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**BOSNIA AND HERZEGOVINA 2012 PROGRESS REPORT**

*accompanying the document*

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

**Enlargement Strategy and Main Challenges 2012-2013**

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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 2011 to September 2012. 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 information gathered and analysed by the Commission. Many sources have been used, including contributions from the government of Bosnia and Herzegovina, the EU Member States, European Parliament reports<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. The Stabilisation and Association Agreement (SAA) has been ratified but has not yet entered into force.

The process of consultation between the representatives of the main political parties, which started in December, initially produced a shift of focus towards EU integration. A new political momentum emerged, without external interference, reinforcing domestic ownership of the political process. This momentum was not maintained and political disagreements in the governing coalition emerged well ahead of the municipal elections in October. The political consensus that had emerged was lost and progress on the EU agenda stalled. The tensions linked to the reshuffling of the governments at State level and in the Federation have not been conducive to progress on the implementation of the Sejdić-Finci ruling. A shared vision by the political representatives on the overall direction and future of the country and its institutional set up remains to be agreed as a matter of priority. In order for such a vision to materialise, the political representatives of Bosnia and Herzegovina need to anchor the EU

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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 2012-2013, COM(2012) 600.

agenda at the heart of the political process and translate political agreements into concrete action.

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 (PIC SB) has set objectives and conditions to be met for the closure of the Office of the High Representative<sup>3</sup>.

Since the decoupling of the European Union Special Representative's (EUSR) mandate from the OHR, the EU has reinforced its role in the country in line with the relevant Council Conclusions<sup>4</sup>. The enhanced presence of the combined EUSR and the EU Delegation in Bosnia and Herzegovina has become instrumental in communicating EU priorities to citizens and in implementing the objectives of the EU agenda in key areas.

The High Level Dialogue on the Accession Process (HLDAP) was launched in Brussels in June with representatives of the authorities and political parties of Bosnia and Herzegovina. The purpose of the HLDAP is to start a process of explaining what EU accession requires both in political and technical terms. The need for an effective coordination mechanism between various levels of government for the transposition, implementation and enforcement of EU laws remains to be addressed as a matter of priority, so that the country can speak with one voice on EU matters and make an effective use of the EU's pre-accession assistance. The country's political representatives agreed to joint conclusions and a roadmap on EU integration to implement the conditionalities for the entry into force of the SAA and for a credible membership application, as defined by the relevant Council Conclusions. The first timeline of the June HLDAP Roadmap was not met: an agreed proposal, based on political consensus, amending the Constitution to ensure compliance with the European Convention on Human Rights (Sejdic-Finci case) remains to be submitted to the Parliamentary Assembly. (*See Chapter 2.1 – Constitution*)

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.

After 16 months of political stalemate following the October 2010 general elections, the process of establishing executive and legislative authorities was completed with the formation of a State-level Government in February. The establishment of the new Council of Ministers and the adoption in February of two key EU-related laws, the Law on State Aid and the Law on the Household and Population Census, initially brought new dynamism. In May, following the adoption of the 2012 State budget, disagreements between parties in the governing coalition emerged. This started a process of reshuffling at the State, Federation and cantonal

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<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 through an 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> Council Conclusions of March, October and December 2011 and of June 2012.

levels. Due to political disputes and ongoing legal challenges, the outcome of this reshuffle remains uncertain.

### **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 force since July 2008. Implementation of the IA remained uneven. The country is still in breach of the IA due to non-compliance with the European Convention on Human Rights (ECHR) and with its obligations on State aid. The State Aid Law has been adopted but the establishment of the State Aid Council, compliance with EU principles on public undertakings and the comprehensive inventory of aid schemes are still pending. Some recent measures introduced at Entity-level to protect the local market, remain to be addressed. The **Stabilisation and Association Agreement (SAA)** has been ratified by all EU Member States, but has not yet entered into force.

Within the framework of the Stabilisation and Association Process, Bosnia and Herzegovina continued to engage constructively with the EU on a Structured Dialogue on Justice, with plenary meetings held in November and July. The process was established with the aim of further consolidating the judicial system to ensure it is independent, effective, impartial and accountable, in line with the relevant EU standards and *acquis*. The HLDAP launched in June is another forum for engagement on requirements for the EU integration process.

An inter-parliamentary meeting between Members of the European Parliament and Members of the Bosnia and Herzegovina Parliamentary Assembly took place in December 2011. In May, the Western Balkans Working Group of the Committee of Regions held a meeting in Sarajevo.

The overall pace of reforms remained uneven. The EU provides guidance to the authorities on reform priorities. Progress on these priorities is encouraged and monitored by the bodies established by the IA. Six Interim Sub-Committee meetings and one Interim Committee meeting were held. Furthermore, 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 2012.

The single EU representation — EUSR/EU Delegation — continued to facilitate political dialogue and to apply a broad and balanced set of instruments to maximise the incentives provided by the EU. 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.

The mandate of the EU Police Mission (EUPM) focused on the fight against organised crime and corruption. The EUPM monitored and assessed implementation of police reform and accountability, and provided training over the last 10 years. The mission officially closed down on 30 June 2012. The EU remains committed to strengthening the rule of law in Bosnia and Herzegovina through other instruments, including the reinforced EUSR Office and the Instrument for Pre-accession Assistance (IPA).

The EUFOR Althea military operation contributed to maintaining a safe and secure environment in the country. In 2011, the UN Security Council extended EUFOR's mandate until November 2012. The Operation was reconfigured and reduced to 600 troops in theatre as of 1 September, focusing on capacity-building and training, while also retaining the means to contribute to the Bosnia and Herzegovina authorities' deterrence capacity. A reserve force outside the country will conduct regular in-country reconnaissance and training.

**Visa liberalisation** for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since December 2010. The Commission set up a post-visa-liberalisation

monitoring mechanism to assess whether the implementation of reforms introduced by the country was consistent with the visa roadmap and sustainable. This was complemented by an alert mechanism to prevent abuses. The Commission presented its second monitoring report to the European Parliament and the Council in December 2011 and adopted the third in August 2012. 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 39 out of 70<sup>5</sup> relevant EU declarations and Council decisions (56% 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. The country's authorities have made little progress on setting up the necessary structure for decentralised management of EU funds (DIS). The legal bases for the operating structure, the appointment of the necessary programme officers and the adoption of the roadmap for a decentralised implementation system have still not been agreed.

The implementation of the 2007-2009 national IPA programmes is ongoing. The Multiannual 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 2012 national programme<sup>6</sup> delayed the completion of the programming exercise in 2012. The difficulties encountered during the programming exercise demonstrate the need to urgently address the issue of coordination on EU matters 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.

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

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 dialogue, reinforcing local democracy, and tackling environmental and climate change issues.

As regards participation in **EU Programmes**, Bosnia and Herzegovina participates as a full member in the Seventh Framework Programme for research, technological development and demonstration activities (FP7) and in the COST and the EUREKA networks. The country became an associate member of the Culture 2007-2013 programme and joined the Europe for Citizens Programme. A single contact point is instrumental for enhanced participation by citizens across the country in the Culture and Europe for Citizens programmes. Coordination

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<sup>5</sup> The data refers to declarations issued by the High Representative for CFSP and Vice-President of the European Commission on behalf of the EU, as well as to Council Decisions on restrictive measures, between September 2011 and August 2012. Figures do not include alignment taking place in multilateral contexts.

<sup>6</sup> The IPA national allocation for 2012 is € 102.7 million. It includes the IPA 2012 national programme (€ 84.8 million) which will cover projects in a variety of areas, including support for the judiciary, transport, law enforcement, public administration reform, education, refugees and displaced persons, and demining.

mechanisms in view of establishing a single contact point endorsed by all stakeholders remain to be agreed.

## **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).

### **2.1. Democracy and the rule of law**

#### *Constitution*

The Dayton/Paris Peace Agreement (DPA) put an end to the 1992-1995 war and brought peace to Bosnia and Herzegovina. 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 continued to have a negative impact on structural reforms and the country's capacity to make progress towards the EU. As a matter of priority, the need for an effective coordination mechanism between various levels of government for the transposition, implementation and enforcement of EU laws remains to be addressed, to enable the country to speak with one voice on EU matters.

Some political representatives are questioning Bosnia and Herzegovina's capacity to function as a country and are calling for an Entity-level EU agenda separate from the Bosnia and Herzegovina state.

The Federation's Constitution entails costly and complex governance structures with certain overlapping competences between the Federation, the Cantons and the municipalities.

The Constitution of Bosnia and Herzegovina prevents citizens who do not declare themselves as 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. An Interim Joint Parliamentary Committee was set up in October 2011 and tasked with drafting amendments to the Constitution of Bosnia and Herzegovina and the Election Law to comply with the European Convention on Human Rights (ECHR) and the judgment of the European Court of Human Rights (ECtHR) regarding discrimination against citizens on the grounds of ethnicity. An internal Roadmap on EU integration aimed at meeting the conditions for the entry into force of the Stabilisation and Association Agreement (SAA) and for a credible membership application was agreed at the HLDAP. The first timeline (31 August) set in the Roadmap for submission of a joint proposal to comply with the European Court of Human Rights (ECtHR) decision in the Sejdic-Finci case, was not met. (*See Chapter 1.2 – Context*)

On the basis of the DPA, the international community continued to maintain a presence in Bosnia and Herzegovina. The High Representative used the Bonn Powers<sup>7</sup> to issue three Decisions. The first one lifted an earlier ban by the High Representative on an official removed in July 2005, which was preventing him from standing as candidate for elections and

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<sup>7</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'.



holding certain executive offices. The other two decisions repealed the High Representative's Decision of 10 July 2007 to seize the travel documents of individuals suspected of involvement in war crimes in and around Srebrenica.

With regard to meeting the outstanding objectives and conditions for the closure of the Office of the High Representative (OHR), a high-level political agreement was reached on the principles for distributing defence and state property in March. In September, the Constitutional Court adopted a decision regulating property distribution, but it remains to be implemented. Following the endorsement by the Peace Implementation Council Steering Board in May 2012, of the decision by the High Representative to close the office in Brcko by 31 August, the Brcko Supervisor suspended his mandate. The EU opened an office in Brcko to facilitate Brcko's adoption of reforms needed for advancement on the EU path. The EU also opened an office in Mostar and reinforced the office in Banja Luka.

*Overall*, there has been little progress in compliance with the ECtHR judgement in the Sejdic-Finci case and in establishing functional and sustainable institutions. Establishing an effective coordination mechanism between various levels of government for the transposition, implementation and enforcement of EU laws so that the country can speak with one voice on EU matters, remains an issue to be addressed

### *Parliament*

The Parliamentary Assembly of Bosnia and Herzegovina has made some progress in adopting EU-related legislation. The Parliamentary Assembly adopted 2 key EU related laws<sup>8</sup> and 20 sets of amendments to existing legislation and rejected 21 laws. Delays in forming the State-level Council of Ministers and the ongoing reshuffle, following disagreements within the governing coalition, have hampered the ability of the Parliamentary Assembly to legislate efficiently. Cooperation between the Council of Ministers and the Parliamentary Assembly remains insufficient.

The rules of procedure of the House of Peoples and the House of Representatives have not yet been amended to introduce a fast-track mechanism for EU legislation.

There has been some progress in the functioning of the Parliamentary Assembly. A reorganisation of the Secretariat of the Parliamentary Assembly has been adopted, setting up two new sectors in the Secretariat<sup>9</sup>. A general lack of political will continued to hamper the efficiency of the Parliamentary Assembly's work. Temporary financing of State-level institutions held back the strengthening of the Parliamentary Assembly's administrative capacity.

At Entity level, the overall functioning of the Parliamentary Assemblies has continued to be satisfactory, with the EU Integration Committees focusing more on IA/SAA-related obligations. However, the political reshuffle in the Federation hampered the functioning of its Parliamentary Assembly.

In the Federation, the Parliamentary Assembly organised a thematic session on EU integration. The functioning of the Parliamentary Assembly has been hampered by a lack of systematic coordination with other legislators in the Entity and by efforts to establish a new parliamentary majority. The work of the parliamentary committees was affected by frequent lack of quorum and inadequate premises.

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<sup>8</sup> The State Aid Law and the Law on the Household and Population Census.

<sup>9</sup> The Finance and Budget Sector and the Sector for other Parliamentary bodies– to provide administrative assistance to the Council of National Minorities, the Independent Board, the Citizens Complaints Board and the Independent Committee, and the Parliamentary Military Commissioner.

In Republika Srpska, the EU Integration Committee of the National Assembly cooperated with the government in assessing the level of compliance of proposed legislation. The appointment procedure of the Bosniak Vice-Chairman of the Council of Peoples was completed.

The two Entity Parliaments have continued to cooperate closely with their respective governments. Three joint meetings of the State-level and Entity Parliamentary Committees for European Integration took place.

*Overall*, the Parliamentary Assembly has made some progress in adopting EU-related legislation. Delays in setting up the State-level Council of Ministers and disagreements amongst the parties of the governing coalition hampered legislative activities. Cooperation between the Entity Parliaments, the State-level Parliamentary Assembly and the State-level Council of Ministers regarding EU-related matters needs to improve in order to ensure coordinated and harmonised alignment with EU legislation throughout the territory of Bosnia and Herzegovina.

#### *Government*

The new State-level Government took office in February. The tripartite Presidency of Bosnia and Herzegovina continued to meet regularly. The Presidency adopted its first eight-month work plan, which calls for the setting of strategic foreign policy priorities, one of which is to submit an application for EU membership. The formulation of foreign policy remained subject to different positions within the Presidency of Bosnia and Herzegovina on some key issues.

The leaders of six political parties<sup>10</sup> reached a political agreement in December on the formation of the State-level Council of Ministers, on the 2011 State-level budget and on laws related to EU integration. The delay in adopting the 2011 State budget delayed the disbursement of funds to cover outstanding obligations under foreign loans. The State budget for 2012 was adopted only in May and was followed by the break-up of the governing coalition. The temporary financing which remained in place until then did not enable adequate financing of the State-level institutions required for the EU accession process. This particularly affected the State Aid Council, the Agency for the Prevention and Fight Against Corruption, and the preparation of the household and population census. (*See Chapter 4.2.8 – Statistics*)

The Chairman of the Council of Ministers of Bosnia and Herzegovina was appointed in January and the appointments of the other members of the Council of Ministers were concluded in February. The Council of Ministers' Chairman has attached high priority to activities linked to EU integration. The Council of Ministers adopted the Action Plan for addressing the EU integration roadmap, the Action Plan for overcoming the implications of Croatia's EU membership, the 2012 Economic and Fiscal Programmes and the 2012-14 and 2013-2015 Global Fiscal Framework.

The State-level, Federation and Cantonal authorities began to be reshuffled in June due to diverging party interests within the governing coalition. The outcome of this process remains uncertain due to political disputes and on-going legal challenges.

As regards policy planning, the development strategy and the social inclusion strategy are in place in the Federation and in Brcko but need to be adopted at State level and in Republika Srpska. Overall, policy planning in Bosnia and Herzegovina remains hampered by the lack of up-to-date census data. Preparations for the census are hampered by organisational and

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<sup>10</sup> The SDP, SDA, SNSD, SDS, HDZ BiH and HDZ 1990.

financial constraints. The implementation of the Law on the Household and Population Census remains a priority.

Regarding coordination on EU matters, the Directorate for European Integration (DEI) strengthened its cooperation with State and Entity-level parliaments and governments. The Directorate's coordinating role on EU matters among all levels of authorities requires further reinforcement. The Directorate's capacity to assess compliance with the IA/SAA remains weak, notably because its mandate is limited to State level and does not include amendments introduced during the legislative process.

The Government of Republika Srpska often provided analysis and opinions on the level of approximation of draft legislation with the *acquis*. Its administrative capacity to monitor EU-related legislation remained satisfactory. There was little coordination and cooperation with the State-level Council of Ministers or the Federation Government on harmonising legislation with EU standards.

In the Federation, the formation of Cantonal governments was completed and the 2012 budget adopted in 9 out of the 10 Cantons. The Federation government strengthened coordination of EU-related matters across ministries by setting up a single coordinator's office and European integration units in all ministries. EU coordination with Cantonal governments was established through a unit for European integration in the Government's General Secretariat.

The Brcko District has developed a procedure for harmonising legislation with the *acquis*. The Office for European Integration remains understaffed due to a halt on public service recruitment.

Entity legislation is largely in line with the European Charter for Local Self-Government. The Cantons have not harmonised their legislation with the Federation Law on Principles on Local Self-Government. The 2010 Constitutional Court decision on the Mostar statute remains to be implemented. As a result, local elections will not be held in October in Mostar City.

*Overall*, little progress was made by Bosnia and Herzegovina in improving the functionality and efficiency of all levels of government, which continued to be affected by fragmented, uncoordinated policy-making. The delays in the formation of the Council of Ministers and political disagreements between parties in the governing coalition delayed progress on the EU agenda. The development strategy and the social inclusion strategy need to be adopted at State level and in Republika Srpska.

#### *Public administration*

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

The Public Administration Reform Coordinator's Office (PARCO) revised the 2006 Action Plan under the Public Administration Reform (PAR) Strategy, providing a framework for reforms over the next five years. The public administration reform process lacks the necessary political support. There has been little progress in strengthening administrative capacity for legal harmonisation and implementation of the *acquis*. The issue of financial sustainability of public administration at all levels needs to be addressed.

With regard to appointments to State-level bodies, the directors of the Indirect Taxation Authority (ITA), the State Investigation and Protection Agency (SIPA) and the State Veterinary Office have been appointed. The members of the Central Election Commission were re-appointed. Appointments to some key agencies are still awaited, in particular the Communications Regulatory Agency, the State Aid Council, and the electricity transmission company TRANSCO. These agencies still lack the necessary resources and political support to become fully operational in line with EU requirements.

The State-level Law on Civil Servants has been amended to allow the Civil Service Agency to handle civil servants' personal data and thus make use of the human resources management information system. There has been no improvement in recruitment procedures that would ensure the application of objective and merit-based criteria for appointments.

