-selection is available, but fixed number portability is not. New licences were granted for Internet services and network operators. The CRA amended the assigned blocks of numbers for telephone services.

The CRA can collect and analyse market data from operators. The draft analysis of the market concerning wholesale voice call termination on mobile networks ('relevant market 7') was prepared and includes suggested Significant Market Power (SMP) obligations. Three mobile operators published their reference interconnection offers. Initial steps were taken to rebalance tariffs, a key component for creating a competitive market.

The level of broadband Internet access increased, as cable broadband and FWA offered a strong competitive alternative to Digital Subscriber Line (xDSL) services. However, the broadband market remained underdeveloped.

The institutional and financial independence and adequate human resources of the CRA remained a serious concern. The administrative capacity in the State-level Ministry of Transport and Communication is particularly weak (*See Political criteria - Human Rights and the Protection of Minorities*).

On **information society services**, no progress can be reported. The State-level Law on the Agency for the Development of Information Society remains to be adopted. The e-commerce Directive and implementing legislation on conditional access services remain to be transposed. Implementation of the e-signature Law was slow.

Some progress can be reported on **audiovisual policy and media**. The CRA started transposing the Audiovisual Media Services Directive (AVMSD). The draft code on audiovisual and radio programmes and the draft code on audiovisual commercial communications partially implement the AVMSD. Bosnia and Herzegovina ratified the European Convention for the protection of the Audiovisual Heritage. The CRA issued a decision on use of multiplex A (MUX A) for digital terrestrial broadcasting. A Committee established by the Ministry of Transport and Communication published a tender for broadcasting and transmitting equipment for public broadcasting services. The CRA is developing entry criteria for the existing TV stations to the commercial MUX and documents for licensing MUX operators. The members of the expert committee of the forum on digital television were appointed and developed an action plan for the transfer from analogue to digital terrestrial broadcasting. The digital switchover is planned to be finalised by end 2011.

However, the remaining provisions of the AVMSD remain to be incorporated by additional legal instruments. Entity laws on public broadcasting services are not in line with the State-level law. Although members of the expert secretariat of the forum on digital television were

appointed, it is not operating. The statute of the Public Broadcaster BHRT was amended (*See Political criteria 2.2 - Human Rights and the protection of minorities*). The statutes of the public broadcasting corporation (PBS) remain to be adopted. PBS was not registered. The reform of the public broadcasting sector was further delayed.

*Overall*, preparations in the fields of the information society and media are advancing slowly. Implementation of the legal framework for public broadcasting is necessary for reforms in this sector. Continued challenges to the CRA's functional independence and lack of adequate human resources remain a serious concern.

#### 4.2.7. *Financial control*

Bosnia and Herzegovina made some progress in the area of financial control.

Further efforts were made to introduce **public internal financial control (PIFC)**. Central Harmonisation Units (CHUs) exist at both State and Entity levels. Staffing levels at the State-level and Republika Srpska CHUs were strengthened. The coordination board of all CHUs provides a single platform for PIFC. However, the drafting of legislation implementing public internal audit and legislation on financial management and control advanced slowly. The Federation's CHU requires additional staff to implement PIFC. The number of skilled internal auditors available throughout the country remains small.

As regards **external audit**, the four Supreme Audit Institutions (SAIs) (State, Entities and Brcko District) continued to improve audit methods and external audit quality. Republika Srpska introduced obligatory consideration of negative audit reports in the Parliamentary Assembly's new rules of procedure. However, there was no progress on ensuring the independence of the State-level SAI from the executive.

*Overall*, Bosnia and Herzegovina's preparations in the area of financial control are progressing, albeit slowly. The lack of skilled staff is an impediment to further development of PIFC. Financial management and control systems need to be further developed. The issue of independence of the State-level SAI remains to be addressed.

#### 4.2.8. *Statistics*

Limited progress can be reported in the area of statistics.

Little progress was made on **statistical infrastructure**. The constructive cooperation between the State-level Agency for Statistics (BHAS) and the State Electricity Regulatory Commission resulted in an increased data coverage transmitted to Eurostat. However, despite some progress, the cooperation between the BHAS and the Entity institutes for statistics remained unsatisfactory. Neither the State-level Statistics Law nor the agreement on cooperation and coordination in the area of statistics are being implemented correctly. The Indirect Taxation Authority does not provide the BHAS with the data required from administrative sources. This leads to low-quality business, macroeconomic and external trade statistics. The Law on indirect taxation remains to be amended to allow the BHAS to use all available administrative data for statistical purposes.

Some progress was made regarding **classifications and registers**. Approximation to the NACE Rev. 2 statistical classification of economic activities was finalised and the classification is being applied. Application of the classification of products by activity (CPA 2008) and the nomenclature of industrial products (PRODCOM) started. The statistical

business register is in operation. However, it is incomplete due to limited access to relevant administrative data sources.

Some progress was made in **sector statistics**. Dissemination of statistical data improved via the new BHAS website, incorporating industrial production and consumer price indices. In foreign trade statistics monthly releases are processed and published according to NACE Rev 2. Technical preparations for the population and household census and the pilot census advanced. However, the law on the population and household census was not adopted and further work cannot continue. Due to the absence of a Census Law, no pilot census took place and implementation of the census is delayed.

Limited progress can be reported in the area of macroeconomic statistics. The annual GDP estimates for 2010 were published. However, the Republika Srpska Institute for Statistics is not fully implementing the multi-annual masterplan for developing national accounts. Quarterly national accounts cannot be developed until the relevant short-term indicators are produced and the requisite cooperation between all parties involved is in place.

Field work for the household budget survey started. Preparations were completed. The labour force survey was implemented in 2011 and preliminary data were published. Preparations for the agricultural census continued (*See Section 4.2.2 – Agriculture and fisheries*). A pilot agricultural census was conducted.

*Overall*, preparations in the field of statistics are moderately advanced. Sector statistics such as national accounts, business and agricultural statistics remain to be improved. The population and household census will not be conducted during 2011 as originally planned. The Census Law remains to be urgently adopted to avoid further delays. Technical preparations for the population and household census advanced, but are on hold as there is no legal basis to implement the census. Closer cooperation between the BHAS and the Entity Statistical Institutes and also between the BHAS and the relevant State-level agencies remains essential. Implementation of the BHAS development plan will be a key factor in this.

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

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

Progress was made in the field of **visa policy** and in the visa liberalisation dialogue. Positive and negative lists remained fully harmonised with the EU visa list. In the first half of 2011, 133 visas were issued at the border, a decrease of 8.27% compared with the same period of 2010.

Visa liberalisation for citizens of Bosnia and Herzegovina was granted as of 15 December 2010. It applies to holders of biometric passports travelling to the Schengen area. This decision was based on substantial progress in the area of justice, freedom and security and fulfilment of the specific conditions set out in the roadmap for visa liberalisation. The rules for visa-free travel were respected by the vast majority of travellers. To ensure the continued implementation of the commitments, a post-visa liberalisation monitoring mechanism was established in view of the increased numbers of asylum seekers from the region. The Commission presented its first monitoring report to the European Parliament and the Council in June 2011.

*Overall*, Bosnia and Herzegovina continues to address its priorities in the field of visa policy.

Progress was made in **border management**. Most of the legislation related to the integrated border management (IBM) is mainly based on the relevant *acquis*. Legislation implementing the Law on border control was adopted. The IBM Commission established a joint working body, made up of members of the institutions involved in the IBM, with the task of implementing an agreement on mutual cooperation.

The revised IBM strategy and action plan were adopted. The IBM Commission approved an analysis of movements of people and goods across the border crossing points. The aim of the analysis is to be one of the indicators for determining the priority border crossing points. A manual for the work at border crossings is pending adoption by the institutions involved in the IBM. A link between the Joint Risk Analysis Centre and the databases of the agencies involved is being established.

Infrastructure at existing border crossing points further improved, in particular surveillance and equipment. Establishment of two new inspection posts at the border with Croatia was agreed upon between the two countries. Out of 55 border crossing points for international traffic, 29 are covered by video surveillance. 49 are equipped with biometric passport readers and connected to the integrated system of control of State border crossings (CSBC) and all organisational units of the border police. An advanced new application for the integrated system of CSBC is being developed and the application is being tested.

The number of joint patrols with neighbouring countries increased, resulting in a decrease in illegal border crossings. Illegal crossings of the border with Montenegro were identified. The manual for joint border patrols between Bosnia and Herzegovina and Serbia is being implemented. However, the agreement on border demarcation with Montenegro remains to be finalised.

Bosnia and Herzegovina and the Republic of Croatia started the process of revising bilateral agreements related to border crossing points between the two countries. Implementation of the working arrangement with Frontex is well on track and Bosnia and Herzegovina is participating in the Western Balkans risk analysis network.

There was limited progress on management and maintenance of Border Crossing Points (BCPs). Amendments to the internal rulebook of the Indirect Taxation Authority (ITA), which are necessary to increase the number of posts for management and maintenance of BCPs, remain to be adopted by the ITA governing board.

*Overall*, Bosnia and Herzegovina's preparations in the area of border management advanced. Efforts need to focus on improving border crossing management and maintenance.

There was some progress in the area of **asylum**. Bosnia and Herzegovina is implementing the 2008 Law on movements and stays of aliens and asylum and the asylum and migration action plan. The asylum sector in the Ministry of Security is almost fully staffed and relevant training was provided. The asylum module of the migration information system (MIS) is being fully utilised. The Ministry for Human Rights and Refugees was connected to the MIS and application of the system is being expanded. The temporary asylum centre in Rakovica has 13 staff and houses 27 asylum-seekers. Work on a permanent asylum centre in Trnovo continued to progress. However, a new migration and asylum strategy and the related action plan remain to be finalised.