Civil service systems have been amended in different directions across the country. In the Federation, amendments to the Law on the Civil Service were adopted, aligning it with the FBiH Constitutional Court decisions and ensuring compliance with the Bologna Process on recognition of diplomas. Republika Srpska amended its Law on Civil Servants, clarifying conditions for appointments and setting retirement age for civil servants at 65. The Brcko District has prepared a set of amendments to the Law on Civil Servants. There has been very little coordination between the State level, the Entities and the Brcko District when preparing amendments to their legislation to ensure a more harmonised approach.

Following a decision by the Federation Constitutional Court, a framework law harmonising the Cantonal legislation was drafted. The adoption in two Cantons of separate laws on the civil service, which are not fully in line with the framework law, contributed to the fragmentation of the civil service system and the establishment of separate civil service agencies at Cantonal level.

The Ombudsman of Bosnia and Herzegovina has issued reports to the UN and the Parliamentary Assembly of Bosnia and Herzegovina on the status of human rights in the country and on the implementation of the anti-discrimination law. Several of the recommendations, e.g. regarding the judiciary, access to information and discrimination, have not been implemented due to weak enforcement capacity and a lack of political support. The reduction in funding had a negative impact on the functioning of the Ombudsman.

*Overall*, little progress was made in the area of public administration reform. The Action Plan under the PAR Strategy was revised, providing a framework for reforms over the next five years. The coordinating structures at Entity and Cantonal level remain insufficient. The cut in budgetary resources hampered the functioning of the Ombudsman. Fragmentation and politicisation continued to hamper the establishment of a professional, accountable, transparent and efficient civil service based on merit and competence.

#### *Judicial system*

Limited progress has been achieved in the area of judicial system reform. The Structured Dialogue on Justice has had a positive effect on the implementation of the Justice Sector Reform Strategy (JSRS) 2009-2013. Increased political support resulted in better coordinated planning among stakeholders and the allocation of more adequate human and financial resources.

The High Judicial and Prosecutorial Council of BiH (HJPC) completed a review of its own Law. Draft amendments provide for a restructuring of the HJPC into sub-councils of judges and prosecutors, new procedures for recruitment and judicial review of appointments, in accordance with European standards of independence and professionalism.

A new Law on the Courts of Republika Srpska entered into force in May, not yet harmonised with the Law on the HJPC. Solutions regarding prerogatives of the Court of BiH and the coordination between this and other instances throughout the country, including the harmonisation of court practice in criminal matters, continued to be explored in line with recommendations of the Structured Dialogue. A debate on the matter was coordinated by the HJPC.

Some shortcomings persist in relation to *independence and impartiality*. Political attacks on the State-level judiciary continued and the independence of the judicial system is not yet

ensured. Draft laws repealing the Law on the Courts of BiH and the Law on the Prosecutor's Office of BiH were submitted to the Bosnia and Herzegovina Parliamentary Assembly in February, contrary to the spirit of cooperation agreed in the Structured Dialogue on Justice. By May, the adoption procedure for both laws had been halted.

Independence is also affected by budgetary fragmentation. The issue of streamlining budgetary competences is being discussed by the Federation, the judicial professional community and the relevant authorities. In 2011, the total financial resources allocated to the judiciary in Bosnia and Herzegovina was € 100 million, which represented approximately 0,79% of the country's GDP. The management of cases, particularly their transfer for issues of capacity and lack of human resources in the Federation, has sometimes threatened the principle of the 'natural judge'.

As regards *accountability*, the Office of the Disciplinary Council has performed well reducing the number of unresolved cases and increasing the number of disciplinary actions. The disciplinary case involving the former Chief Prosecutor of BiH was concluded in May 2012 with a plea agreement. Vacant positions of the three judges within the FBiH Constitutional Court have still not been filled after more than three years.

As regards *efficiency*, there has been some progress in addressing the backlog of cases. The HJPC adopted a new 'Rulebook on time measurements for the work of judges, judicial associates and other employees in BiH Courts' which is a significant improvement on the previous one. The results of implementing the backlog reduction plan for older cases have been positive. The majority of unresolved cases (53% of the total) still pertain to unpaid utility bills. The HJPC has taken measures to reduce the number of new cases.

Further progress has been made in developing the information and communication system across the judiciary with the expansion of the case management system (CMS) in courts and prosecutors' offices throughout the country. CMS is increasingly used for statistical analysis and strategic policy by court presidents. Parties to proceedings can access case information online, which facilitates efficiency and transparency and prevents the loss of documentation. The Care of Court Users Strategy is in use throughout the country. All courts and prosecutors' offices have their own website. The Judicial Documentation Centre ensures online availability of a considerably high number of court decisions.

Whilst a comprehensive assessment of the infrastructure investment needs of courts and prosecutors' offices across the country has been completed, the physical conditions of several courts at State and Entity levels have improved. Due to budgetary constraints, many of the positions identified in the HJPC decisions on regular and reserve judges have not been filled.

In consultation with the HJPC, the Tuzla Canton is planning to reopen two municipal courts in December, in line with the FBiH Law on the Courts. The new Law on the Courts adopted by Republika Srpska in December 2011 included the opening of eight new basic courts, pending the approval of the necessary financial means.

Moderate, but steady progress has been made in processing the large backlog of unresolved *war crimes cases*. Implementation of the National War Crimes Strategy accelerated with a significant increase of the transfers of war crimes cases from the State level to the Entities and the Brcko District, with 127 cases transferred in the first six months of 2012. Good progress was made, with enhanced cooperation between the courts and prosecutor's office of Bosnia and Herzegovina, on the final settlement of jurisdiction based on objective criteria.

The processing of war crimes cases by the Court of Bosnia and Herzegovina has continued to be satisfactory. Following the increasing number of war crimes cases transferred from State level to other instances, additional human resources and facilities are needed in the Cantonal

and District courts. The lack of sufficient investigative capacity, as well as human and financial resources at all levels, remain issues to be urgently addressed.

Diverging practices regarding the applicability of different criminal codes between courts at different levels continued to be an issue. With two cases, now merged, pending before the European Court of Human Rights, the application of different criminal codes continued to result in uneven sentencing. Increased coordination between the competent instances throughout the judiciary of Bosnia and Herzegovina is necessary.

The level of prosecution of war crimes cases involving sexual violence remains low, particularly in the Entities and the Brcko District. Efforts to investigate and prosecute these crimes and to protect victims and witnesses need to be stepped up. A comprehensive approach to improving the status of victims of rape and sexual violence remains outstanding. The adoption of a State-level programme for improving the status of victims of war crimes involving sexual violence is pending.

Witness protection and support services are unevenly put in place, though there is some improvement connected to the process of referral of war crimes cases from the State to other levels. The current legal framework remains inadequate and fragmented and varies greatly between District and Cantonal courts and prosecutors' offices.

*Overall*, there was limited progress in the area of *judicial system* reform. A constructive attitude to the need for a comprehensive reform of the judiciary emerged in the Structured Dialogue on Justice, based on domestic ownership, including in the implementation of the Justice Sector Reform Strategy and of the National War Crimes Strategy. Further measures were introduced to reduce the backlog of cases, particularly of utility bill cases, but the overall backlog remains very high. Lack of investigative capacities and appropriate resources is affecting the reduction of the war crime cases backlog. The need to harmonise the application of criminal laws throughout the country and the fragmentation of organisation and budgets remain issues to be addressed. Political attacks continued to affect the independence of the judiciary.

#### *Anti-corruption policy*

Bosnia and Herzegovina has made limited progress in addressing corruption, which continues to remain widespread in the public sector and the public-private interface. The legal framework is largely in place but sanctions need to be harmonised across the country. Corruption continues to affect all spheres of life, economic development and the rule of law.

The implementation of the anticorruption strategy and action plan 2009-2014 has been delayed. The rulebook regulating the organisation and structure of the Agency for the prevention of corruption and coordination of the fight against corruption was adopted in July. However, the agency is not yet fully operational. Anti-corruption strategies are in place in the two Entities and the Brcko District. Three bodies were set up with mandates to prevent corruption and to develop and implement anti-corruption strategies.

The Law on Conflicts of Interest is in place. Amendments governing public officials' participation in company boards were introduced. The harmonisation of conflict of interest legislation across the country is pending. In addition, judicial review of decisions on conflicts of interest is not equally guaranteed at all levels of authority.

Control of political party financing remains weak. Registration of political parties has not been harmonised across the country. Infringements of party financing rules are not effectively prosecuted. The Central Election Commission continues to report asset declarations, but the origin of assets cannot be checked as long as the anti-corruption agency is not operational.

The competent prosecutor rarely acts upon false declarations, and the misuse of residence registration for the purpose of drafting electoral lists continues to be a serious problem.

Insufficient implementation of legislation and coordination problems between Entities continue to cause concern. Measures are still required to implement the outstanding recommendations made in the third evaluation report of the Group of States against Corruption (GRECO).

The level of effectiveness of investigation, prosecution and conviction of corruption cases remained low. Both criminal law sanctions and prosecution capacity are weak and ineffective. Proactive investigation into abuse of authority in the public sector is at an early stage. Very few high-level corruption cases involving public officials are pursued. Further specialisation of prosecutors and improved coordination with the police is needed. The level of judicial follow-up to corruption cases remained low. Only a limited number of high-level cases led to prosecution. Nepotism continues to hamper professional performance throughout the public sector at all levels of authority. Access to information remains uneven. Whistleblower protection is not in place.

Corruption in public procurement is widespread and a matter of concern. Areas of special risk of corruption are the issuing of permits and public services such as public health and education.

*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. A legal framework is in place but the political will to tackle the issue and to improve institutional capacity remains weak. The implementation of the strategy and action plan needs to be stepped up. Sustained efforts are needed to establish a convincing track record of proactive investigation, prosecution and conviction of high level corruption cases.

## **2.2. Human rights and the protection of minorities**

### *Observance of international human rights law*

As regards **international human rights instruments**, Bosnia and Herzegovina has ratified all major UN and international human rights conventions. The principles of the European Convention on Human Rights (ECHR) are entrenched in the Constitution of Bosnia and Herzegovina, which also guarantees the supremacy of this Convention over national legislation.

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 judgments on 39 applications finding that Bosnia and Herzegovina had violated rights guaranteed by the European Convention of Human Rights. A total of 423 new applications have been submitted to the ECtHR since September 2011, bringing the total of pending applications to 1433.

Little progress has been made in the **promotion and enforcement of human rights**. The enforcement of the outstanding decisions of the Human Rights Chamber (HRCh) and the Human Rights Commission (HRCCom), which is now the competence of the Constitutional Court of Bosnia and Herzegovina, remains to be addressed.<sup>11</sup>

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<sup>11</sup> The Human Rights Chamber was established under Annex 6 to the Dayton/Paris Peace Agreement as a judicial body dealing with complaints about human rights violations in relation to the ECHR. The mandate of the HRCh expired in 2003, without its having resolved all the cases it received. In order to resolve the outstanding cases, the HRCCom was created within the Constitutional Court of Bosnia and

*Overall*, the legal and institutional framework for the observance of human rights is in place and the main elements of international human rights laws have been incorporated into the legal system. The implementation of human rights standards remains uneven and delays in reporting obligations have continued. It remains essential to implement the ECtHR judgement in the Sejdic-Finci case in order to comply with the ECHR (*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. Although there is a moratorium, the death penalty provision in the Constitution of Republika Srpska remains in place. A package of constitutional changes, including this amendment, was adopted by the Republika Srpska National Assembly in 2009 but adoption was subsequently blocked during the legislative procedure. The relevant Article 11(2) of the Constitution of Republika Srpska has to be repealed in line with key principles of the EU human rights policy.

With regard to the **prevention of torture and ill-treatment** and the fight against impunity, the legal framework is in place and is generally respected. Measures against ill-treatment by police officers, need to be addressed<sup>12</sup>. The appointment of Bosnia and Herzegovina's representative to the CPT is still pending.

Some progress was made regarding the **prison system**. The Republika Srpska amended the Law on the Execution of Criminal Sanctions to harmonise it with the State-level law. A new draft Law on the Execution of Criminal Sanctions remains to be adopted by the Federation.

Prison conditions have improved. The female ward of Istocno prison was expanded. Some progress has been made to reduce inter-prisoner violence, particularly in Zenica prison. Some cases of ill-treatment have been reported. Procedures for investigating cases of alleged ill-treatment have improved, particularly in Zenica and Dobojski prisons. Some progress was made regarding the use of alternative sanctions. Overcrowding in the country's prisons is an issue to be further addressed. The construction of a high-security State prison 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. While a new psychiatric facility has been built in Sokolac, it is not yet operational. Prison inspections need to be reinforced. Bosnia and Herzegovina still lacks an effective coordination mechanism among the 15 prison administrations in the country.

Some progress was made in the area of **access to justice** in civil and administrative trials. A web-based free legal aid providers' network including governmental and non-governmental organisations was set up. Additional free legal aid agencies have been established. The system of free legal aid in Bosnia and Herzegovina remains fragmented and unregulated in some Cantons of the Federation. The adoption of a State-level Law on Free Legal Aid is still pending. Free legal aid in civil cases continues to be mainly provided by privately funded NGOs. Free legal aid for administrative cases remains problematic.

The Constitution of Bosnia and Herzegovina provides for **freedom of expression**. Intimidation and threats against journalists and editors have continued. Political pressure on the media and the polarisation of the media along political and ethnic lines remain of concern.

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Herzegovina. HRCOM's mandate expired in 2006. The Constitutional Court of Bosnia and Herzegovina became the body that is competent to review implementation of these cases in 2010.

<sup>12</sup> Ill treatment of suspects by police officers some police stations are also reported by the Council of Europe Committee on the Prevention of Torture (CPT)-Report to the Government of Bosnia and Herzegovina- 26 April 2012.



Attempts to undermine the independence of the Communication Regulatory Agency (CRA) have increased. The current Law on Communication provides legal safeguards to ensure independence of the CRA and of its management. However, an amendment to the Law on Communications tasking an ad hoc Committee of the Parliament to appoint the CRA Council was submitted in June. The appointments of the CRA Director-General and of the Council Members are still pending. In July, the Federation Parliament attempted to appoint a provisional steering board for the FBiH public service broadcaster. This is not in line with the appointment procedure set out in the Law on RTV FBiH and raises concerns about political interference with the independence of the media.

The Press Council has continued to work closely with judicial institutions and journalists' associations to improve the quality of reporting and raise awareness among citizens of their legal rights. It has contributed to enforcing professional standards and to improving the quality of the media by involving citizens in providing feedback on media practices. Few efforts have been made to improve the implementation of the Freedom of Information Act. Compliance with recommendations by the Ombudsman of Bosnia and Herzegovina remained limited.

**Freedom of assembly and freedom of association** are broadly respected. Cases of intimidation and violence against human rights advocates continued.

An institutional mechanism for cooperation with civil society has been established in the two Entities but is not fully operational yet. It is in place in the Brcko District but has yet to be established at State level. A National Civil Society Development Strategy is under preparation. A process for consulting civil society during the legislative drafting process is in place but has not been fully enforced. The lack of transparency in the allocation of funds for civil society organisations remains to be addressed, particularly in the areas of human rights and the environment.

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 continued and in particular affected those who constitute a religious minority in certain communities. An international Meeting for Peace involving the main inter-religious leaders took place in Sarajevo in September.

*Overall*, civil and political rights in Bosnia and Herzegovina are broadly respected. Further progress has been made in improving prison conditions but comprehensive reform of the prison system remains outstanding. Some progress took place as regards access to justice but the legal and institutional framework in the country remains fragmented. Intimidation and threats against journalists and editors have continued. Political pressure on the media and the polarisation of the media along political and ethnic lines remain of concern. Attempts to undermine the independence of the CRA and appointments affecting public service broadcasters are of concern. The development of civil society requires further support. Transparency in the allocation of funds for civil society organisations needs to be enhanced.

#### *Economic and social rights*

Legal provisions guarantee **women's rights and gender equality** are in place. The implementation of the Action Plan on UN Security Council Resolution 1325 regarding Women, Peace and Security continued but awareness and financial resources for its implementation need to be strengthened. Political participation by women remains low. The 40% quota for women within the public administration, as stipulated by the Gender Equality Law, has not been reached. Women continue to face unequal access to the labour market and the level of female participation in the workforce remains low.

Limited progress was made to harmonise Entity and Cantonal laws with the State-level Law on Gender Equality. Institutional mechanisms for ensuring gender equality continue to face resource constraints. The availability of statistical data on gender equality remains insufficient. Discrimination in employment with regard to maternity rights remains widespread.

Some progress was made in combating violence against women. In Republika Srpska, the implementation of the Strategy Against Domestic Violence continued and police training was launched. In the Federation the Law on Domestic Violence remains to be amended to enhance victim protection. The implementation of the State-level strategy remains weak. Financing of shelters for victims is not sufficient.

Some progress has been made in the area of **children's rights**. An Early Childhood Development Policy was adopted at State level and is in place in both Entities. Some progress was made in strengthening systems of social inclusion and protection. Child allowances vary between Entities and Cantons and are not based on needs. A State-level Action Plan for Children for 2010-2014 is in place but its implementation remained uneven. A universal birth registration system has not yet been established. The percentage of children immunised against preventable diseases remains low.

Some progress was made in promoting alternative care but institutionalisation remains the primary response. A revised State-level Strategy to Combat Violence against Children remains to be adopted. Domestic violence against children, trafficking and organised child begging remain issues to be addressed.

Limited progress was made in the area of juvenile justice, particularly in terms of social protection. Implementation of the relevant national strategy, which is to be revised, remained uneven. The enforcement of the Juvenile Justice Law in Republika Srpska has progressed slowly. In the Federation, the adoption of the Juvenile Justice Law is pending. A Juvenile Justice Law was adopted by the Brcko District in November. The Brcko District and Republika Srpska laws are not fully harmonised.

Limited progress was made in the field of education. The Conference of Ministers of Education in Bosnia and Herzegovina, which was established to improve coordination among the 14 ministers of education, resumed its activities in March but without adopting conclusions. An efficient coordination mechanism on education between Cantonal governments in the Federation remains to be established. Little progress was achieved in making schools more inclusive. The number of Cantons applying the Index for Inclusion has further increased. Only limited efforts have been made to reduce the number of divided schools ('2 schools under 1 roof'). In some Cantons of the Federation, children continue to be separated along ethnic lines within schools, while mono-ethnic schools continue to be present throughout the country. De facto ethnic-based separation and discrimination in some public schools in the Federation remain a serious concern. Following a complaint by civil society, a judgement by the Mostar Court against school segregation and the issue of '2 schools under 1 roof' was raised and this ruling was appealed.<sup>13</sup>

Little progress was made in improving conditions for the **socially vulnerable and/or people with disabilities**. The Council of Disabled Persons began its work and set up mechanisms for implementing the Convention on the Rights of Persons with Disabilities. In Republika Srpska, a Law on Social Protection entered into force. In the Federation, a Law on Payment of outstanding benefits was adopted. However, the implementation of the entities strategies

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<sup>13</sup> The Mostar Court judgement ruled in May that two schools in Herzegovina-Neretva Canton breached the Anti-discrimination Law by dividing children based on their ethnicity. The ruling obliges the defendants to take specific measures and actions to end discrimination by 1 September 2012.

remained weak. Entitlement to rights and benefits for disabled persons is not based on needs but on status. As a result, certain categories of persons with disabilities do not receive adequate financial benefits. No significant steps have been taken to harmonise the social protection systems of the Entities and Cantons.

With regard to **anti-discrimination policies**, an anti-discrimination law is in place but it does not include age and disability as categories for discrimination and allows for a broad range of exceptions. Only limited steps have been taken to ensure its effective implementation. This is partly due to the lack of resources of the Ombudsman of Bosnia and Herzegovina, which has a central role in implementing the law. Public awareness of the legal remedies provided by the law remains weak and the number of discrimination cases brought by citizens remains low. There is still no State-level database of discrimination cases.

Discrimination against lesbian, gay, bisexual and transgender (LGBT) persons remains widespread. LGBT activists continue to be subjected to threats and harassment. Hate speech and intolerance towards LGBT persons by media and politicians remain an issue of concern.

With regard to **labour and trade unions rights**, little progress was made. The fragmentation of the legal framework for social benefits and pension rights remains to be addressed. No significant steps have been taken to establish a State-level Economic and Social Council. There are no criteria or legal framework for the recognition of social partners at State level.

As regards **property rights**, the vast majority of cases of property repossession requests have been resolved. The work of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) on the remaining requests has not resumed since its mandate expired in 2009. As a result there are still over 110 unresolved cases and approximately 300 cases pending before the Court of Bosnia and Herzegovina in which the CRPC is a respondent party in administrative dispute procedures. There is still no reliable database on outstanding claims and property registers.

*Overall*, economic and social rights are broadly respected. Some progress has been made on combating violence against women and in the area of early childhood development albeit unevenly. Little progress was achieved on making schools more inclusive. Ethnically based and divided education systems remain an obstacle to achieving inclusiveness in education and to sustainable returns. The implementation of the anti-discrimination law remains to be stepped up. Discrimination against LGBT persons remains widespread. The existing discrimination in the social protection system for persons with disabilities is an issue to be addressed. Labour rights and social dialogue require further strengthening.

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

The legal framework for the protection of **minorities**<sup>14</sup> is largely in place, but implementation remains uneven. The National Minority Councils' influence over policy-making remained limited, partly due to the lack of political and financial support. The appointment of the members of the State-level National Minority Council is still pending. Some progress was achieved in the Federation with the adoption of the Law on National Minorities and appointment of Minority Council members in one Canton with large minority populations. The cultural rights of national minorities, including participation in public life, need to be strengthened.

As the Constitution has not been amended to comply with the ECtHR ruling, minorities continue to be excluded from representation in the State-level House of Peoples and the

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<sup>14</sup> According to the Law on the protection of the 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.

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 needs to be strengthened. Bosnia and Herzegovina has not yet appointed representatives to the Council of Europe Advisory Committee under the Framework Convention for Protection of National Minorities.

Limited progress was made as regards the **Roma** minority, who still live in very vulnerable conditions. Legislation on registry books harmonising civil registration in the whole country was adopted by both Entities. Bosnia and Herzegovina is participating in the Roma Decade of Inclusion. Four action plans under the Roma Strategy are in place. While some progress was made with regard to housing, only limited steps have been taken on health, employment and education. The process of revision of the actions plans on housing, employment and health to better reflect the needs of the Roma population, in line with the recommendations of the Roma Inclusion Seminar of July 2011, has been launched. Implementation, in particular proper budget allocation, remains to be thoroughly assessed.

The financial resources for the implementation of the action plans need to be increased and coordination among authorities at all levels strengthened. Participation by Roma representatives in the decision-making process remains very low. Very little progress has been made on improving the situation of Roma women and children who continue to suffer from discrimination and domestic violence. A large number of Roma children are not registered at birth and therefore cannot attend school and have no health insurance. Organised child begging remains an issue of concern. A number of Roma remain at risk of statelessness.

As regards **refugees and internally displaced persons**, at the end of 2011 there were approximately 113,000 internally displaced persons in Bosnia and Herzegovina, including approximately 8,000 residing in collective centres, and 7,000 refugees. Some steps were taken to implement the revised Strategy for the Implementation of Annex 7 to the Dayton/Paris Peace Agreement, primarily as regards housing and the future closure of a number of collective centres. Little effort has been made to address access to other rights such as social protection, education and employment. Discrimination with regard to access to employment, healthcare and pension rights continued. Transparent procedures for allocating funds to support return based on need have yet to be established. The country still lacks a coordinated policy mechanism to address legislative gaps hampering sustainable return and local integration.

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 September 2012, seven persons were killed in landmine accidents. The Law on anti-mines actions has yet to be adopted. In order to meet the goal of clearing the country of mines by 2019, fundraising responsibilities, administrative and management capacity and coordination of demining measures remain issues to be addressed.

*Overall*, respect for and protection of minorities are broadly ensured. Some progress, albeit uneven, was made on implementing the Roma action plans. The Roma continue to be the most vulnerable minority in Bosnia and Herzegovina. As regards refugees and internally displaced persons, some progress was made on implementing the revised strategy for the implementation of Annex 7 to the Dayton/Paris Peace Agreement, primarily as regards housing and collective centres. Difficulties with access to pension rights, health care and social protection for returnees and internally displaced persons remain a significant obstacle for sustainable return and local integration.

### 2.3. Regional issues and international obligations

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 not yet appointed the chair of its delegation to the CoE Parliamentary Assembly. Bosnia and Herzegovina has yet to appoint its representatives to the CoE advisory bodies. Implementation of the requirements stemming from the CoE Conventions remains insufficient.

Implementation of the **Dayton/Paris Peace Agreement** continued. In the framework of the Special Parallel Relations Agreement between the Republika Srpska and Serbia, a joint session took place in Belgrade in December, leading to the signing of four agreements on internal affairs, IT, the environment and agriculture.

Cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)** is generally satisfactory in most areas. The re-arrest in January 2012 of Radovan Stankovic, who was tried and sentenced in Bosnia and Herzegovina under ICTY Rule 11bis<sup>15</sup>, represents a significant step forward. Courts and Prosecutors offices across the country have continued to process war crimes cases, but are still behind the schedule set out in the war crimes strategy. Good progress has been achieved with the increased number of war crimes cases transferred from the State level to the Entities and the Brcko District. The provision of adequate resources is needed to secure timely and effective completion of the cases.

Cooperation between the Courts and the Prosecutors' offices from Bosnia and Herzegovina, Croatia and Serbia is ongoing. Extradition agreements with Montenegro, the former Yugoslav Republic of Macedonia, Croatia and Serbia have been initialled in July. The scope of these bilateral agreements does not include war crimes cases. The Protocol on sharing information and evidence in war crimes cases between the Prosecutors' offices of Bosnia and Herzegovina and Serbia has yet to be signed. This would represent a significant step forward in terms of regional cooperation and the fight against impunity.

Bosnia and Herzegovina still maintains a 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.

Significant progress has been made as regards the **Sarajevo Declaration Process**, which brings together Bosnia and Herzegovina, Croatia, Montenegro and Serbia and aims at finding sustainable solutions for the refugees who were displaced as a result of the armed conflicts in ex-Yugoslavia during the 1990s. The four countries signed a ministerial declaration in November 2011 in Belgrade, renewing their political commitment to bringing this chapter to a close. They agreed on a Regional Housing Programme assisting some 27,000 households or 74,000 individuals. The programme was presented for international donor support at the Sarajevo April 2012 donors' conference, which resulted in some € 265 million being pledged. Programme implementation is at an early stage. Good cooperation needs to continue between the four countries on all outstanding issues in the process, including data exchange and statistics, civil documentation and pension rights.

The unresolved fate of **missing persons** from the conflicts in the 90s remains a humanitarian concern in the Western Balkans. As of August 2012, there were still approximately 13,250 people missing from the conflicts in the region. Of these, some 9,550 were related to the conflict in Bosnia and Herzegovina, approximately 1,900 to the conflict in Croatia and over

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<sup>15</sup> Cases transferred by the ICTY for local prosecution.

1,800 to the conflict in Kosovo\*. In the past year approximately 1,100 remains were identified at regional level. The State Prosecutor's Office took over responsibility from local prosecutors for conducting exhumations of mass graves in January 2011, but it has not been provided with the necessary resources to perform this additional task. Full implementation of the Law on Missing Persons needs to be ensured, especially as regards families' access to economic and social benefits. The verification of the data in the database of the Central Records on Missing Persons is ongoing. The State-level Missing Persons Institute (MPI) was provided with adequate funds but political pressure and attempts to undermine the MPI's work have continued. The existence of unidentified grave sites continues to pose a challenge for the identification of missing persons in the country. Renewed political support for the issue of missing persons is needed.

**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 has continued its active involvement in regional initiatives, including the South East European Cooperation Process (SEEC), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty and the European Common Aviation Area Agreement. Bosnia and Herzegovina took over the Presidency of the Migration, Asylum and Refugees Regional Initiative (MARRI) in April 2012. 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. In February, the second trilateral meeting between the Presidents of Bosnia and Herzegovina, Croatia and Serbia took place in Jahorina and focused on cooperation in the fight against organised crime and cross-border cooperation projects in infrastructure, the environment and sport events.

Relations with *Albania* remained good. Bosnia and Herzegovina ratified the Memorandum on settling Albania's debt related to goods exchange with the former Yugoslavia.

Relations with *Croatia* have intensified. Bosnia and Herzegovina has ratified a dual citizenship agreement with Croatia in October. A number of meetings have taken place to address the implications for bilateral relations of Croatia's accession to the EU. In this context, discussions have continued with regard to the outstanding issues on border management, with limited progress. The agreement on free transit through the port of Ploče, in Croatia, and the Neum corridor, in Bosnia and Herzegovina, as well as the local border traffic agreement should be aligned with the EU *acquis*. Limited progress was achieved in resolving outstanding issues, including property issues and border demarcation.

Relations with *the former Yugoslav Republic of Macedonia* continued to be good. Several agreements on judicial cooperation and on cooperation in the areas of health and of education were signed.

Relations with *Montenegro* remained good. Agreements were signed and/or ratified in various fields of cooperation, including international transport mutual protection of classified information, legal aid and enforcement of court decisions. A dual citizenship agreement was concluded in June. Border demarcation remains pending.

Relations with *Serbia* remained good. Agreements on veterinary cooperation, police cooperation, tourism, employment, security and communications were ratified. The Minister of Foreign Affairs of Bosnia and Herzegovina visited Belgrade in March 2012. The Speaker

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

of the Serbian Parliament paid a visit to Bosnia and Herzegovina in December and President Tadic visited Republika Srpska on several occasions. In September, Prime Minister Dacic paid an official visit to Bosnia and Herzegovina. Border demarcation remains an open issue.

There are no official relations with *Kosovo*, as Bosnia and Herzegovina has not recognised Kosovo as an independent state. Steps have been taken by the Council of Ministers to set up procedures for citizens of Kosovo to obtain visas comparable to those issued by EU Member States which do not recognise Kosovo. The Ministry of Foreign Affairs of Bosnia and Herzegovina is now authorised to issue visas to the citizens from Kosovo and assess individual visa requests.

Relations with *Turkey* intensified. A readmission agreement was signed. The Protocol on the origin of goods of the bilateral Free Trade Agreement entered into force. A number of Presidential and ministerial-level visits have taken place. The Collegium of Bosnia and Herzegovina's House of Representatives has met with the President of the Turkish parliament and agreed to intensify economic cooperation and ratify agreements on the removal of double taxation for Turkish investment in the country.

*Overall*, Bosnia and Herzegovina's cooperation with the ICTY has continued to be largely satisfactory and a number of important steps have been taken to process war crimes. Significant progress was made with regard to the Sarajevo Process on refugees and internally displaced persons. Efforts to find the missing persons from the 1992-1995 conflict continued. The country has continued to participate actively in regional cooperation and to maintain good neighbourly relations. The remaining border and property issues need to be addressed and legal obstacles to extradition with neighbouring countries removed.

### **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*

The long-lasting political stalemate following the October 2010 general election had a negative impact on the country's economic and fiscal policy. The delays in adoption of the 2011 and 2012 State-level budgets and of the Global Frameworks for Fiscal Policies for the periods 2012-2014 and 2013-2015 increased the uncertainty over the short- and medium-term fiscal path. Despite the steps taken by the new central government as of February 2012, the consensus between the authorities at different government levels on the economic policy essentials has weakened. The Stand-By Arrangement (SBA) negotiated with the International Monetary Fund (IMF) in 2009 has, de facto, been non-functional since October 2010, when the last programme review was completed. The country was able to withdraw only about 1/3 of the funds before the SBA expiration. In September 2012, the IMF Board approved a new two-year SBA aimed at supporting the country's efforts to counter the effects of the worsening external environment and tackle external and domestic vulnerabilities. The budgetary support planned by the World Bank has been delayed mainly due to the lack of tangible outcomes of legislative reforms in the area of cash transfers. In March 2012 the authorities submitted – after a significant delay – their sixth Economic and Fiscal Programme, covering the period 2012-2014. In the absence of a medium-term fiscal framework at country

level, the programme remains fragmented and does not present a coherent formulation of economic and fiscal policies. *Overall*, the consensus on economic and fiscal policy essentials has weakened and hampered progress in reforms at country level.

#### *Macroeconomic stability*

In 2011, the economic recovery continued with real GDP growth accelerating slightly to 1.3%, as compared to 0.7% a year earlier. Domestic demand revived, supported by a relatively stable inflow of remittances and slightly accelerating credit growth. Both private consumption and private-sector investment registered positive growth rates after the decline in 2009-2010. After being the main contributor to the expansion of the economy in 2010, external demand weakened in the second half of 2011 and export growth moderated significantly. At the same time, import growth accelerated – spurred by the recovering domestic demand –, thus resulting in a negative contribution of net exports to growth. Industrial production rose by 5.6% in 2011, up from 1.6% in the previous year, driven by export-oriented industries. However, the indicators available for 2012 suggest that the economic recovery stalled, negatively affected by the worsened external environment. Industrial production fell by 6.5% year on year in the first seven months of the year, while exports of goods dropped by 4.3%. Per capita income, measured in purchasing power standards (PPS), decreased to 29% of the EU average in 2011 from 30% in 2010. *Overall*, economic recovery gained some momentum in 2011 but this positive trend was reversed in early 2012.

After a crisis-led adjustment in 2009-2010, the current account deficit soared from 5.7% of GDP in 2010 to 8.8% in 2011. This deterioration was mainly driven by the expansion of the trade deficit, surging by 12.3% year on year to 27.9% of GDP. Export growth almost halved to 15.6%, while the recovery of domestic demand triggered an acceleration of the growth of imports to 14%. Surpluses in the services and income accounts decreased by 4.1% and 22%, respectively, thus also contributing to the higher current account deficit. At the same time, the net current transfers – covering almost half of the trade deficit – grew only slightly by 2.5%, thus only partially offsetting the negative developments in the goods, services and income balances. In the first quarter of 2012, the current account deficit widened further by 64.6% year on year due to faster expansion of the trade gap. Exports fell by 9.6% year on year, negatively affected by the economic downturn in the EU, while the imports still grew, even though at a significantly reduced rate. The current account deficit was financed mainly by external borrowing and, to a lesser extent, by foreign direct investment (FDI). The stock of official foreign exchange reserves decreased by 0.5% in 2011 and fell further by 4.1% year on year in the first seven months of 2012, though still covering around five months of imports. Bosnia and Herzegovina's external public debt increased by 5.9% to 26.1% of GDP in 2011, while external private debt reached 33.1% of GDP. In the first half of 2012, the external public debt rose further by 5.1% year on year. Public international creditors account for 90% of the country's external public debt. The largest creditor remains the World Bank group. A large part of the debt is contracted on concessional terms with the average interest rate of all debt being at only 1.6%. *Overall*, external imbalances have widened again after the sharp crisis-led contraction in 2009-2010, thus indicating that the adjustment was just temporary and not structural.