The number of asylum applications in 2010 decreased to 31 (38 people) in comparison with 32 applications (71 people) in 2009. In 2010, the State-level Ministry of Security rejected 152 asylum applications. In the first eight months of 2011 24 new asylum-seekers were registered.

All asylum-seekers from Kosovo, whose temporary protection status expired in 2007, received first-instance decisions from the asylum sector. In 2011, only eight families were still involved in appeal Court proceedings. Rejected asylum-seekers were resettled or voluntarily repatriated. 409 irregular migrants were registered for the Assisted Voluntary Return Programme during 2010 and 107 during the first six months of 2011.

*Overall*, the asylum and international protection system in Bosnia and Herzegovina is well on track. Additional human and financial resources need to be allocated to guarantee the full efficiency of the system.

Good progress was achieved on **migration**. The centre for temporary detention of irregular immigrants is in operation. It is financed and managed by the State-level Ministry of Security and the Service for Foreigners' Affairs (SFA). The centre employs 53 professional staff and has 120 beds. In 2010, a total of 312 foreign nationals were accommodated. 493 foreign nationals were relocated outside Bosnia and Herzegovina. 474 of them returned voluntarily to their home countries, the other 19 were forcefully repatriated. During the first six months of 2011, 88 third-country nationals were accommodated, of whom 70 were repatriated. 41 of these were repatriated through Assisted Voluntary Return programme while 29 returned to other countries.

Implementation of the readmission between the European Union and Bosnia and Herzegovina was smooth. Bosnia and Herzegovina continues to readmit a large number of individuals under the agreement with Croatia. The number of persons readmitted decreased from 311 in 2009 to 295 during 2010. Of these, 119 were foreign nationals and 176 citizens of Bosnia and Herzegovina. In accordance with readmission agreements with the EU and Switzerland, Bosnia and Herzegovina accepted 189 of its citizens in 2010, in comparison with 173 in 2009. In the first half of 2011, 65 citizens were readmitted, a decrease of 22.6% compared to the same period of 2010.

Bosnia and Herzegovina continued its efforts to conclude readmission agreements with non-EU countries. Bilateral negotiations with North African countries are continuing, while a text of the agreement with Turkey was finalised. However, no new readmission agreement was signed yet. The strategy for the reintegration of returnees remains to be implemented. Difficulties with economic reintegration, access to healthcare, social protection, pensions and employment of minority returnees are the main obstacles to sustainable return and local integration (*See Political criteria 2.2 - Human Rights and the Protection of Minorities*).

There was a decrease in the number of interceptions of attempts to unlawfully cross the border. In 2010, a total of 322 people were intercepted trying to illegally enter or leave the country, compared with 381 in 2009. In the first half of 2011, 159 people were intercepted, an increase of 11.2 % compared to the same period of 2010.

The SFA improved its administrative capacity and stepped up its cooperation with other law enforcement agencies. The SFA makes full use of the Migration Information System (MIS) and granted access to its databases to relevant agencies at all levels. In 2010, the SFA issued 8,131 permits for temporary stays, an increase of 8% in comparison with 2009 (7,512). In 2010, 315 permits for permanent stays were also issued, a decrease of 12% compared with



359 during 2009. The SFA issued 410 expulsion decisions in 2010, a decrease of 13 % from 474 in 2009. In the first half of 2011, the SFA issued 3,744 permits for temporary stays and 167 for permanent stays. In addition, 149 expulsion decisions were taken. However, further capacity-building is required.

The coordination body for implementing the asylum and migration strategy and action plan improved inter-agency cooperation and published its 2010 annual report. The unit for monitoring migration flows was established within the State-level Ministry of Security. The third migration profile of Bosnia and Herzegovina was published. The MIS is used for statistical reporting for the migration profile.

A working group consisting of representatives from the State and Entity levels was established to set up a mechanism for collecting migration data in line with EUROSTAT regulations. However, the oversight over migration flows remains to be established. Bosnia and Herzegovina legislation on legal migration encompasses the discipline of right to family reunification, long-term residence and conditions of admission of third-country nationals for the purposes of studies.

*Overall*, the country's preparations in the area of migration are advanced. Monitoring of migration flows and inter-agency cooperation further improved.

#### 4.3.2. *Money laundering*

Very little progress was made in the fight against money laundering. Implementation of the strategy and action plan for the prevention of money laundering and financing of terrorist activities in Bosnia and Herzegovina remains limited.

The existing provisions within the legal framework on confiscation are not fully used and seizures of criminally gained assets across the country remain low. Structures for management and maintenance of seized assets are missing. Amendments to the Law on prevention of money laundering and financing of terrorist activities, addressing shortcomings identified by the MONEYVAL Mutual Evaluation Report and including measures to transform the Financial Intelligence Department (FID) within the State Investigation and Protection Agency into an administrative agency remain to be adopted by the Parliament.

The FID operated in isolation from other law enforcement agencies and its investigative capacity remained weak. Its current staffing level still stands at approximately 66%. Operationally, the FID lacks strategic guidance and systematic financial intelligence support. The method of recording reports of suspicions within the FID is weak. It does not provide the statistical information necessary for risk assessment and decision-making. During 2010, only two out of 215 reports on money laundering were transmitted to the prosecutors' office. No reports were made on financing of terrorist activities.

Most of the transaction reports are from the banking sector. No significant changes were made to the reporting structure, methodology and analysis applied. A report and recommendations for the remainder of the persons liable to be directed to use the electronic reporting process for all suspicious transaction reports are pending. The number of reports on transactions above the threshold decreased.

*Overall*, Bosnia and Herzegovina is at an early stage in implementing its policy on preventing and fighting financial crime. Its objectives in the area of combating money laundering require

substantial efforts. Implementation of the relevant strategy and action plan remains weak. The unresolved issue of the institutional position of the FID continues to weaken the performance of Bosnia and Herzegovina in these areas.

#### *4.3.3. Drugs*

Little progress was made in the fight against drugs. Bosnia and Herzegovina remains a transit country for international trafficking of narcotics. Organised crime groups linked with drug trafficking continued to operate through its territory. Local drug consumption remained relatively low compared with other European countries.

Law enforcement agencies improved cooperation with countries in the region, resulting in a better and quicker flow of information. Bosnia and Herzegovina further improved international cooperation and reported regularly to the International Narcotics Control Board. However, reporting to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in line with the required standards remains a problem.

The database on perpetrators of drug-related offences improved with the aid of new equipment. State-level law enforcement agencies and the Federal police administration are using it and Cantons were also connected. Republika Srpska is not connected to the database. A drug-user database integrating existing registries at rehabilitation centres is established in Republika Srpska.

The level of implementation of the strategy and action plan for the prevention and suppression of drug abuse remained very low. A mechanism for coordinating implementation is missing, since the State-level Office for Drugs provided for in the strategy and action plan remains to be established. Amendments to the Law on prevention and suppression of the abuse of narcotic drugs, which establish the State-level Office for Drugs and improve control over precursors remain to be adopted by the Parliament.

Coordination between the different enforcement agencies remained on a case-by-case basis. Effective judicial follow-up and a deterrent policy on crime are missing. The rulebook on safekeeping and destruction of seized narcotic drugs, agreed between the Entities, Brcko District and State-level law enforcement agencies, was not adopted because of financial constraints. Large amounts of illicit substances confiscated since the Law on prevention and suppression of abuse of narcotic drugs was adopted are still awaiting destruction.

*Overall*, Bosnia and Herzegovina remains at an early stage in the fight against drug trafficking, as well as in taking effective action on reducing drug demand. Without the establishment of the Drug Office, the institutional capacity to coordinate and systematically implement the policy framework remains weak. The performance of law enforcement agencies in the fight against drug trafficking is still uneven across the country.

#### *4.3.4. Police*

Some progress was made in police matters. Implementation of the police reform laws is slowly advancing. Police reform agencies and boards started to be operational. During the reporting period, the Directorate for coordination of police bodies (DPC) was regularly reinforced. Amendments to the State-level Law on police officials were adopted, including extension of the transitional provisions for recruitment of active police officers to State-level police bodies. This allows the DPC to recruit high-ranking police officers from other police

agencies. The DPC incorporated the Office for Cooperation with Interpol and took over the Department for protection of people and buildings, which was previously under the State Protection and Investigation Agency (SIPA). Republika Srpska adopted amendments to its Law on police officials, which includes changes to recruitment, promotions and transfer of police personnel to other institutions. However, these changes represent a step back from harmonised provisions in the laws on police officials.

The Law on DNA regulating the duration of DNA storage in the database and the centralisation of database profiles remains to be adopted by the Parliament. Federation and Cantonal authorities continued to work on updating the legislation on internal affairs to increase the operational and budgetary independence of police commissioners from their Ministries of the Interior.

The Agency for Forensic Examination was equipped with additional specialised expertise. Its new Deputy Director was appointed. The Agency for Education and Advanced Training of Personnel completed 95% of the recruitment planned. The Agency for Police Support set up a joint human resources database for the SIPA, the border police and the DPC. A working group consisting of representatives of State-level law enforcement agencies, the DPC and the Ministry of Security was set up to address issues linked to procurement and standardisation of equipment. The Public Complaints Board, the Board for Complaints of Police Officials and the Independent Board are operational. The SIPA slightly increased its staff and all heads of unit were recruited. However, the Law on restructuring the SIPA remains to be adopted.