Labour market conditions remained weak. The average unemployment rate reached 27.6% in 2011, as compared with 27.2% a year ago. Employment fell by 1.6% in 2011 and went further down in the first six months of 2012. The highest decline in employment was registered in construction, agriculture and manufacturing, whereas some employment growth was witnessed in real estate, mining and quarrying and financial intermediation. The number of employees in the public administration continued to rise throughout 2011 and the first half of



2012, thus further increasing the size of the already large public sector. The Labour Force Survey (LFS), conducted annually in April/May following the International Labour Organisation (ILO) methodology, showed an increase in the unemployment rate to 28% in 2012 from 27.6% a year earlier. Unemployment was particularly high among the young population (63.1% for people aged between 15 and 24, according to the LFS). The officially registered unemployment rate climbed up to 43.8% in June 2012, compared with 43.1% a year before. The very high unemployment rate and the sizeable difference between the registered and survey-based labour figures point to the existence of a fairly large informal labour market and significant structural rigidities, such as the high rates of social security contributions and poorly targeted social transfers. Average monthly nominal gross wages increased by 4.4% in 2011, but wage growth has been moderating since the beginning of 2012. Adjusted for inflation, the average gross wage rose marginally, by 0.7%, in 2011 before the trend turned negative, at -1.6%, in June 2012. *Overall*, labour market conditions have remained weak. Unemployment is very high and structural rigidities continue to hamper job creation.

Average annual inflation reached 3.7% in 2011, compared to 2.1% in 2010. The highest increases were registered in transport and food prices, reflecting international price developments. The rising overall price level in 2011 was also driven by an increase in excise duties on tobacco and alcohol. Inflation moderated in the first seven months of 2012, dropping to 1.4% in July, pushing the 12-month moving average inflation rate down to 2.8%. The growth of food and transport prices slowed down, which were the main factors behind the lower inflation. 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 have remained unchanged since February 2011, when the minimum reserve requirement for short-term deposits was lowered from 14% to 10%. The growth of money supply moderated in the course of 2012 and monetary aggregate M2 increased by 4.3% year on year in July, as compared with a 5.8% rise in 2011. *Overall*, the currency board has continued to function well and monetary and financial stability have been preserved while inflation has moderated.

The consolidated budget deficit reached 1.3% of GDP in 2011, compared with 2.5% in 2010. Fiscal consolidation was achieved partly as a result of rising revenue, fuelled by the economic recovery and increases in tax, contribution and excise rates. The share of general government in GDP remained high, with government expenditure at approximately 45.8% of GDP and revenue at about 44.6% in 2011. Tax revenue increased by 7% due to higher economic activity, an increase in the personal income tax as of February 2011 in Republika Srpska and a rise in excise duties on tobacco which counteracted the continuous reduction of duties and tariffs as set out in the Interim Agreement on trade with the EU. Collected contributions – accounting for over 1/3 of the overall revenues – rose by 5.9%, partly because of the increase in contribution rates in Republika Srpska as of 2011. On the expenditure side, purchases of goods and services plummeted by 19.5%, thus creating some fiscal space. However, expenditures on social benefits and wages increased by 14.9% and 5.3%, respectively, thus further increasing their already high shares in overall expenditure. The higher wage bill was partly caused by the income tax changes in Republika Srpska. Capital expenses surged by 21.6%, although from a very low base following the contractions in recent years. In the first half of 2012, the repercussions of the worsened external environment were increasingly felt in public finances. Tax revenue fell by 0.8% year on year reflecting the downturn in economic activity, while most expenditure categories increased in year on year comparison. *Overall*, some fiscal consolidation has taken place, but the quality of public finances remains low.

The transparency, sustainability and reliability of public finances in Bosnia and Herzegovina were seriously undermined by the long delay in adoption of the State-level budget and of the Global Frameworks for Fiscal Policies for 2012-2014 and 2013-2015. The State-level budget for 2011 was not adopted until February 2012, while the one for 2012 was approved in May. Temporary financing arrangements were in place throughout 2011 and the first two quarters of 2012. The Parliament of Republika Srpska endorsed the Entity's 2012 budget in December 2011, planning a 4% rise in total spending (compared with the revised 2011 budget), while the 2012 budget of the Federation – projecting 11% growth in nominal expenditure – was approved in January 2012. Both Entity budgets were adopted in the absence of a medium-term fiscal framework, in violation of the country's legal framework<sup>16</sup> for the second consecutive year. In March 2012, the Fiscal Council agreed an expenditure ceiling and a fixed revenue allocation from the Single Account for the State-level institutions for the period 2012-2014, thus creating the necessary preconditions for drafting a comprehensive medium-term fiscal strategy. In June 2012, the authorities agreed on the fiscal framework for the period 2013-2015, thus allowing for the timely launch of the 2013 budget preparation process. In September 2012, both Entity budgets have been revised slightly in accordance with the newly reached agreement with the IMF. Total planned spending of Republika Srpska has been corrected downwards by 0.8%, while the Federation has reduced its budget expenditure envelope by about 2%, when adjusted for financing items and reclassification effects. The authorities have reached an agreement on the settlement of disputed indirect tax revenue amounts through end-2011. However, an agreement on a permanent formula for allocation of indirect tax revenue to the State, the Entities and the Brčko District is still pending. In Republika Srpska, the new Pension Law, adopted in December 2011, should improve the long-term sustainability of the Entity's public finances, while in the Federation a special working group has been established to tackle this issue and to define a reform strategy by the end of 2012. *Overall*, the sustainability and credibility of fiscal policy in Bosnia and Herzegovina suffered from the delayed adoption of the State-level budget and of a medium-term fiscal strategy.

General government debt, both domestic and foreign, increased by 6% and stood at 39.5% of GDP at the end of 2011. External debt accounted for 26.1% of GDP and domestic debt for 13.3%. Domestic public debt is managed and served by the Entities. Both Republika Srpska and the Federation started issuing short-term treasury bills and long-term government bonds in 2011 to finance their cash-based budget deficits. For the time being, the offers have met relatively high demand and secured relatively favourable conditions. *Overall*, even though the debt-to-GDP ratio is still relatively moderate, its upward trend needs to be monitored carefully.

The quality of the policy mix has worsened, thus challenging macroeconomic stability. The currency board arrangement continues to enjoy a high level of confidence and credibility, but the weakened budget planning and lack of fiscal coordination severely threaten the transparency, reliability and sustainability of public finances and are a serious impediment to short- and medium-term economic planning. *Overall*, financial and monetary stability have been preserved, but the worsening quality of budgetary processes is hampering the conduct of macroeconomic policies.

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<sup>16</sup> According to the Law on Fiscal Council in Bosnia and Herzegovina, the Entities should implement provisional budgets until a Global Framework on Fiscal Policies is finally agreed and adopted by the Fiscal Council.

### *Interplay of market forces*

The private sector's share in GDP is estimated to have remained stable at around 60% of GDP in 2011. There has been no further progress with the privatisation agenda. In Republika Srpska, some 69% of the initial stock of State-owned capital intended for privatisation had been sold by September 2012, unchanged from a year earlier. In the Federation, none of the ten companies included in the 2012 privatisation plan has been sold. About 58% of the initial stock of State-owned capital intended for privatisation remains State-owned. Most prices are liberalised, even though a number of regulated prices remain (e.g. for utilities). *Overall*, the planned privatisation process has not advanced for the fourth consecutive year.

### *Market entry and exit*

In 2011, the time needed to start a business was reduced from 55 to 40 days, on average. The time required to obtain a construction permit was shortened significantly from 255 to 181 days. However, companies are still required to register in both Entities before they can do business in the whole country. In Republika Srpska, the new Law on Crafts and Entrepreneurship simplified business registration procedures for entrepreneurs. The Law on Courts was also amended in order explicitly to give jurisdiction over company registration, bankruptcy proceedings and commercial disputes to five regional commercial courts. In the Federation, the second stage of the 'legislative guillotine' project to reduce the administrative burden has been completed. A total of 27 legal acts were adopted in various ministries to streamline 352 business-related administrative procedures by December 2011. In the first half of 2012, alongside the worsened external environment and decreased economic activity, the number of newly registered companies dropped by around 12% year on year. *Overall*, some limited improvements have been made to the business environment but significant administrative barriers remain for private-sector development.

### *The legal system*

No substantial improvements can be reported in the complex legal system in Bosnia and Herzegovina. 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 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. Enforcement of commercial contracts remains a lengthy process, which involves 37 procedures and takes an average of 595 days. *Overall*, weak rule of law, corruption and unreliable contract enforcement continue to impair the business environment.

### *Financial sector development*

The banking sector continued to dominate the financial system of Bosnia and Herzegovina, with an 83% share in the total assets in 2011. The share of claims on the private sector in relation to GDP decreased marginally year on year to around 55% in July 2012. Twenty-nine banks are operating in the country, out of which twenty-eight are privately owned and one is majority State-owned. Two banks are under provisional administration. Twenty-one banks are under foreign ownership, accounting for slightly below 90% of the total banking system assets in 2011. The five largest banks accounted for 56.3% of the total assets of the banking sector. Banking sector assets rose marginally, by 0.1%, in 2012 (July compared with December 2011), accounting for approximately 86% of GDP.

The financial position of domestic banks has improved. After an aggregate net loss of some € 63.6 million in 2010, the banking sector finished 2011 with an aggregate net profit of € 72.6 million. After the slight improvement at the end of 2011, the quality of the loan portfolio has been deteriorating again since the beginning of 2012. The share of non-performing loans fell

slightly to 11.9% in the fourth quarter of 2011, but rose to 12.6% in the second quarter of 2012. The capital adequacy ratio increased from 15.3% in the third quarter of 2011 to 16.8% in the second quarter of 2012, comfortably above the legal minimum of 12%. Banking profitability improved slightly in the first half of 2012. The return on average equity increased from 3.4% in the third quarter of 2011 to 4.2%, while the return on average assets grew from 0.4% to 0.5%. However, liquidity indicators deteriorated during the same period with the ratios of liquid to total assets falling from 27.2% to 24.8% and of liquid assets to short-term financial liabilities from 47.5% to 43%. Twenty-six banks are participating in the deposit guarantee scheme. Its coverage level remained unchanged at around € 18,000. *Overall*, despite the relatively high non-performing loan ratio, financial stability was safeguarded.

Annual credit growth accelerated from 3.1% in 2010 to 5.3% at the end of 2011 and moderated slightly to 4.3% in July 2012, with total loans accounting for about 60% of GDP. However, loans to private enterprises have been stagnating since the beginning of 2012, while those to the government surged rapidly by over 40% year on year. Loans to households increased by 5% year on year up to the end of July. The recovery of deposits continued though at lower rates. Total banking deposits reached 49.8% of GDP in July. Households remained the main contributors to this development, increasing their savings by 9.5%, while the corporate sector raised its deposits only slightly by 2.7%. As a consequence of these developments, the loans-to-deposits ratio climbed from 118.2% in October 2011 to 121.3% in July 2012. The spread between the average loan and deposit interest rates of commercial banks decreased further by 17 base points from 7.43 percentage points in September 2011 to 7.26 percentage points in early 2012, mainly due to lower lending rates. This level points to still high intermediation costs. *Overall*, the efficiency of financial intermediation has continued to increase slightly and credit activities have been gaining strength but there are signs that the government is crowding out private investments.

After a slight recovery in early 2011, stock market indices have been on a downward trend. The main index of the Sarajevo Stock Exchange lost 7.9% in the first eight months of 2012, while that of the Banja Luka Stock Exchange fell by 6.3%. The cumulative turnover shrank by 23.5% year on year in the period from January to August 2012. The combined market capitalisation declined to about 30% of GDP from around 44% in 2011. The insurance sector remained small, accounting for approximately 1.9% of GDP in 2011. The annual growth of premiums accelerated slightly to 3.4%, from a 2.9% annual rise in 2010. The market was dominated by the non-life insurance segment, which accounted for 83.6% of the total. Twenty-five companies were operating on the market in 2011, unchanged from the previous year. *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 increased and the quality of public finances remains low, even though some fiscal consolidation has taken place. The slow pace of economic restructuring, especially in the Federation, combined with the prevailing obstacles to private-sector development and the structure 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 any strengthening of domestic sources of growth. Unemployment remains very high. Progress towards creating a single economic space within the country – which is a key European Partnership priority – has been limited. *Overall*, the functioning of market mechanisms remains hampered by the large government sector, characterised by low spending efficiency and sizeable interference in the economy.

### *Human and physical capital*

Education and training policy falls within the responsibilities of the Entities and Cantons. Information and statistics on human capital is scattered and scarce, thus preventing effective policy-making. Progress in the field of education has been limited. A new coordination format for education reform has been agreed. However, the mismatch between the qualifications needed on the labour market and the profile of graduates coming out of the education and vocational training systems adds to other structural weaknesses, such as high social security contributions and poorly targeted social transfers, and remains a concern. Cooperation between the education system and employers is still weak. Enrolment rates in higher education decreased slightly in the 2011-2012 academic year. Participation in the labour market is still very low, with an activity rate of 44% in 2012, remaining unchanged in year on year comparison. *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.

The investment-to-GDP ratio remained at a relatively low level of about 20% in 2011, broadly unchanged from a year ago. Net FDI flows more than doubled in 2011 – albeit from a very low level –, reaching 2.3% of GDP. The banking sector accounted for a significant part of the net FDI inflows, while some increase was also evident in retail trade and real estate. A number of projects are underway to upgrade road and railway infrastructure. Maintenance and upgrading of roads continued, but progress was slow. The Federation Parliament adopted the spatial plan for the route of transport corridor Vc in the Entity in December 2011. *Overall*, infrastructure improved slightly, but still requires repairs and modernisation.

### *Sector and enterprise structure*

Market liberalisation remains insufficient in many sectors as most utility providers still do not apply market prices. Although the utility market was opened for non-household consumers, they have little incentive to change suppliers, as regulated tariffs are still below market prices. No progress has been made on unbundling electricity networks. Progress towards a competitive telecommunications market has been limited. The three incumbent operators continue to act as *de facto* monopolies in their geographical areas. Their combined share of the fixed telephony market added up to 85% for international calls and 98% for national calls in 2011. New licences were granted for internet services and network operators. The level of broadband internet access has increased further but still remains at relatively low level of slightly over 11%. The Railways Regulatory Body introduced a set of regulations, aiming at reaching compliance with the EU directives. *Overall*, limited progress was achieved on liberalisation of network industries.

There were no major shifts in the sectoral structure of the economy in 2011. Services accounted for 68.4% of gross value added (up from 68% in 2010), industry and construction for 26.7% (26.8%) and agriculture for 8.4% (8.6%). The traditionally high share of public administration, education and health increased further to 23.1%. The large informal sector which is fuelled by weaknesses in tax and expenditure policies and in law enforcement, including the fight against corruption, remains an important challenge. *Overall*, there have been no major changes in the structure of the economy. The informal sector is an important challenge.

### *State influence on competitiveness*

No progress has been made towards reducing the state's influence in the economy. In 2011, direct budget subsidies to industry and agriculture decreased to 1.6% of GDP from 1.9% in 2010. However, in the first half of 2012, they increased by 28.4% year on year. State-level

legislation on State aid has been adopted, but a State aid authority has not been established and a State aid inventory has not been compiled. *Overall*, State aid remained high and the state continued to influence the economy through state-owned monopolies.

#### *Economic integration with the EU*

Bosnia and Herzegovina remains an open economy. Total trade (the sum of the volume of exports and imports of goods and services) increased further to 93.2% of GDP in 2011, as compared with 84.2% in 2010. The EU continues to be the country's largest trading partner, with shares of 58% of total exports and 46.6% of total imports in the first eight months of 2012 (goods only). While the share of exports to the EU has increased somewhat, the share of imports from the EU has decreased slightly. The other main trading partners were, once again, the countries of the CEFTA region, which account for 32.2% of exports and 25% of imports. In 2011, the real effective exchange rate based on the country's 20 largest trading partners appreciated marginally by 0.1%. *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 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 on free movement of goods.

A development strategy for the quality infrastructure as a whole and a horizontal coordination mechanism are not yet in place. A public-private dialogue on the industrial market remains to be established.

Good progress was made in the area of **standardisation**. The Institute for Standardisation of Bosnia and Herzegovina (BAS) adopted 3,395 European standards (ENs) as national standards, bringing the total to 14,005 ENs. The BAS performed the second annual check on its quality management system and worked actively on public awareness-raising on standardisation. An action plan was prepared with a view to becoming a full member of the European Committee for Standardization (CEN) and of the European Committee for Electrotechnical Standardization (CENELEC).

No progress was made on **conformity assessment**. It is not being performed on either locally manufactured or imported products before they are released onto the market. Appropriate procedures for designating conformity assessment bodies remain to be established.

Some progress was made as regards **accreditation**. The Institute for Accreditation of Bosnia and Herzegovina (BATA) accredited a total of 51 conformity assessment bodies. The BATA became an associate member of European co-operation for Accreditation (EA). The EA carried out a full evaluation of the BATA covering testing and calibration laboratories and inspection bodies. The conditions for future international recognition of tests, calibration results and certification remain to be fulfilled and the Law on Accreditation remains to be

amended to bring it fully into line with the *acquis*. A clear policy is needed on the role of accreditation in authorising conformity assessment bodies at both State and Entity levels.

Some progress was made in the case of **metrology**. Several by-laws, including a by-law on legal units of measurements were adopted. The Institute of Metrology of Bosnia and Herzegovina (IMBiH) signed Memoranda of Understanding with the metrology institutes of the Netherlands, Slovenia and Serbia. Representatives of the IMBiH participated in the work of European technical committees on metrology (EURAMET and WELMEC). The IMBiH participated in three inter-comparisons and one capability test and met the international requirements by achieving positive results. The IMBiH laboratory for mass proved its competences internationally by publishing data on calibration and measurement capabilities in the International Bureau of Weights and Measures (BIPM) key comparison database. A development strategy for the metrology system, a new Law on Metrology merging the existing legislative framework and laying the foundation for the implementation of the *acquis* and various by-laws remain to be adopted. Cooperation and coordination between the IMBiH and the metrology institutes of the Entities need to be improved.

There was some progress on **market surveillance**. The Market Surveillance Agency initiated, implemented and coordinated proactive and reactive market surveillance activities and projects. The agency is implementing the 2012 Annual Surveillance Plan with good cooperation from the Entity inspectorates and the Brcko District. The agency is continuing to raise awareness on product safety and consumer protection. 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.