Special investigative measures are used and the system for interception of telecommunications, including regional listening stations, is fully functional. Preparations for establishment of a data exchange system between police and prosecutors continued.

A road map for an operational agreement was submitted to Europol for assessment. The communication link with Europol is not yet operational.

Operational cooperation between law enforcement agencies continued on a case-by-case basis. At strategic level, regular informal meetings between Directors of police agencies continued to take place, in the presence of the Chief Prosecutor and representatives from the State-level Ministry of Security. However, exchange of intelligence information between law enforcement agencies remained weak.

Out of 200 cases received by the Public Complaints Board, none resulted in disciplinary sanctions.

*Overall*, Bosnia and Herzegovina made some progress in the field of police, albeit uneven. Institutions created by the police reform laws were established at a slow pace. The lack of institutionalised cooperation between all law enforcement agencies and the limited strategic guidance remain challenges to achieve more efficient policing.

#### *4.3.5. Fighting organised crime and terrorism*

There was little progress in fighting **organised crime**. Organised crime networks continue to operate throughout Bosnia and Herzegovina and have a negative impact on political structures and the economy. A number of large-scale operations were nevertheless successfully conducted, thanks to the cooperation amongst different law enforcement agencies.

Implementation of the strategy for the fight against organised crime continued. However, lack of adequate resources limits its effectiveness.

There was a slight increase in special investigative measures. Legal and institutional obstacles to more systematic use started to be addressed.

The Council of Ministers adopted a decision allowing the establishment of a network of police liaison officers in neighbouring countries, with Europol and in some EU countries. The aim of this network is to improve international cooperation and exchanges of information on fighting transnational organised crime.

Several legislative measures remain to be adopted. Bosnia and Herzegovina is not a party to the Council of Europe Convention on the international validity of criminal judgments or the additional protocol to the Council of Europe Convention on the transfer of sentenced persons. Its legislation is not harmonised with the Council of Europe Convention on cybercrime. The implementation of the laws on witness protection remains insufficient. The legal framework on confiscation of assets is not fully implemented and seizures of criminally gained assets remain uneven across the country. Efficient structures for management and maintenance of seized assets are missing (*See Section 4.3.2. — Money laundering*).

Cooperation between police and prosecutors remains weak. Specialisation of prosecutors and judges on organised crime cases is uneven and needs further strengthening, particularly in the Entities. The Memorandum of Understanding on the establishment of an international law enforcement coordination unit signed between the Directorate for coordination of police bodies (DPC), the State Protection and Investigation Agency (SIPA), the border police, the Republika Srpska Ministry of Interior, the Federation Police Administration, the Brcko District police and the Indirect Taxation Authority (ITA) remains to be implemented.

*Overall*, Bosnia and Herzegovina is at an early stage of addressing the fight against organised crime. Effective, sustainable and institutionalised mechanisms for cooperation between different law enforcement agencies are missing. Strategic coordination and priority-setting in tackling organised crime continue to be sporadic.

Some progress can be reported on combating **trafficking in human beings** (THB). Implementation of the relevant action plan continued. The State-level Criminal Code regulating THB is fully in line with international standards.

The national coordinator's office continued an educational campaign targeting social workers, teachers, NGOs and high-risk populations (e.g. in asylum and immigration centres). The State-level government secured funds for three 'safe houses'. A database of perpetrators is maintained by the SIPA.

The number of THB victims identified decreased, as did the number of related investigations. This is, though, in line with the regional trend. The majority of trafficking was done for the purpose of labour. To tackle the problem of trafficking for the purpose of child begging, Bosnia and Herzegovina organised State-wide inter-agency actions against child exploiters.

However, Bosnia and Herzegovina continues to be a country of origin, transit and destination for trafficking in women and girls. Provisions on THB in the Entity and Brcko District Criminal Codes are neither fully harmonised with the State-level Criminal Code nor with international instruments ratified. The Department for combating THB within the national

coordinator's office and the database on THB victims are not fully operational. Deficiencies in identification of victims of trafficking remain a serious concern. There is no proactive approach to identify victims. The issue of unrecorded THB victims remains to be tackled. Implementation of the national action plan on combating THB is financed mainly by donors and, thus, is not sustainable.

*Overall*, Bosnia and Herzegovina remains at an early stage in the fight against trafficking of human beings. Further work needs to be done to tighten coordination and form effective partnerships, both between all competent authorities across all policy areas and with NGOs dealing with human trafficking within the country and the region. Proactive identification of victims and an effective and well-functioning national referral mechanism are crucial. Further strengthening of criminal prosecution is needed.

Some progress was made in the **fight against terrorism**. A rulebook was prepared on implementation of restrictive measures established by the UN Security Council Resolutions regarding persons and entities associated with Osama Bin Laden, the Al-Qaida network and the Taliban. This allows for implementation of the Law on restrictive measures regarding terrorism and financing of terrorism. The Joint Task Force to fight terrorism made up of representatives of the Prosecutor's Office and eight police agencies was re-established. An operational working group within this task force was set up. The legislation on terrorism was reviewed. However, an amendment to the Law on protection of classified information, which ensures that the law is in line with the relevant EU standards and provides for implementation of the bilateral security agreement, remains to be adopted.

The level of implementation of the strategy for preventing and combating terrorism remains to be enhanced.

*Overall*, Bosnia and Herzegovina remains at an early stage in the fight against terrorism. Practical efforts are needed in the fight against financing of terrorism.

#### 4.3.6. *Protection of personal data*

There was some progress in the field of personal data protection. Amendments to the Law on protection of personal data to further harmonise the law with the relevant *acquis* were adopted by the House of Representatives. Essential elements of this legislation include the recognition of internal data protection officials, the regulation of data from the former Yugoslavia and further steps towards implementing the legal requirement concerning the independence of the Data Protection Commissioner. The country ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. The Personal Data Protection Agency raised its staffing level to a third of its targeted strength and is increasingly capable of addressing its priorities.

However, legislation and implementing legislation in various sectors remain to be brought in line with EU data protection requirements. The Council of Ministers rules for participation of the Personal Data Protection Agency in relevant legislative processes are not satisfactory. The principle of dedicated use and sub-legal regulations for data protection in the police remain to be fully implemented. The Law on personal data protection does not apply to the Bosnia and Herzegovina Intelligence Agency.

*Overall*, preparations for protection of personal data remain at an early stage. The independence of the Personal Data Protection Agency remains to be ensured.

## Statistical Annex

### STATISTICAL DATA (as of 30.09.2011) Bosnia and Herzegovina

Basic data	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Population (thousand)		3 753s	3 790s	3 813s	3 830s	3 837s	3 843s	3 843	3 844	3 844	3 844p	3 844p
Total area of the country (km <sup>2</sup> )		51 209	51 209	51 209	51 209	51 209	51 209	51 209	51 209	51 209	51 209	51 209

National accounts	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross domestic product (GDP) (million national currency)	11)	11 789	12 641	13 946	14 689	15 946	17 157	19 272	21 778	24 717	24 004e	24 486
GDP (million euro)		6 028	6 463	7 131	7 510	8 153	8 772	9 854	11 135	12 638	12 273e	12 519
GDP (euro per capita)		1 594	1 702	1 863	1 960	2 122	2 283	2 564	2 898	3 289	3 194e	3 258
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	5 500	6 300e	7 100	7 600	7 300	7 400
GDP per capita in PPS (EU-27 = 100)		:	:	:	:	:	25	27	28	30	31	30
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		:	2.4	5.1	3.9	6.3	3.9	6.0	6.2	5.7	-2.9e	0.7
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	-1.4	7.9	7.5	8.0	:
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:	:	:	:	:	:
Gross value added by main sectors (%)												
Agriculture and fisheries	1)	10.9	10.8	10.5	9.5	10.3	10.1	10.3	9.8	8.9	8.6e	8.6
Industry	1)	20.1	19.8	18.8	20.0	20.3	20.4	20.1	20.4	21.0	20.2e	21.6
Construction	1)	6.9	6.2	5.6	5.3	5.0	5.2	5.3	5.9	6.4	6.2e	5.4
Services	1)	62.1	63.2	65.1	65.2	64.3	64.2	64.4	63.9	63.7	65.1e	67.5
Final consumption expenditure, as a share of GDP (%)		:	:	:	:	112.4	112.4	106.1	101.8	100.5	99.2e	:
Gross fixed capital formation, as a share of GDP (%)		:	:	:	:	23.8	26.3	21.4	25.2	26.9	21.4e	:
Changes in inventories, as a share of GDP (%)		:	:	:	:	2.9	0.1	-0.9	1.3	1.4	-0.4e	:
Exports of goods and services, relative to GDP (%)		:	:	:	:	27.8	30.6	33.2	33.3	32.3	27.5e	:
Imports of goods and services, relative to GDP (%)		:	:	:	:	66.8	69.3	59.8	61.6	61.0	47.6e	:

Industry	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Industrial production volume index (2005=100)		69.1	72.8e	77.7e	81.6e	91.8e	100.0e	112.5e	119.9e	128.7e	130.6e	135.4e

Inflation rate	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Annual average inflation rate (CPI, % change on previous year)	2)	4.8	3.1	0.4	0.6	0.4	3.8	6.1b	1.5	7.4	-0.4	2.1