No progress was made as regards the ‘New and Global approach’ *acquis*. To raise public awareness on new technical regulations, the Ministry of Foreign Trade and Economic Relations (MOFTER) carried out seminars and published brochures in several key areas. Line ministries and institutions in charge of aligning legislation and implementing directives do not have sufficient capacity to perform the alignment tasks. A formal procedure is needed for internal consultation and notification of new technical regulations before adopting measures that would have an impact on trade.

There was no progress regarding the ‘Old Approach’ *acquis*. The division of responsibilities for alignment of legislation with it remains to be clarified.

There was some progress in the area of **consumer protection**. The technical capacity of the relevant State-level and Entity institutions and their public information activities increased. The MOFTER included consumer counselling in its activities and introduced Consumer Protection information on its webpage. A new Draft State-level Consumer Protection Law aligned with the *acquis* was not adopted. Republika Srpska adopted its Consumer Protection Law. The report on implementation of the 2011 consumer protection programme was adopted. The 2012 annual consumer protection programme remains to be approved.

The Office of the Ombudsman for Consumer Protection needs to be strengthened to deal with the increased number of cases. The efficiency and output of the Office remain unchanged. In 2011 the Ombudsman handled 242 cases, of which 218 were resolved. The Ombudsman gave 25 expert opinions, provided 680 pieces of legal advice and answered 1,515 requests for information. The Ombudsman completed an extensive analysis of the current State-level Consumer Protection Law and gave his opinion on its implementation and the degree of harmonisation with the *acquis*. The Ombudsman provided opinions on the draft Law on protection of Users of Financial Services and the draft Law on Protection of Guarantors in the Federation.

There was good, but uneven, progress in the fields of standardisation, accreditation, conformity assessment, metrology, market surveillance and consumer protection. The legislative framework remains to be harmonised with the horizontal *acquis* and aligned with the product-specific *acquis*. Strengthening the institutional capacity and creating channels for coordination between the relevant institutions remain essential. Prioritisation of legal alignment and capacity-building in accordance with market remain to be done. Major steps need to be taken to achieve a fully functioning single economic area. The State-level Consumer Protection Law has yet to be fully aligned with the *acquis*. Overall, preparations in these areas of the *acquis* are moderately advanced.

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

No progress can be reported on **movement of persons**. Bosnia and Herzegovina concluded an agreement with Serbia on temporary employment of citizens. Differences in labour legislation and social security systems between the Entities and also between Cantons in the Federation continue to be an obstacle for the movement of workers within the country. Alignment with European standards remains at a very early stage.

No progress was made towards *coordination of social security systems* between the Entities and between the Cantons in the Federation.

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

Little progress can be reported in the area of *financial services*. The Federation amended its own Law on the Banking Agency to expand its regulatory/supervisory functions. The Federation introduced an Ombudsman for Financial Services. The Entities harmonized legislation on the Ombudsman amongst each other. Republika Srpska adopted rules of procedure for the Ombudsman for financial services established in 2011. Republika Srpska adopted the Law on Internal Payment System and by-laws, as well as a set of decisions pertaining to minimum standards for financial institutions for prevention of money laundering and financing of terrorist activities. Both Entities are implementing regulations pertaining to credit and operational risk in line with Basel I. The regulation on operational risk applies the basic indicator approach of Basel II. Both Entities are implementing new charts of accounts for financial institutions. Reporting between the Entities is harmonized. The coordination of banking supervision between the Entities remained satisfactory. Simulations for home-host cooperation between supervisors in Bosnia and Herzegovina and the EU were performed to strengthen micro- and macro-prudential supervision. The Entities' banking supervisory agencies extended temporary measures on loan repayments until the end of 2012.

Basel II recommendations on banking laws and Basel Banking Supervision Committee standards remain to be fully implemented in both Entities, and legislative processes to be synchronised. Market risk regulations were not adopted. The amendments to the Federation Law on the Banking Agency that hampered its independence were revoked. These had provided for dismissal of the Agency's management and board if the Federation parliament would not adopt the Agency's annual report. The Federation Laws on Banks, Leasing Companies and Micro-credit Organisations were not aligned with the Law on Prevention of Money-Laundering. Provisions on protection of users of financial services were not included in the revised Federation draft Law on Banks, Leasing Companies and Micro-credit Organisations, and remain to be adopted as separate legislation. Memoranda of Understanding with supervisors of foreign banks present in the country remain to be signed due to the country's inadequate regulations on security and confidentiality of business and banking data. Coordination and cooperation between the Entity Ministries of Finance and Banking Agencies



remain to be improved, in particular on drafting primary legislation. Further alignment with the *acquis* is required.

Little progress was made towards creating a single economic space for *insurance services*. Both Entities adopted amendments to the implementing legislation relating to the content of the audit reports of insurance undertakings. Republika Srpska adopted amendments to the implementing legislation relating to the reserves of insurance undertakings, the guarantee fund and the conditions for insurance brokerage and non-life insurance activities. Brokerage firms from the Federation opened two branch offices in the Republika Srpska. A protocol on cooperation and exchange of information between the Green Card Bureau in Bosnia and Herzegovina and the Bosnia and Herzegovina Insurance Agency was signed. The Republika Srpska Insurance Agency is running public-awareness campaigns about the obligatory third-party motor vehicle insurance.

The legislation remains partially harmonised with the *acquis*. The Law on the Insurance Agency of Bosnia and Herzegovina and the Entities' legislation on insurance and insurance supervision have yet to be fully aligned with the Solvency II Directive. Entity legislation on obligatory third-party liability motor insurance remains to be harmonised with the *acquis* and between Entities. Significant differences between Entities' legislation persist, in particular regarding penalties imposed in case of serious offences. The regulatory powers of the Insurance Agency of Bosnia and Herzegovina remain to be enforced and its enforcement powers clarified. Development of by-laws and guidelines for statistical and other reporting by insurance undertakings to the Entity agencies and on data exchange between the Entity agencies and the Insurance Agency of Bosnia and Herzegovina is at an early stage. The Federation's Insurance Ombudsman's Office and State-level capacity to arbitrate in case of litigation between the Entities' Insurance Agencies have yet to be established. Memoranda of Understanding with foreign supervisory authorities remain to be signed. There were no changes in the requirement to establish a branch office and in the method of supervising insurance companies registered in one Entity which wish to operate in the other.

The Entity Agencies for insurance supervision initiated cooperation towards harmonising the rules for establishment and operation of branch offices. Limitations in provision of the insurance services between the Entities remain. The administrative capacity of the insurance regulatory and supervisory institutions remains underdeveloped despite some initial efforts to introduce risk based assessment of insolvency and bankruptcy of insurance companies.

There was little progress in the area of *capital markets*. Republika Srpska adopted the Law on amendments to the Law on the Securities Market. Both Entities adopted implementing legislation to streamline activities on the securities markets and reduce administrative barriers and costs. All three regulators signed a regional cooperation declaration. Legislative alignment in the area of securities is still slow. The Entities' legislative frameworks remain to be fully aligned with the *acquis* and harmonised between each other. Amendments to relevant legislation remain to be adopted in both Entities. The Brcko District has not yet adopted laws on the securities market and takeovers of joint stock companies. The Federation Law on Takeovers of Joint Stock Companies was not adopted. Regulatory authority and oversight remain fragmented. Participants in the securities market with their head office in one Entity can operate in the other only after obtaining a licence there. There is no adequate institutional capacity for coordinating capital market policies and legislation.

No progress can be reported in the field of *postal services*. The Agency for Postal Traffic issued two more licences for private courier services, increasing the total to 12. A postal strategy at State and Federation level does not exist. The State-level Law on Postal Services remains to be further harmonised with the *acquis*. The Republika Srpska law is partially

aligned both with the State-level law and the *acquis*. The universal service obligation is set above the minimum requirement laid down in the postal *acquis*. The situation is the same with the scope of the reserved area, which is broad in comparison with the postal *acquis*. The lack of harmonisation between the Entities and the State-level regarding the scope of universal services and reserved services raises serious transparency issues. The administrative capacity at the State-level Ministry of Transport and Communications regarding postal services remains weak. The deadline for harmonising the tariff policies of public postal operators expired, but their tariffs had still not been harmonised.

Little progress was made on the **right of establishment**. The registration costs for foreign nationals were mostly harmonised throughout the country, and the procedure was simplified. Internal harmonisation of legislation is pending. A single economic space allowing registration of foreigners to do business throughout the country has not been established and this continues to impede business activity. The time taken to handle requests for registration remains lengthy, in particular in the Federation. The reciprocity principle is not fully applied to natural persons acquiring ownership. The country made no progress towards aligning with the *acquis* on the recognition of EU professional qualifications. Republika Srpska introduced differentiation in its legislation between recognition of professional and academic qualifications. Recognition procedures are inconsistent across the country in terms of forms, costs and duration.

Some, but uneven, progress was made in the area of **company law**. The Federation adopted by-laws to shorten the business registration procedure. Republika Srpska amended its Company Law to extend the deadlines for businesses to harmonise their economic activity in line with the law on classification of business activities. Republika Srpska amended its Law on Courts to give jurisdiction over company registration, bankruptcy proceedings and commercial disputes to five regional commercial courts. It adopted the Law on Craftsmen and Entrepreneurial Activities to simplify business registration procedures for entrepreneurs. The Entities' Laws on Business Companies remain partially harmonised with the *acquis* and with each other.

The legislation on *corporate accounting* and *auditing* is broadly aligned with the *acquis* and almost fully harmonised between the Entities. The Federation adopted the Law on the Financial Information Agency to establish and maintain registers of company financial statements and of bank accounts, along with implementing legislation on the consolidation of financial statements in line with the Seventh Company Law Directive. The Entities apply International Financial Reporting Standards (IFRS) to all companies, irrespective of their size. In Republika Srpska IFRS for Small and Medium Enterprises may be used by small and medium-sized companies if they provide justification in their accounting policies. Companies with public responsibility and those listed at the Stock Exchange, are obliged to apply the full IFRS. The statute of the Federation Chamber of Auditors that will undertake quality assurance reviews of audits was adopted and the Chamber came into operation. The rulebook on quality assurance was not adopted. The Assembly of the Chamber did not adopt the work plan and financing plan for 2012 and did not appoint members to the quality assurance review committee. A full-time quality assurance supervisor remains to be recruited. In Republika Srpska, the Association of Certified Auditors and Accountants continued to implement quality assurance reviews. The Ministry of Finance performs the independent oversight of audits.

Further alignment with the *acquis* is needed on cross-border mergers for Republika Srpska and on take-over bids for both Entities. There is no system for sharing data between different company registers. The systems for quality control and independent oversight of auditors have yet to become fully operational. The Federation did not appoint members to the independent Public Oversight Board that remains to be set up in the Federation.

The country made little progress on movement of persons, services and right of establishment. Some progress was made on company law, corporate accounting and auditing. Alignment of financial services legislation is not completed. Enforcement and supervision mechanisms need substantial strengthening. A legal framework for providing universal postal services across the country remains to be established. Overall, preparations are still at a very early stage.

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

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

Bosnia and Herzegovina continues to apply relatively liberal rules on inward capital flows. 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 transfer without bureaucratic burdens.

Regarding foreign investment, coordination throughout the country for designing and implementing legal reforms in this area is lacking. Capital markets are not fully functional. Creation of a single economic space would be the key to attracting more foreign investment. Foreign banks own 89.4% of the banking sector assets. Overall, foreign direct investment inflows increased in 2011 and reached 2.4% of the country's GDP albeit still much lower than before the global crisis. Restrictions on foreign direct investment continue to apply in the media, where a 49% limit has been imposed on foreign capital. Privatisation of State enterprises remains at a standstill. Work on improving the overall business climate was inconsistent, and no meaningful progress was made on structural reforms to ensure private sector-led growth and job creation.

Within the Central Bank, Bosnia and Herzegovina has a modern **payment system** for giro clearing and real-time gross settlement operations. In 2011 the value of transactions in these two categories increased by 13%. Within the commercial banking system, intra-bank transactions made up 65% of the total number and 55% of the value of transactions.

There was no progress regarding free movement of capital. Further alignment with the *acquis*, ensuring country-wide harmonisation and creating a single economic space, is needed. Overall, preparations in the area of free movement of capital remain moderately advanced.

#### 4.1.4. *Customs and taxation*

Limited progress was made in the field of **customs**. The customs tariff was updated in line with the 2012 version of the EU Combined Nomenclature. The International Convention on the Harmonized System for Names and Codes for Goods was ratified. Rules of origin continue to be used in accordance with the Interim Agreement. The fee for processing customs declarations was abolished. Electronic prior declaration of data from the TIR carnet was introduced. Implementing legislation for customs enforcement of intellectual property rights was adopted. The customs law and legislation on free zones remain to be aligned with the EU Customs Code. The lack of a fully developed risk analysis results in frequent and poorly targeted customs controls. Progress on the use of simplified procedures and trade facilitation remains limited. Further efforts are required in this area, including development of the concept of 'authorised economic operator'.

Little progress can be reported on **taxation**. Republika Srpska amended the Law on Profit Tax. Some changes concerning the excise on tobacco products were adopted. Further alignment with the VAT *acquis* and the EU excise legislation is necessary.

Amendments to the Law on Income Tax, the Federation rulebook on application and the Law on Taxation Procedures enhanced control and collection. The exchange of information between Entities improved. The personal income tax systems are not fully 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 the Brcko District remains to be agreed. Regarding business taxation, some measures continue to be incompatible with the EU Code of Conduct (e.g. legislation on free zones). The Entities introduced fiscal cash registers, but the Brcko District did not.

As regards administrative cooperation and mutual assistance the country ratified new agreements on avoidance of double taxation with Albania, Algeria, the Czech Republic, Ireland, Jordan, Kuwait, Malaysia, Qatar and Spain.

Some progress was made regarding **administrative and operational capacity**. The Director-General of the Indirect Tax Authority (ITA) was appointed with a four-year mandate. The overall business strategy of the ITA for 2012 to 2016 was adopted. Customs, IT and law enforcement strategies in line with the overall business strategy were agreed. The ITA has to prepare the implementation plan for the strategies and to provide the resources needed for implementation. ITA established a unit for IPR enforcement in customs as well as a unit for analysis and strategic planning.

The IT system was upgraded to support the taxation work. No legal amendments were initiated to enable the ITA to share data with the Agency for Statistics of Bosnia and Herzegovina. This hampers production of reliable statistics. Further efforts are required in the areas of tax refunds, tax investigation, exchange of information and training. Data and information sharing, including a website with businesses and taxpayers, should be improved. The functions performed by customs laboratories remain limited. Bosnia and Herzegovina should invest further in IT interconnectivity and interoperability with EU IT systems. It is not yet sufficiently prepared for accession to the Common Transit Convention (CTC) or the Convention on Simplification in Trade in Goods. By expressing its intention to join the CTC and by planning the IT application concerned (NCTS), Bosnia and Herzegovina would achieve a milestone in IT interconnectivity with EU IT systems.

There was little progress in the areas of customs and taxation. Positive developments include the appointment of permanent management and the adoption of the overall business strategy of the ITA. Proper implementation of the business strategy and organisational changes remain to be ensured. Substantial efforts are required to align legislation fully with the *acquis*, to ensure effective implementation of the Interim Agreement, to upgrade the administrative and operational capacity, to improve IT and to provide better services to businesses and taxpayers. Overall, preparations are at an early stage.

#### 4.1.5. *Competition*

Some progress was made on **anti-trust**. The Competition Law remains to be fully aligned with the *acquis*. The Competition Council's (CC) activities focused on mergers and abuses of dominant market positions. The CC adopted 7 anti-trust decisions and 8 merger decisions. The CC imposed fines totalling about 201,500 KM on companies that infringed competition rules. No mergers were prohibited, no authorised mergers subject to remedies and no mergers authorised unconditionally. The CC's staff require further training to increase the authority's investigative capacity.

Bosnia and Herzegovina did not fulfil its commitment, under the Interim Agreement, to apply the EU's competition principles by 1 July 2011 to public undertakings and undertakings to which special and exclusive rights were granted.

Some progress was made in the field of **State aid**. The State Aid Law was adopted. Implementing legislation remains to be adopted. Despite some initial steps taken, an operationally independent State Aid authority, the State Aid Council and its Secretariat has to be established. Transparency of all State aid granted in Bosnia and Herzegovina is not yet ensured. Bosnia and Herzegovina did not fulfil its commitment, under the Interim Agreement, to establish a comprehensive inventory of aid schemes instituted before establishment of the State aid authority and to align such aid schemes with EU competition rules by 1 July 2012.

Some progress was made in the area of competition. Further efforts have to be made to improve the current anti-trust legislation and to increase the administrative capacity of the Competition Council. To comply with the Interim Agreement, the country must fully implement State aid legislation and set up the institutional framework necessary for effective control of all State aid granted in Bosnia and Herzegovina. The country's commitment, under the Interim Agreement, with regard to public undertakings remains to be fulfilled. Overall, preparations in that area remain at an early stage.

#### 4.1.6. *Public procurement*

There was no progress in the area of **public procurement**.

The legislation remains to be aligned with the *acquis*. The Federation law on concessions has yet to be adopted. Implementation of the strategy for development of the public procurement system for 2010-2015 is delayed. Public procurement notices are published electronically and the reporting system created by the Public Procurement Agency (PPA) is in use. Paper publication in the Official Journal is continuing, but the costs for contracting authorities decreased. Bosnia and Herzegovina did not take measures to ensure competitive and transparent procedures or the independent reviews required by the *acquis* in the area of public-private partnerships and services and works concessions. Some lower levels of the administration introduced their own regulations, resulting in further fragmentation of the system and legal uncertainty for the bidders. The existence of several legal concession systems across the territory of Bosnia and Herzegovina places a severe obstacle in the way of concession projects covering more than one territory within the country. The administrative set-up for managing concessions lacks clarity and formal channels for cooperation. This results in high administrative costs and low efficiency of the system as a whole.