Balance of payments	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Balance of payments: current account total (million euro)		-429	-833	-1 253	-1 439	-1 319	-1 500	-783	-1 191	-1 771	-768	-766
Balance of payments current account: trade balance (million euro)		-3 000	-3 308	-3 524	-3 671	-3 678	-3 962	-3 406	-4 142	-4 823	-3 410	-3 248
Balance of payments current account: net services (million euro)		203	255	232	297	347	446	534	639	664	572	525
Balance of payments current account: net income (million euro)		641	595	540	473	408	377	312	336	457	416	251
Balance of payments current account: net current transfers (million euro)		1 727	1 626	1 500	1 462	1 604	1 639	1 775	1 976	1 930	1 653	1 705
of which government transfers (million euro)		338	450	347	298	261	251	237	193	186	167	138
Net foreign direct investment (FDI) (million euro)		159	133	282	338	566	493	608	1 499	673	176	142

Foreign direct investment (FDI) abroad (million euro)		0	0	0	0	-1	-0,4	-3	-21	-11	-4	-32
of which FDI of the reporting economy in EU-27 countries (million euro)		0	0	0	0	0	0	0	0	0	0	0
Foreign direct investment (FDI) in the reporting economy (million euro)		159	133	282	338	567	493	611	1 520	684	180	174
of which FDI of EU-27 countries in the reporting economy (million euro)		0	0	0	0	340	410	448	531	348	43	0

<b>Public finance</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
General government deficit/surplus, relative to GDP (%)		:	:	:	0.7	1.6	2.4	2.9	1.2	-2.2	-4.5	-2.5
General government debt relative to GDP (%)		34.7	35.2	31.0	27.7	25.3	25.3	21.1	18.2	17.2	21.8	25.7

<b>Financial indicators</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		717	1 377b	1 538	1 592	1 808	2 098	2 593	3 149	3 066	3 011	3 221
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		1 262	2 387b	2 593	2 810	3 493	4 129	5 129	6 244	6 464	6 601	7 066
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		1 543	1 707	2 189	2 619	3 031	3 858	4 759	6 110	7 442	7 210	7 455
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	3)	:	:	12.6	10.9	10.3	9.6	8.0	7.2	7.0	7.9	7.9
Deposit interest rate (one year), per annum (%)	4)	:	:	1.5	1.2	1.1	0.7	0.5	0.4	0.4	0.3	0.2
euro exchange rates: average of period - 1 euro = ... national currency		1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956
Effective exchange rate index (2000=100)		:	:	:	:	:	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	5)	525	1 385	1 270	1 428	1 779	2 160	2 787	3 425	3 219	3 176b	3 302

<b>External trade</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Value of imports: all goods, all partners (million euro)		:	:	:	:	:	5 716.7	5 823.0	7 106.1	8 330.2	6 317.1	6 961.9
Value of exports: all goods, all partners (million euro)		:	:	:	:	:	1 934.3	2 640.5	3 035.3	3 431.6	2 828.1	3 627.9
Trade balance: all goods, all partners (million euro)		:	:	:	:	:	-3 782.4	-3 182.5	-4 070.8	-4 898.6	-3 489.0	-3 334.0
Terms of trade (export price index / import price index)		:	:	:	:	:	:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	:	53.3	57.6	57.3	55.0	54.0	54.4
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	:	50.7	47.8	47.8	48.0	49.1	45.9

<b>Demography</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		2.4	1.9	1.5	0.9	0.6	0.1	0.2	-0.3	0.0	-0.1	-0.2p
Infant mortality rate: deaths of children under one year of age per 1000 live births		9.7	7.6	9.2	7.7	7.4	6.7	7.5	6.8	6.9	6.5	5.9p
Life expectancy at birth: male (years)		:	:	:	:	:	:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:	:	:	:	:	:

<b>Labour market</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		:	:	:	:	:	:	51.3	52.2	53.5	53.2	54.0
Employment rate (15-64): share of population aged 15-64 in employment (%)*		:	:	:	:	:	:	35.0	36.8	40.7	40.1	39.0
Employment rate male (15-64) (%)		:	:	:	:	:	:	46.1	48.7	52.9	51.2	49.6
Employment rate female (15-64) (%)		:	:	:	:	:	:	24.0	25.0	28.7	29.3	28.6
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	:	:	:	:	:	30.6	31.9	34.4	34.0	26.8
Employment by main sectors (%)												
Agriculture	6)	:	:	:	:	:	:	20.5	19.8	20.6	21.2	19.7