The PPA and the Public Procurement Review Body (PRB) maintained their staffing. The PRB has so far been able to handle the high number of complaints with its staff of 17. Some provisions of the rulebook on internal organisation of the PRB are not being implemented (e.g. rotation of the Chairmanship). The composition of the PRB was not renewed. The internet publication of PRB decisions required by law did not resume. Monitoring of public procurement procedures, the capacity of contracting authorities to conduct the procedures and provision of assistance and training to contracting authorities and economic operators all require close attention.

There was no progress in this area. It will require further political will to align the country's legislation, including the concessions system, with the *acquis*. The work of the PRB needs to be more transparent, internal operations to be improved and the capacity of contracting authorities across the country strengthened. Overall, preparations in this area are at the initial stages.

#### 4.1.7. *Intellectual property law*

Progress was made on **intellectual property rights**. To follow up the laws adopted in the field of intellectual property rights, implementing regulations were enacted. The Intellectual Property Rights Councils continued to implement their work programmes, mainly related to

dissemination of information and training. The functioning of the Institute for Intellectual Property improved further. It continued to raise awareness of the importance of intellectual property rights.

Some progress was made in the area of **industrial property rights**. The Vienna Agreement establishing an International Classification of the Figurative Elements of Marks and the Patent Law Treaty entered into force. The International Convention for the Protection of New Varieties of Plants (UPOV Convention) remains to be implemented. During the reporting period the Institute received 40 patent applications and processed 125, including some from previous years. The Institute received 414 trademark applications and processed 2,061, including many from previous years. The Institute received 11 industrial design applications and issued 16 decisions granting industrial designs. No application for protection of geographical indications was received. The Board of Appeal of the Institute received 17 new appeals and completed 11 proceedings.

Some progress can be reported on **enforcement**. Decisions were adopted on the implementation of customs measures to protect the rights of holders of trademarks, industrial designs, copyright and related rights, patents and names of geographical origin. The ITA seized counterfeit goods valued at € 20,000. In 12 out of 18 cases the goods were destroyed, while six lawsuits were filed. The State Investigation and Protection Agency and Entity Inspectorates intensified their work on intellectual property rights. High levels of counterfeiting and piracy persist across the country. A reliable system for collecting, analysing and exchanging data between the various institutions involved is lacking. An enforcement strategy involving all stakeholders is not in place. Coordination between enforcement bodies at various levels needs to be improved.

Some progress was made on intellectual, industrial and commercial property rights. Enforcement and coordination between all stakeholders remain to be improved. Overall, preparations are well advanced.

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

There was little progress regarding **employment policy**. Republika Srpska adopted the 2012 Action Plan for Employment. The Federation adopted the Employment Service 2012 Work Programme. The Brcko District has not adopted an employment strategy. Neither the Entities nor Brcko District fulfilled the obligation to adopt the operational plans to implement the State-level Employment Strategy 2010-2014.

The labour market situation did not improve. According to data from the labour force survey, the activity rate decreased slightly in 2011, as did the employment rate. Female participation in the labour market (at 41.2%) and the employment rate (28.7%) remain low. Hardly any jobs were created. The already very high unemployment continued to increase. According to administrative data, in June 2012 the unemployment rate was 43.8%, an increase of 0.7 percentage points compared with a year earlier. Both Entities are implementing programmes to help young graduates enter the labour market, but without much success as the unemployment rate for young people remained at nearly 58% in 2011. The youth employment gap poses a considerable challenge to development of the country. Long-term unemployment remains alarmingly high, covering 80.8% of all registered unemployed in 2011. Informal employment remains a big challenge.

Labour market challenges remain considerable. 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 still 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 remain a cause for concern. Considerable efforts remain to be made to develop reliable labour market data, a prerequisite for developing labour market policy (*See Chapter 3.1 – Macroeconomic stability*).

Little progress can be reported on building the capacity of public employment services for job counselling and employment mediation. The current legal framework and lack of training prevent them from becoming more efficient in providing job counselling to job-seekers. Health insurance for a large number of unemployed is managed by the public employment services, thus preventing them from devoting more time to job counselling.

There was no progress on **social policies**. Existing *labour laws* in the Entities remain to be aligned with the *acquis*. A State-level labour law does not exist.

No progress can be reported regarding *health and safety at work*. Labour inspectorates remain understaffed and unable to monitor compliance with health and safety at work legislation. Reliable data on accidents at work are not available. This is a particular problem in the Federation, where records are held at Canton level. The Federation still operates under the Law on Health and Safety at Work inherited from ex-Yugoslavia.

Little progress can be reported in the *social dialogue*. The Brcko District established an Economic and Social Council. The State-level Law on Social Partners' Representativeness has yet to be adopted. No agreement was reached on the membership criteria for a State-level Economic and Social Council. The social dialogue remains hampered by the complex system of government and the fragmentation of legislation.

No progress can be reported in the area of *social inclusion, including anti-discrimination*. 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 range of exceptions. Implementation of disability policies and strategies remains weak. The UN Convention on the rights of persons with disabilities is not being implemented (*See Chapter 2.2 - Human rights and the protection of minorities*). The social inclusion strategy remains to be adopted in Republika Srpska and at State-level. Vulnerable groups (children, Roma and returnees) are not adequately protected neither at Entity nor at State-level nor in Brcko District.

No progress was made in the area of *social protection*. The pension systems in both Entities are overburdened with 'privileged pensions' and pension funds are facing financial difficulties. Republika Srpska lowered other pension allowances to make the system financially viable. The Federation initiated pension system reforms, but full implementation is pending. Neither pension nor health systems are coordinated between Entities and Cantons, which creates an obstacle to the free movement of persons.

Some progress can be reported in **public health policy**. Measures were taken to improve capacity for planning and decision-making, to establish a uniform system for reporting on public health in order to fulfil international obligations, and to develop an electronic database providing indicators of public health used for ECHI, EUROSTAT and WHO reporting. A system for collecting health data at Entity and State-level was introduced. A reporting mechanism on communicable diseases was agreed between all relevant stakeholders. A first national health report for Bosnia and Herzegovina was published.

The Entities made no progress on implementing their healthcare strategies. The EU roadmap is not being implemented. There was no progress on harmonising reforms between Entities and the system remains fragmented. No steps were taken to address the problems caused by the non-transferability of health funds.

In the field of *tobacco control*, the Federation and Republika Srpska adopted a rulebook on labelling of packaging of tobacco products aiming at aligning with the *acquis*. Republika Srpska adopted the Law on Tobacco regulating conditions for production and processing of tobacco and its products, conditions for manufacturing of tobacco products and their classification, labelling of maximal quantity of tar, nicotine and carbon-monoxide in cigarettes, and all aspects of registration and record of tobacco products.

In the field of substances of human origin, the Federation adopted three rulebooks on quality assurance and safety of *blood* and blood components. In the field of organs and tissues the Federation also adopted two rulebooks.

In the field of communicable diseases, a strategy on the response to HIV/AIDS in Bosnia and Herzegovina for 2011–2016 was adopted, complete with an implementation plan. The financial plan for its implementation remains outstanding. Administrative capacity to respond effectively to public health threats is being built up. Preparations for an early warning system are ongoing at all administrative levels. A national coordinator to cooperate with the European Centre for Disease Prevention and Control was appointed. Republika Srpska adopted a rulebook on infectious diseases. Coverage of children with immunization remained low especially among Roma children.

In the field of *cancer*, the Federation adopted a strategy for prevention, treatment and control of malignant neoplasm for 2012 to 2020. The Federation adopted the Law on Registers in Healthcare to improve data collection, analysis and use.

Republika Srpska adopted a policy to improve nutrition of children under the age of five. The Federation adopted a decision on free basic health insurance for children under 18 and is drafting a policy on nutrition of young children. Funding was provided to patients suffering from rare diseases.

There was little progress in the area of *mental health*. A regional activity to build up the capacity of health professionals and users of mental health services is ongoing. No progress was made towards de-institutionalising mental health services and establishing high-quality community-based mental health services focusing on recovery. Further action remains to be taken to promote inclusion and empowerment of people with mental health problems. The Federation adopted a policy and strategic document for mental health protection.

There was little progress on employment and social policies. On labour law, health and safety at work and anti-discrimination, legislative alignment remains insufficient. Strategies for employment, social inclusion and social protection are insufficiently developed and implementation deficient. Legislative approximation remains to be intensified and policies enhanced. There was some progress on public health policy. Overall, preparations remain at a very early stage.

#### 4.1.9. *Education and research*

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

The Conference of Bosnia and Herzegovina Education Ministers started their bi-monthly meetings and confirmed a new format for coordinating education reforms, albeit along ethnic lines. The State-level strategy for entrepreneurial learning in education for 2012-2015 was adopted, along with the implementation plan. Implementation of the baseline qualifications framework has not started. The Federation made some progress on harmonising Cantonal laws on vocational education and higher education with the framework laws<sup>17</sup>.

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<sup>17</sup> Four of the ten Cantons adopted legislation on vocational education and nine on higher education.



There was a slight increase in the number of children attending pre-school education.

Republika Srpska adopted amendments to the Law on Pre-school Upbringing and Education, requiring at least a secondary school diploma for staff working with children with special needs. No progress was made on harmonising Cantonal Pre-school education laws with the framework legislation. Republika Srpska adopted the Draft Law on Amendments to the Law on Higher Education. There is no State-level law on recognition of higher education qualifications. The Conference of Ministers of Education adopted guidelines on recognition of higher education qualifications, that address the problem of different practices in different parts of the country, but the Guidelines are not legally binding. Due to the lack of harmonised legislation, different practices continue to be used throughout the country for recognition of diplomas and qualifications in higher education. The process of accreditation of higher education institutions has begun. There was no progress on statistical reporting in education.

Despite its previous expression of interest, Bosnia and Herzegovina decided not to participate in the Lifelong learning programme.

There was some progress in the area of **culture**. An action plan to implement Bosnia and Herzegovina's cultural policy strategy for 2011-2014 was adopted and endorsed by Entity and Cantonal ministries. The 'Methodology for statistical monitoring of indicators in the area of culture' was published by the Agency for Statistics. Bosnia and Herzegovina continued to participate in the EU's Culture programme. An expression of interest in participating in the EU's Media programme was submitted. The legal and financial situation of seven cultural institutions of the country was not solved. Some operated without appropriate budgetary allocations for several years and were forced to close some activities to the public.

Some progress was made on **research and innovation policy**. The country actively promoted cooperation on research and innovation with the EU, resulting in a slight increase in the number of submissions under the Seventh EU research Framework Programme (FP7). The overall success rate is nevertheless low. Further steps were taken to facilitate integration into the European Research Area (ERA) and to contribute to the Innovation Union, but the research and innovation capacity building at national level needs to be strengthened and coordination remains to be improved.

With respect to FP7, the administrative capacity improved by increasing the number of National Contact Points, organising training sessions and promoting events on FP7. Cooperation with COST and EUREKA was strengthened.

Regarding the integration into the ERA, the overall level of investment in research remained low. Due to the lack of reliable statistics, it is not possible to monitor progress made or to establish investments made by public or private sector. Some progress was made on human capital building and a register was set up to monitor the number of researchers. Republika Srpska adopted the Law on Scientific Research Activities and Technology Development for 2012-2016, and relevant by-laws. The Republika Srpska strategy on science and technological development for 2012-2016 was adopted. Republika Srpska established an electronic database on researchers and research organisations and agreed to build a unified science library information and bibliographic system based on COBISS, the cooperative online bibliographic system and services. The Federation supported projects of technology modernisation, research and education institutions. The Federation Law on the Science and Research and Development System and Policy was not adopted<sup>18</sup>. The EURAXESS network was established and functions well. Communication and coordination between the different science ministries and Entities is insufficient.

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<sup>18</sup> Only three out of the ten Cantons have a legal framework that regulates science and research.

There was little progress in the areas of education and culture. Strategies and framework laws and the baseline qualifications framework need to be fully implemented. Sub-national higher education and vocational training legislation remains to be harmonised with the relevant framework legislation. The country is participating in the Culture programme. Preparations for future integration into the ERA and the Innovation Union continued, but national research and innovation capacity remain to be strengthened and investment in R&D to be increased. Adoption of the legislative framework for science and research has yet to be completed. Overall, preparations are moderately advanced.

#### *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 ninth time. Bosnia and Herzegovina proceeded with its bilateral negotiations on market access for goods and services. Bilateral negotiations were concluded with China, Japan, Switzerland, Norway, Canada, Honduras and El Salvador. Negotiations with Korea, Ecuador, Brazil, India and the Dominican Republic are in the final stage. There are outstanding issues in the negotiations with the United States and Ukraine.

## **4.2. Sectoral policies**

### *4.2.1. Industry and SMEs*

There was little progress on **industrial policy**. The Entities continued implementing their industrial policy action plans without State-level coordination. A country-wide development strategy including industrial policy elements remains to be adopted. The absence of harmonised statistics prevents creation of an effective strategic framework for industrial policy planning.

Little progress can be reported on **SME policies**. Republika Srpska adopted an SME strategy for 2012-2015. The SME Council for Development and Promotion of Entrepreneurship did not meet since three initial meetings in 2011. The new State-level SME strategy was not adopted. The revised Federation Law on SME Promotion and Entrepreneurship, providing for establishment of the SME Agency, remains to be adopted. The Draft State-level Law on Entrepreneurship and SME Promotion was withdrawn from the parliamentary procedure, as were the draft amendments to the Law on the Foreign Investment Promotion Agency (FIPA). Bosnia and Herzegovina continued to participate in the implementation of the Small Business Act (SBA). Insufficient coordination at State-level delayed the completion of the 2011 SBA self-assessment according to which the country made incremental progress on company registration and access to finance. A Regulatory Impact Analysis (RIA) has not yet been introduced in Bosnia and Herzegovina. The Republika Srpska Strategy on Regulatory Reform and Introduction of RIA 2011-2015 was adopted. No progress was made towards introducing harmonised financial support measures. Pilot structural business statistics were published for the first time for the country as a whole, revealing a high proportion of inactive SMEs in business registers. To ensure higher quality records and simplify access to data, Republika Srpska adopted legislation on a single register of business entities' accounts. Bosnia and Herzegovina did not establish a single SME registration system to simplify doing business in both Entities.

The network of business incubators is well developed, comprising five incubators in Republika Srpska and eight in the Federation. Other forms of start-up support are weak.

Some progress was made in the case of tourism. Republika Srpska adopted the Law on Amendments to the Law on Catering Services and several by-laws in the field of tourism and catering industry. Similar legislation has yet to be adopted in the Federation. The Federation did not adopt the strategy on tourism development for 2008-2018.

There was little progress in the area of industrial and SME policies. The country lacks a comprehensive industrial policy and an updated framework for SME policy. Coordination between the Entities remains the key issue for promoting enterprise development. Overall, preparations in the fields of industrial policy and SMEs remain at an early stage.

#### 4.2.2. *Agriculture and fisheries*

There was little progress on alignment with European standards in the area of **agriculture and rural development policy**.

Bosnia and Herzegovina has not yet adopted a country-wide rural development strategy and the State-level Law on Wine. The State-level strategic plan and the harmonisation programme for agriculture, food and rural development are not being implemented. Republika Srpska's rural development strategy and action plan and the Federation's harmonisation programme for agriculture, food and rural development remain to be harmonised with the State-level framework. Administrative capacity and channels for coordination at State and Entity levels remain weak. The coordination of rural development policy and actions, including support measures, are insufficient.

Little progress was made with the preparations for the Instrument for Pre-Accession Assistance for Rural Development (IPARD). A sectoral analysis was prepared for five sectors. No agreement was reached on the institutional structures for decentralised management. The Office for Payment Harmonisation was established but the number of staff is insufficient to carry out its tasks. Inter-sectoral coordination and participation by the non-governmental sector remain weak.

The Entities' budgets for agriculture and rural development remain low. Subsidies to farmers are mainly product-based and not aligned with the *acquis*. The lack of an efficient administration and effective rural credit schemes hampers the efforts to increase the productivity and competitiveness of the sector.

Bosnia and Herzegovina did not adopt the agricultural information strategy or the Law on the Agricultural Census. Agricultural statistics and the agricultural information system have yet to be improved, including harmonisation of the existing systems. Land registration systems are not harmonised and land management requires strengthening.

Little progress was made regarding food safety. Bosnia and Herzegovina adopted implementing legislation on residues of pesticides and radioactive contamination and product-specific standards. Responsibilities for food safety remain fragmented at State and Entity level. Preparations started regarding the assessment and upgrading of food establishments. A laboratory capacity strategy to cover analysis of samples in line with the official controls on food and feed chains still needs to be drawn up. The capacity to implement official controls is weak.

There was very little progress in the veterinary sector. Some legislation on animal diseases and import conditions was adopted. Legislation remains to be aligned with the *acquis* on hygiene and food supervision. Closer coordination between the State and Entities in aligning with the *acquis* in these fields remains essential. The powers of the State Veterinary Office are not sufficient for it to act as the central competent authority. Legislation at State-level is neither adopted nor implemented at Entity level. The overlaps between the veterinary and food safety legislation remained. The financing of sampling for official controls is not adequate. National laboratories have not yet been further improved so as to obtain accreditation and establish effective quality control systems. Inspectors and food business operators require further training about specific EU requirements on hygiene. This lack of progress has a negative impact on trade in agricultural products, in particular with the EU.

Progress was made in the phytosanitary sector. Phytosanitary checks at all border crossings improved thanks to the introduction of uniform lists of plants, plant products and other objects which must be subject to a plant health inspection. The Federation appointed phytosanitary inspectors and training of inspectors commenced. The programme for monitoring potato diseases is being implemented. The legislation remains to be harmonised with the *acquis* and the capacity to implement the *acquis* to be strengthened. Reference laboratories for monitoring residues remain to be designated.

There was progress in the area of **genetically modified organisms (GMOs)**. Implementing legislation was adopted on registers, risk assessment and conditions for placing GMO products on the market. Training of laboratory and inspection staff on control methods commenced. Entity legislation remains to be harmonised with the State-level legislation.