Industry	6)	:	:	:	:	:	:	22	22.9	21.7	21.2	21.9
Construction	6)	:	:	:	:	:	:	8.8	9.6	10.8	10.3	9.1
Services	6)	:	:	:	:	:	:	48.4	47.3	46.7	47.1	49.1
Unemployment rate: share of labour force that is unemployed (%)	7)	39.7	40.0	41.1	41.6	41.8	43.9	31.1b	29.0	23.4	24.1	27.2
Share of male labour force that is unemployed (%)		:	:	:	:	:	:	28.9	26.7	21.4	23.1	25.6
Share of female labour force that is unemployed (%)		:	:	:	:	:	:	34.9	32.9	26.8	25.6	29.9
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	:	:	:	62.3	58.4	47.5	48.7	57.5
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	:	:	:	:	:	26.7	25.0	20.2	20.0	22.3

<b>Social cohesion</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Average nominal monthly wages and salaries (national currency)		372.0	408.0	446.0	484.0	505.0	538.0	575.0	645.0	752.0	790.0	798.0
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		:	:	:	:	:	:	:	:	:	:	:
Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)*		:	:	:	:	:	:	:	:	:	:	:

<b>Standard of living</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Number of passenger cars per 1000 population		:	:	:	:	:	:	162.6	171.7	178.7	180.5	188.6
Number of subscriptions to cellular mobile telephone services per 1000 population		49.6	92.6	176.2	271.8	366.7	414.6	491.3	637.4	769.5	830.4	784.1

<b>Infrastructure</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		:	:	19.7	18.2	20.3	20.1	20.1	19.9	19.9	19.9	:
Length of motorways (thousand km)		:	:	:	:	:	:	:	:	:	:	:

<b>Innovation and research</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Spending on human resources (public expenditure on education in % of GDP)		:	:	:	:	:	:	:	:	:	:	:
Gross domestic expenditure on R&D in % of GDP*		:	:	:	:	:	:	:	:	:	:	:
Percentage of households who have Internet access at home (%)		:	:	:	:	6.6	:	:	10.9	:	:	:

<b>Environment</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)*		:	:	:	:	:	:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	:	:	:	:	:	:	:	:	:	:
Electricity generated from renewable sources in % of gross electricity consumption		:	:	:	:	:	:	:	:	:	:	:
Road share of inland freight transport (% of tonne-km)		:	51.0	52.0	53.0	53.0	43.0	54.0	62.0	60.0	63.0	62.0

<b>Energy</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Primary production of all energy products (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)	8)	:	:	:	214	211	230	:	:	:	3 629bp	:
Primary production of natural gas (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Net imports of all energy products (thousand TOE)		:	:	:	369	478	627	681	:	:	:	:
Gross inland energy consumption (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Electricity generation (thousand GWh)		:	:	:	:	:	:	:	13.0	14.8	15.7	:



<b>Agriculture</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Agricultural production volume index of goods and services (producer prices, previous year=100)		:	:	:	:	:	:	:	:	:	:	:
Total utilised agricultural area (thousand hectare)		:	:	1 697	1 722	1 722	1 712	1 722	1 670	1 679	1 656	1 649
Livestock: cattle (thousand heads, end of period)		:	:	:	:	453	460	515	468	459	458	462
Livestock: pigs (thousand heads, end of period)		:	:	:	:	596	654	712	535	502	529	590
Livestock: sheep and goats (thousand heads, end of period)		:	:	:	:	965	976	1 081	1 104	1 101	1 125	1 109
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	583	629	662	724	737	734	693
Crop production: cereals (including rice) (thousand tonnes, harvested production)	9)	930	1 139	1 309	793	1 439	1 350	1 341	1 001	1 375	1 391	1 105
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)	10)	176	190	247	204	276	257	297	254	282	280	286

: = not available  
 p = provisional  
 e = estimated value  
 s = Eurostat estimate  
 b = break in series  
 \* = Europe 2020 indicator

The balance of payments sign conventions are used for FDI. For FDI abroad a minus sign means investment abroad by the reporting economy exceeded its disinvestment in the period, while an entry without sign means disinvestment exceeded investment. For FDI in the reporting economy an entry without sign means that investment into the reporting economy exceeded disinvestment, while a minus sign indicates that disinvestment exceeded investment.

Footnotes:

- 1) Data according to NACE Rev 1.1.
- 2) Until 2005 the growth rate of retail prices is presented, from 2006 onwards growth rate of the consumer price index (CPI).
- 3) Short-term lending rates in national currency to private enterprises and cooperatives (weighted average).
- 4) Demand deposit rates in national currency to households (weighted average).
- 5) Since 2009 gold has been included in reserve assets.
- 6) Data according to NACE rev 2.
- 7) 2000–2005, data from the Bureau for Employment.
- 8) 2009, primary production of lignite and brown coal included.
- 9) Data refer to harvested year (for example -harvested production for 2010: autumn 2009 and spring 2010), not calendar year; [2009-2010, including triticale and buckwheat.
- 10) Data refer to harvested year (for example -harvested production for 2010: autumn 2009 and spring 2010), not calendar year; including lettuce and melons after 2009.
- 11) In 2011, the calculation method for GDP was improved and figures were revised.