Little progress was made on **fisheries**. There is no State-level legislation which is aligned with the *acquis*. Responsibilities for the fisheries sector remain fragmented despite the potential for a considerable increase in exports of fish and fishery products to the EU.

There was little progress in the fields of agriculture and rural development, food safety, veterinary and phytosanitary policy and fisheries. A comprehensive State-level agricultural and rural development strategy remains to be implemented throughout the whole country, the State-level capacity for coordination and harmonisation strengthened, the implementation mechanisms reinforced and legislation further aligned with the *acquis*. Implementation of the food safety *acquis* and the official control capacity needs to be stepped up and the upgrading of establishments accelerated. Overall, preparations in these areas of the *acquis* remain at an early stage.

#### 4.2.3. *Environment and climate change*

There was little progress in the field of the **environment**.

There was little progress on *horizontal legislation*. Republika Srpska advanced the alignment with the Strategic Environmental Assessment (SEA) Directive by adopting the new Law on Environmental Protection. A Framework Law on the Environment remains to be adopted and efforts are required to implement the Environmental Impact Assessment (EIA) Directive in a harmonised manner at State and Entity levels. Implementation of the Espoo Convention on EIA in a Transboundary Context has not started. Public participation in environmental decision-making and public access to environmental information remain weak.

Some progress can be reported on *air quality*. Republika Srpska adopted the new Law on Air Protection. The Federation adopted several rulebooks on air quality monitoring methods, definition of types of pollutants, air quality standards, etc. Air quality planning and monitoring systems remains inadequate. A country-wide air monitoring network has not yet been established.

There was little progress on *waste management*. The Federation adopted a waste management plan to implement its Environmental Protection Strategy for 2008-2018. Coordination between the Entities and the Brcko District on implementing a packaging waste management system remains a concern. Investment in waste management remains insufficient. Progress in construction and operation of regional sanitary landfills was limited. 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 on *water quality*. The Federation adopted a water management strategy and a rulebook on the conditions for wastewater discharges into natural recipients and public sewer systems, thus advancing the alignment with the Urban Waste Water Treatment Directive. Bosnia and Herzegovina aligned its legislation with the Drinking Water Directive,

but implementation is slow. No efforts were made to ensure a consistent and harmonised approach to water management at State-level and between the Entities and the Brcko District, including implementation of the water laws, monitoring and river-basin planning. Inadequate administrative capacity and lack of ready-made projects are causing considerable delays in sectoral investments. Access to drinking water, untreated discharges of wastewater and flood management remain key challenges.

There was little progress on *nature protection*. The Federation adopted implementing legislation on Natura 2000, thus advancing the alignment with the Birds and Habitats Directives. Implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) did not start. Implementation of the nature protection *acquis* remained at an early stage.

There was little progress on *industrial pollution control and risk management*. Bosnia and Herzegovina prepared an initial list of installations in accordance with the Industrial Emissions Directive. An emissions register of these installations was published on the web. The permit process remains fragmented due to complex administrative procedures with weak public participation in the decision-making process. Environmental investments by industry remain insufficient. The administrative capacity for inspection activities remains weak.

There was little progress in the field of *chemicals*. Republika Srpska adopted a strategy on chemical safety and implementing legislation on chemicals and biocides. The Federation did not start aligning its legislation with the *acquis*. Bosnia and Herzegovina acceded to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides. There was little progress on *noise*. The Federation adopted a Law on Protection against Noise.

Regarding **climate change**, no progress was made on general policy development. The country has no national climate strategy. Climate considerations are increasingly integrated into the energy policy. Substantial efforts are required to fully integrate climate change into sectoral policies and strategies. The country associated itself with the EU positions in the international context. While having previously associated itself with the Copenhagen Accord, the country did not yet put forward a mitigation commitment by 2020. The country should consider taking mitigation commitments consistent with those of the EU and its Member States for the purpose of the post-2020 climate agreement to be reached by 2015.

Little progress was made on aligning with EU climate policies and legislation. The country is at a very early stage in adopting the climate *acquis*. The country took initial steps to identify stationary installations for the future implementation of an emissions trading system. Significant efforts are required to strengthen the country's monitoring, reporting and verification capacities. Cooperation and coordination remain weak. The lack of administrative and financial capacity is delaying preparation, legislative alignment and implementation of a climate policy in line with the *acquis*. The country participated regularly in the climate work under the Regional Environmental Network for Accession (RENA). There is still a significant need for awareness-raising at all levels and for the promotion of cooperation of all stakeholders.

**Administrative capacity** in the environment sector remains weak. An Environmental Protection Agency with country-wide functions for monitoring and reporting on the state of environment remains to be established. The administrative capacity within the relevant environmental institutions is limited due to the fragmentation of competencies both vertically and horizontally. Integration of environmental concerns in other sectors remains weak. There was some progress regarding the administrative capacity to address climate change. The Executive Board of the Designated National Authority (DNA) to implement the Kyoto

Protocol's Clean Development Mechanism had its first constitutional assembly and adopted its rules of procedure. The necessary structures for the DNA's work were established at Entity and District Brčko level. The administrative structure on climate change should be considerably strengthened. Capacity building is required to address the significant capacity, cooperation and coordination needs. There was little progress in the environment and climate areas. The establishment of a harmonised legal framework for environmental protection, adequate institutional capacity and a functioning environmental monitoring system remain the priorities. Improvements remain to be made to horizontal and vertical communication and information exchange on environmental and climate change issues between all authorities and the general public. Regarding climate change, substantial efforts are required for awareness-raising, setting a more strategic approach for the country, aligning with and implementing the *acquis* and continuing to build up administrative capacity including inter-institutional cooperation and coordination. Preparations in the field of the environment and climate change remain at an early stage.

#### 4.2.4. *Transport policy*

In the case of the **trans-European transport networks**, some progress was made. Bosnia and Herzegovina is actively implementing the Memorandum of Understanding on the Development of the South-East Europe Comprehensive Regional Transport Network by the South-East Europe Transport Observatory (SEETO). Attention has to be paid to the implementation of the priorities agreed for the SEETO comprehensive network. Work continued on the signalling overhaul on the SEETO railway network, specifically on the Ploče-Bradina section of corridor Vc and the Banja Luka-Kostajnica rail section.

Little progress can be reported regarding **road transport**. The legislative framework for road safety and the transport of dangerous goods remains unclear. By-laws were adopted on the procedures for issuing memory cards and for drivers' qualifications to perform international road transport.

Little progress can be reported in rail transport. The Instruction on safety and interoperability of the railway system was adopted. The Federation adopted the Law on Amendments to the Law on Federation Railways. Both railway companies remain in a critical financial situation and need restructuring. Full separation of the infrastructure manager from the railway undertaking remains to be addressed, as does legislative alignment with the *acquis* on public service obligations. An independent accident investigation body does not exist. The railways of Republika Srpska have not yet published their network statement.

No progress was made on maritime transport. Although Bosnia and Herzegovina is a member of the International Maritime Organisation (IMO), it is not a signatory to any of the most important IMO conventions like the International Convention for the Safety of Life at Sea (SOLAS), including the International Ship and Port Facility Security Code, the International Convention for the Prevention of Pollution from Ships (MARPOL) or the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW).

Little progress can be reported in the case of inland waterways. Demining and rehabilitation of the River Sava waterway has yet to start. The river information system remains to be introduced. No progress was made on combined transport.

Little progress was made on **air transport**. The Aviation Law was amended to align it with the *acquis*. Several rules and by-laws in the area of civil aviation were adopted. Efforts remain to be made to speed up the implementation of the first phase of the European Common Aviation Area (ECAA) Agreement.

Little progress was made in the area of transport. Legislation remains to be aligned with the *acquis* on all modes of transport, especially rail, road and maritime transport. A Transport Strategy and Action Plan have yet to be prepared. The upgrading of transport infrastructure needs to be intensified. Overall, preparations are at an early stage.

#### 4.2.5. Energy

There was uneven progress with oil stocks and **security of supply**. The Energy Community obligations on the security of gas and electricity supplies remain to be implemented. The Federation Law on Oil has yet to be adopted. No official figures are available on the country's level of oil stocks. A country-wide energy strategy addressing the security of supply of oil, gas and electricity remains to be adopted. The Entities have their own strategic planning without harmonised criteria or a common approach to investment priorities.

Little progress was made with the **internal energy market**. The Federation drafted a new Electricity Law, which remains to be adopted. Existing laws at all levels neither fully comply with the *acquis* nor allow 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/Elektroprijenos) improved marginally. Although no business or investment plans were approved and the company's management continues to operate in an acting capacity, the Entity Prime Ministers agreed to replace the management and the board, to apply capital share rules in staffing and investment and to establish a working party with a view to devolution of 110 kV assets to utilities at Entity level and to improve the relationship with the ISO. The Entity Prime Ministers' agreement remains to be implemented. The viability of TRANSCO as a country-wide enterprise and the fragmentation of the electricity market are causes for concern and would pose an obstacle to full implementation of the Energy Community Treaty. A comprehensive review of the electricity legislation applicable at the various levels of government was launched to make Bosnia and Herzegovina compliant with the *acquis* and to enable the country to fulfil the requirements of the Energy Community Treaty. The *de facto* independence of the regulatory commissions is not ensured. The regulators in both Entities and in the district of Brcko have adopted secondary legislation addressing some of the legislative gaps. Both Republika Srpska and the Federation revised tariffs, but they remain below market prices.

No progress can be reported in the gas sector. There is still no legislative alignment. Entities have established different rules on market participants, unbundling, third-party access or market opening, which are not in line with the *acquis*.

The country has not begun to make preparations for alignment with the EU's 'third internal energy market package'.

There was little progress on **renewable energy**. The Entities introduced incentives (feed-in tariffs) for renewable energy sources which differ and thus potentially create internal inefficiencies. There is no State-level strategy for promoting renewable energy. Bosnia and Herzegovina has not yet prepared a National Renewable Energy Action Plan (NREAP), which will provide a roadmap for achieving the binding target set for the share of renewable energy in the country's final energy consumption in 2020 within the framework of the Energy Community, and to take measures to promote the use of biofuels in transport. The complexity of the organisational structure and decision-making system hinders effective promotion of renewable energy. Significant efforts are required to create a regulatory environment that would foster greater use of renewable energy sources in all sectors, including by streamlining administrative procedures for authorisation and licensing.

There was little progress on **energy efficiency**. Although legislation is being drafted, a State-level energy efficiency action plan and a credible roadmap for transposition of the relevant EU legislation on energy efficiency to meet obligations under the Energy Community Treaty are missing.

Little progress can be reported in the area of **nuclear safety and radiation protection**. The new Director of the State Regulatory Agency for Radiation and Nuclear Safety was appointed, but a national emergency plan and a strategy for radioactive waste management have not been developed.

Little progress was made in the field of energy. The country needs to meet its legal obligations under the Energy Community Treaty, improve its security of supply, ensure effective functioning of the electricity transmission company and establish an integrated energy market. The lack of cooperation and coordination between the Entities and with the State-level is hampering development of a fully functioning energy market and compromises improvements in the energy sector as a whole. Bosnia and Herzegovina is at the early stage of implementing the *acquis* on the internal gas and electricity markets and of aligning its legislation with the *acquis* on nuclear safety and radiation protection. Development of a comprehensive energy strategy, including promotion of energy efficiency and renewable energy sources, remains essential. Overall, preparations in the field of energy remain at an early stage.

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

No progress can be reported towards legislative alignment with the *acquis* on **electronic communications and information technologies**. The Electronic Communications Law is largely based on the 1998 EU regulatory framework. No decision was taken to introduce the general authorisation system. No progress was made on introducing the single European emergency number 112.

Legislative alignment is delayed due to the continuing discussions between the Entities and the State on their respective powers, thus weakening the position of the Communications Regulatory Agency (CRA). The institutional and financial independence of the CRA and its lack of adequate human resources remain serious concerns. The Council of Ministers has not appointed the head and new Council members of the CRA. (*See Political criteria*)

The CRA continued to make progress with implementing the competitive safeguards to prevent misuse of market power by operators. Fixed number portability was introduced, while mobile number portability is pending. The CRA is implementing the last phase of the rebalancing of tariffs for voice telephony services. The rulebook on tariff rebalance for 2013-2015 is pending.

The three incumbent operators are all subject to significant market power (SMP) obligations, while the CRA allowed them to provide services outside their original concession areas. They continue to operate in their geographical areas as *de facto* monopolies over fixed voice telephony. Their market share was around 85% for international calls and 98% for national calls in early 2012. The incumbents' share of the fixed broadband market fell to 64%, in the face of competition from cable and wireless network operators. The overall fixed broadband penetration rate increased modestly, to 11.2% at the end of 2011. The three mobile network operators, each affiliated with one incumbent, provide near-national coverage. Technology-neutral spectrum assignments allow them to deploy 3G mobile services. Legislative measures would enable mobile virtual network operators to emerge.

No progress can be reported towards alignment with the *acquis* in the field of **information society services**. The State-level Law on the Agency for the Development of the Information



Society is yet to be adopted. There is no State-level legislation on electronic documents, e-government and cyber crime. Legislation remains to be aligned with the e-commerce Directive and implementing legislation on conditional access services. The State-level e-commerce law did not enter into force yet. The implementation of the State-level e-signature law of 2006 is pending. The administrative capacity in the State-level Ministry of Transport and Communications remained weak.

Some progress can be reported on **audiovisual policy** and the media. The new set of rules adopted by the CRA largely harmonized the regulation with the Audiovisual Media Services Directive (AVMSD). The draft codes on audiovisual and radio programmes and on commercial audiovisual communications partially implement the Audiovisual Media Services Directive (AVMSD). The remaining provisions of two Articles of the AVMSD remain to be incorporated. Entity laws on public broadcasting services are not in line with the State-level law. The CRA issued a decision on use of multiplex A (MUX A) for digital terrestrial broadcasting. The CRA began developing entry criteria for existing TV stations to the commercial MUX and documents for licensing MUX operators. A working group supervising this procedure ceased to exist.

There was no further progress towards the switch from analogue to digital terrestrial broadcasting. The digital switchover, initially planned for the end of 2011, was postponed to the end of 2014. This raises potential concerns about timely implementation of the process. No decision was taken on how to use the valuable spectrum freed up by the switchover.

Members of the expert secretariat of the forum on digital television were appointed, but the secretariat is not operational. The statute of the public broadcaster BHRT remained unchanged (*See Chapter 2.2 - Human rights and the protection of minorities*). The statutes of the public broadcasting corporation (PBS) remain to be adopted. Two new members of the supervisory board of the BHRT have not yet been appointed. The reform of the public broadcasting sector was further delayed.

Little progress was made on the information society and media. Harmonisation of the legal framework for public broadcasting remains incomplete. The lack of coordination and of adequate human resources, and in particular the continued challenges to the CRA's functional and financial independence, remain a serious concern. Legislative alignment in the fields of electronic communications, the information society and media did not advance. Overall, preparations are at an early stage.

#### 4.2.7. *Financial control*

There was some progress in the area of **public internal financial control** (PIFC). Policy papers and action plans of the State and Entities are being implemented, albeit with delays. Amendments to the Law on Internal Audit and the Law on Financing were adopted. The Central Harmonisation Units' (CHUs) coordination board, providing a single platform for coordination of legislation and methodology, ceased to perform its role. Consequently, legislation took different directions. The Federation is in overall terms lagging behind the State and Republika Srpska. Internal audit units are not fully operational, although the capacity of internal auditors throughout the country increased somewhat.

There was little progress on **external audit**. The functional capacity of the four supreme audit institutions (SAIs) improved with performance audits conducted by all levels. Yet, their financial independence remains in danger. No efforts were made to secure the independence of the State-level SAI from the executive or to embed it in the Constitution.

With regard to the **protection of the EU's financial interests** and **protection of the euro against counterfeiting**, Bosnia and Herzegovina is at an early stage of preparation.

There was little progress in the area of financial control. Substantial efforts are required to adopt and implement PIFC legislation, resume coordination between CHUs and build capacity on FMC and internal audit. The independence of the SAIs remains to be addressed. Overall, preparations are at an early stage.

#### 4.2.8. *Statistics*

Some progress can be reported in the area of statistics. Amendments to the Law on Statistics taking into account some recommendations of the adapted global assessment of 2011 were not adopted.

Little progress was made on **statistical infrastructure**. The cooperation between the Agency of Statistics of Bosnia and Herzegovina (BHAS) and the Entity institutes for statistics slightly improved. Their cooperation and the coordination of activities remain to be considerably enhanced. There was continuous incorrect implementation of the State-level Law on Statistics and of the agreement on cooperation and coordination. The Indirect Taxation Authority does not provide the BHAS with the data required from administrative sources, leading 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.

There was little progress regarding **classifications and registers**. The Statistical Business Register is operational but incomplete due to lack of the administrative data required for it to function fully. An inter-agency working group was established to draft a classification of territorial units for statistics in the country. The discussion is continuing, also in the light of the country's obligation, under the Interim Agreement, to submit per capita GDP figures to the EU at NUTS 2 level by 1 July 2013.

Progress was made on **sectoral statistics**. The Law on the Census of Households and Housing in Bosnia and Herzegovina for 2013 was adopted. The census fieldwork is scheduled from 1 to 15 April 2013. The Central Census Bureau came into operation. Numerous planning, communication and coordination activities for the census remain to be carried out. The budget for the census in 2013 was adopted. The agriculture census is planned after the population census. In general, agricultural statistics require substantial upgrading.

Little progress can be reported on macroeconomic statistics. The annual GDP estimates for 2011 were published. Quarterly national accounts cannot be developed until the relevant short-term indicators are produced and the requisite cooperation between all involved is in place. Fieldwork for the household budget survey was completed and results are expected to be available at the end of October 2012. The labour force survey was implemented in 2012 and preliminary data were published.

There was some progress in the field of statistics. Sectoral statistics such as national accounts, business and agricultural statistics remain to be improved. The population and household census is expected to be conducted during 2013. Cooperation between the BHAS and the Entity statistical institutes and also between the BHAS and the relevant State-level agencies slightly improved. The communication between the Entities, the coordination and the decision-making process in the national statistical system, need to be improved considerably. A great deal remains to be done to develop fully reliable statistics at the various levels of government. Overall, preparations are moderately advanced.

### 4.3. Justice, freedom and security

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

Progress was made in the field of **visa policy**. Positive and negative lists remain fully harmonised with the EU visa list. In 2011, 248 visas were issued at the border, a decrease of 24% compared with the same period last year, when 327 were issued.

Following the lifting of visa requirements in December 2010 for citizens of Bosnia and Herzegovina holding biometric passports, a post-visa liberalisation monitoring mechanism was established. Most visa-free travellers are *bona fide* travellers, but a number abused the visa-free arrangement by submitting manifestly unfounded asylum applications to Schengen countries. Experts from EU Member States visited the country to assess the sustainability of progress on the reforms called for in the visa liberalisation roadmap. An electronic data exchange system for police and prosecutors was set up. All law enforcement agencies are establishing electronic registers. The rulebook on the internal organisation of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption was adopted. The European Commission presented its third monitoring report to the European Parliament and the Council.

Progress was made on **border management**. Most legislation related to integrated border management (IBM), including the Law on Border Control, is mainly based on the *acquis*. The revised IBM strategy and action plan are being implemented. The IBM Commission adopted a set of protocols to enhance implementation of the agreement on interagency cooperation and a manual for the work at border crossings. The rulebook on the internal procedures of the Joint Risk Analysis Centre (JRAC) was revised. Risk domains were developed as a basis for the annual joint risk analysis report adopted by the IBM Commission. A link was established between the JRAC and the databases of the agencies involved. An amended draft rulebook on the internal organisation of the border police, legally introducing the JRAC, is not yet adopted.

Infrastructure at border crossing points further improved, in particular surveillance and equipment. Out of 55 international border crossing points, 29 are covered by video surveillance. All international border crossings are equipped with biometric passport readers and connected to the integrated system of control of state border crossings (CSBC) and organisational units of the border police. The CSBC was upgraded with a new application enabling access from border crossings to relevant databases. Progress was made in the management of border crossing points (BCPs). A new Rulebook on Internal Organization and Systematization was adopted by the Indirect Taxation Authority (ITA) Steering Board to enable efficient management and maintenance of BCPs. In addition, budgetary allocations were approved by the Council of Ministers to upgrade IBM infrastructures for a three years period.

Establishment of two inspection posts at the border with Croatia (Bijaca and Gradiska) is underway. An upgrade of the Neum I and Neum II BCPs to a joint location on the Croatian side is underway. A joint border crossing between Gradina and Jasenovac was established on the Bosnia and Herzegovina side. Frequent joint border patrols with neighbouring countries resulted in increased detection of illegal migrants and smuggled goods. Identified spots for possible illegal crossings of the border with Montenegro and Serbia remain to be closed. Conclusion of revised bilateral agreements on border crossings in the light of Croatia's accession to the EU is pending.

Implementation of the working arrangement with Frontex is advancing. Bosnia and Herzegovina participates in the Western Balkans risk analysis network.

There was some progress in the area of **asylum**. Bosnia and Herzegovina is implementing the Law on the Movement and Stay of Aliens and Asylum, as well as an asylum and migration action plan. The asylum section in the Ministry of Security is almost fully staffed and adequately trained. The asylum module of the migration information system (MIS) is being fully utilised. The Ministry for Human Rights and Refugees is connected to the MIS and application of the system is being expanded. Work on a permanent asylum centre in Trnovo is progressing. A new migration and asylum strategy and the related action plan were adopted.

The number of asylum applications increased to 41 (46 persons) in 2011 in comparison with 38 applications (64 persons) in 2010. 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. 173 irregular migrants were enrolled for the assisted voluntary return (AVR) programme during 2011 and none during the first six months of 2012.

Good progress was achieved on **migration**. The centre for temporary detention of irregular immigrants is in operation. In 2011, a total of 218 foreign nationals were accommodated there. 254 foreign nationals were relocated outside Bosnia and Herzegovina. 47 of them returned voluntarily to their home countries, 87 returned under the AVR programme, 81 under readmission agreements and the other five were forcefully repatriated. During the first six months of 2012, 192 third-country nationals were accommodated, of whom 87 returned under readmission agreements (with Serbia and Montenegro) and four were forcefully repatriated.

Implementation of the readmission agreement between the European Union and Bosnia and Herzegovina continued smoothly. In 2011, 329 persons were readmitted, an increase of 11.53% from the previous year. In the first half of 2012, 139 citizens were readmitted, a decrease/increase of 70% compared with the same period in 2011.

Bosnia and Herzegovina continued its efforts to conclude readmission agreements with non-EU countries. The readmission agreements with Turkey and Moldova were signed. 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 Chapter 2.2 - Human rights and the protection of minorities*).

Interceptions of people attempting unlawfully to cross the border in 2011 remained at the level of the previous year. 324 people were intercepted trying to enter or leave the country illegally. In the first half of 2012, 112 people were intercepted, a decrease of 29.5% compared with the same period in 2011.

The Service for Foreigners' Affairs (SFA) has adequate administrative capacity and continued to enhance cooperation with other law enforcement agencies. The SFA makes full use of the MIS and granted access to its databases to relevant agencies at all levels. In 2011, the SFA issued 7,661 permits for temporary stays, a decrease of 6% in comparison with 2010. In 2011, 308 permits for permanent stays were issued, a decrease of 2% compared with 2010. The SFA issued 309 expulsion decisions in 2011, a decrease of 25% from 2010. In the first half of 2012, the SFA issued 4199 permits for temporary stays and 205 for permanent stays. In addition, 149 expulsion decisions were taken. 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 2011 annual report. The fourth country migration profile was published. It includes statistics from the improved MIS. A working group with representatives from State and Entity levels is working on aligning collection of

migration data with Eurostat regulations. Bosnia and Herzegovina's legislation on legal migration encompasses the right to family reunification, long-term residence and conditions for admission of third-country nationals for study purposes.

Bosnia and Herzegovina made progress in the areas of visa policy, border management, asylum and migration. The country continued to address its priorities in the field of visa policy and to advance on border management. Efforts to improve border crossing infrastructure, management and maintenance are needed. The country's asylum and international protection system is adequate for the current inflows. Additional human and financial resources need to be allocated to increase the efficiency of the system. Bosnia and Herzegovina's capacity in the area of migration is adequate. Monitoring of migration flows and inter-agency cooperation continued to improve. Overall, preparations in this area are moderately advanced.

#### 4.3.2. *Money-laundering*

Some progress was made in the fight against **money-laundering**.

Bosnia and Herzegovina is implementing the strategy and action plan for the prevention of money-laundering and financing of terrorist activities. In 2011, the Financial Intelligence Department (FID) within the State Protection and Investigation Agency received 220,000 reports of suspicious and cash transactions. 153 suspicious transactions required further investigations. In 2011, 13 criminal offences involved money-laundering. The electronic reporting system is functioning. Transaction reports come mostly from the banking sector. Notaries, lawyers, audit offices and accountants filed no reports to the FID.

The FID has access to the Central Bank database of bank accounts of companies and to the IDDEEA (Agency for identification documents, registers and data exchange) database. It does not have access to crime report databases to cross-check data. The Law on Prevention of Money-Laundering and Financing of Terrorist Activities provides for two-way communication between persons covered by the relevant obligations and the FID. Feedback to persons covered by the obligations is provided in a non-systematic manner. The FID has Memoranda of Understanding with 12 foreign FIDs and exchanges information with all other members of the EGMONT Group.

Training sessions including the FID, the Criminal Investigation Department, prosecutors and financial regulatory agencies were organised on reporting obligations and financial investigations. Additional operational capabilities and budgetary independence are necessary in the FID, as recommended in the MONEYVAL report. Attempts to relocate it as an independent body failed. The FID requires additional human resources. Technical capabilities to conduct both analyses and investigations are limited.

The criminal law provisions on confiscation of assets are largely harmonised with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. While the value of assets confiscated in criminal proceedings is increasing, the number of cases is decreasing.

Steps were taken to set up a structure for management of confiscated properties. The relevant Republika Srpska agency came into operation. The Federation government adopted a draft Law on the Confiscation of Illegally Obtained Property, providing for the establishment of an agency. The draft Law is still pending adoption in the Parliament. The Republika Srpska Agency for Banking Supervision and the Federation Agency adopted decisions on minimum reporting standards. The Federation draft Laws on Banks, Leasing companies and Micro-credit organisations, harmonised with the Law on Prevention of Money-laundering and Financing of Terrorist Activities are in the parliamentary procedure. The Republika Srpska

Law on the Agency for Banking Supervision is already harmonised. Cooperation between the Central Bank and the two Entity Agencies for Banking Supervision was improved under a Memorandum of Understanding.

Bosnia and Herzegovina made some progress in the fight against money-laundering. Additional institutional and legislative measures are required to prepare the country to fight money-laundering effectively. Mechanisms for confiscation of assets did not yet come into operation throughout the country. Overall, preparations in this area are moderately advanced.

#### 4.3.3. *Drugs*

Little progress was made in the fight against **drugs**. International drug trafficking routes to Europe pass either through Bosnia and Herzegovina or along its borders. Drug trafficking is a major part of organised crime. Narcotics cultivation is limited to small-scale marijuana production. Drug consumption is on the rise, but remains relatively low compared with other European countries.

Implementation of the national drugs strategy (for 2009-2012) and action plan remains slow. A rulebook on safekeeping and destruction of seized narcotic drugs was adopted. Amendments to the Law on Prevention and Suppression of the Abuse of Narcotic Drugs, providing for the establishment of an Office for Drugs, failed to be adopted. The Federation adopted an action plan on the fight against drugs for 2012-2013. The Republika Srpska strategy for monitoring drugs and preventing drug abuse and the related action plan are being implemented by an interinstitutional commission.

In cooperation with the European Monitoring Centre for Drugs and Drug Addiction, Bosnia and Herzegovina prepared a national action plan on the drug information system, an information map on drug-related data sources and the 2010 annual report on the drug situation in the country.

Seizures of heroin, cocaine and skunk at the border increased. The number of related reports of criminal acts increased, whereas the number of cases processed decreased slightly. Coordination between the different law enforcement agencies is arranged case by case. Effective judicial follow-up and a deterrent criminal policy are missing.

Bosnia and Herzegovina made little progress in the fight against drug trafficking. Pending the establishment of an Office for Drugs, its institutional capacity to coordinate the policy framework and implement it systematically remains weak. Law enforcement activities to tackle drug trafficking continued but did not achieve a major breakthrough. Overall, preparations in this area are moderately advanced.

#### 4.3.4. *Police*

Some progress was achieved on **police** matters. Implementation of the police reforms is continuing.

The capacity of the Directorate for Coordination of Police Bodies increased. Definitive premises for the Directorate remain to be secured. The Directorate acts as the national contact point for operational activities under the Police Cooperation Convention. In this capacity, it carried out joint exercises with the State Protection and Investigation Agency (SIPA), the Border Police, the Republika Srpska Ministry of the Interior, the Federal Police Administration and the Police Administration of the Brcko District on cross-border surveillance, urgent pursuit and undercover investigations. A Memorandum of Understanding on cooperation in VIP protection was agreed upon by all law enforcement agencies. No agreement was reached on a memorandum on reporting.

The number of messages exchanged via the Interpol network is rising. A roadmap setting out the conditions for the country to conclude an operational agreement with Europol was signed and accession to the Europol application 'Siena' is planned.

The institutional development of the Agency for Forensic and Expert Examination, the Agency for Education and Advanced Training and the Agency for Police Support is undermined by general budgetary constraints and lack of political agreement on their future.

The public complaints board received 71 complaints, mostly related to incorrect and non-professional behaviour of police officers. A small number of cases included suspected links to corruption and organised crime. Four cases were proven to be justified. The board for complaints by police officers received 127 complaints in 2011, mainly linked to ranking and legal status. Few were confirmed and followed by measures.

The SIPA reached a staffing level of 73%. The Law on Police Officials was amended to regulate the deployment of officers from other police bodies to the SIPA, the Border Police and the Directorate for Coordination of Police Bodies. A document management system was installed. Temporary financing in 2011 prevented the allocation of funds for capital investments and new recruitments.

The Federation Police Administration amended its rulebook on internal organisation to strengthen the sectors for combating crime and organised crime. A new draft Federation Law on Internal Affairs was adopted by the Federation government, introducing more extensive political and administrative oversight over the work of the police and appointment and dismissal of the Police Director. Several Cantons are drafting new Laws on Internal Affairs aligned to the changes expected at the Federation level.

Republika Srpska adopted a new Law on Internal Affairs. The Law was harmonised with the Republika Srpska Law on Police Officers and with the national legislation on protection of personal data. The law did not change the overall structure, management principles or the legal status and budget of the Republika Srpska police. A unit specifically assigned the task of fighting organised crime and corruption was established.

Bosnia and Herzegovina made some progress in the field of police. Institutional development of police reform agencies and the Directorate is slowly advancing. The capabilities of individual law enforcement agencies are improving, but systematic cooperation remains to be improved. Overall, preparations in this area are advanced.

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

There was little progress in fighting **organised crime**. Bosnia and Herzegovina remains a source of arms and ammunition for criminal groups in the EU. Organised crime activities are also linked to the transit of drugs on international trafficking routes.

A working group was established to coordinate and follow up implementation of the strategy to fight organised crime (for 2009-2012). A number of successful joint police operations took place, also at large scale. In 2011 84 reports against 931 persons were handed over to the Prosecutor's Office. The trend over the past years shows that less and less indictments are confirmed. In 2011, less than 10% of the indictments were confirmed. Although the number of reports decreased, the investigations involved a higher number of suspects. A statistical map for a unified method for collecting statistics was prepared. A draft Law on the Witness Protection Programme is in the adoption procedure. An action plan for prevention and suppression of criminal offences relating to motor vehicles for 2012-2015 was adopted.

Protocols under the Police Convention on Cooperation in South-East Europe were signed with Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia.

The SIPA organised citizens' forums to enable civil society and cooperation partners to contribute to the fight against organised crime. The agency operates a crime hotline.

Due to the lack of prison capacity, Bosnia and Herzegovina is not a party to the Council of Europe Convention on the International Validity of Criminal Judgments or to the additional protocol to the Council of Europe Convention on the Transfer of Sentenced Persons.

Proactive investigations of organised crime groups are carried out throughout the territory of Bosnia and Herzegovina, although unevenly. Amendments to the instruction on police-prosecutor cooperation were proposed, particularly on cooperation when using special investigative means. Joint training and information gathering on specific cases of police-prosecutor cooperation are organised regularly. Difficulties remain with proper implementation of the system of prosecutor-led investigations.

The whole range of special investigative measures is used. The system for legal interception of telecommunications is fully operational. Deployment of special investigative measures is limited by the short maximum duration of interceptions, highly restricted use of interpreters for interceptions, lack of modern technology and limited powers to use cover identities and vehicle registrations.

The amendment to the Law on Protection of Classified Information, to bring the law into line with the relevant EU standards and provide for implementation of the bilateral security agreement, remains to be adopted.

Coordination meetings for exchanging intelligence are organised at different levels but with uneven attendance, regularity and quality. Lack of data and persisting mistrust between law enforcement agencies prevent further systematic exchanges of intelligence. An electronic data exchange system for police and prosecutors was set up. All law enforcement agencies established electronic registers.

Limited progress was made on combating **trafficking in human beings** (THB). Relevant provisions in the State-level criminal code are in line with international standards. Implementation of the national action plan for 2008-2012 continued, financed mainly by donors. Thus, sustainability remains an issue. A new action plan is being prepared.

The national coordinator's office continued an educational campaign targeting social workers, secondary school teachers, work inspectors and prosecutors. The State-level government secured funds for three 'safe houses'.

The number of THB victims identified increased. The majority of trafficking was for the purpose of sexual exploitation and begging. Bosnia and Herzegovina continues to be a country of origin, transit and destination for trafficking of women. Provisions on THB in the Entity and Brcko District criminal codes are not yet harmonised with the State-level criminal code or with ratified international instruments. The Department for Combating THB within the national coordinator's office and the database on THB victims are not fully operational.

Some progress was made in the **fight against terrorism**. The Joint Task Force to fight terrorism was re-activated and its technical capacity developed. Security and intelligence data available 24/7 are exchanged between the agencies represented in the Joint Task Force. As part of the civil-army cooperation plan in case of a terrorist attack, training in line with NATO and EU standards was organised.

There were some efforts to implement the strategy for preventing and fighting against terrorism for 2010-2014. All law enforcement agencies and the Intelligence Security Agency of Bosnia and Herzegovina (OSA) adopted action plans. A Counter Terrorism Task Force and an operation Group to suppress radicals and extremists potentially capable of conducting



terrorist activities were set up. While Republika Srpska and the Brcko District amended their criminal codes to introduce a criminal offence to suppress crimes linked to hate and extremism, the Federation needs to amend and harmonise its criminal code.

Bosnia and Herzegovina continued to implement the restrictive measures established by UN Security Council Resolutions. The Ministry of Security adopted a number of decisions regarding Liberia, Iraq, Somalia, members of Al-Qaida, Osama Bin Laden, Taliban and other individuals or groups linked to terrorist activities.

Bosnia and Herzegovina made some progress in the fight against organised crime and terrorism. The lack of systematic exchanges of proper intelligence and of effective and sustainable coordination and cooperation mechanisms between law enforcement agencies is preventing further progress in the fight against organised crime. Capacity to fight trafficking of human beings remains to be strengthened. Proactive identification of victims and an effective national referral mechanism are crucial. Further strengthening of criminal prosecution is needed. Proactive and preventive action and also intelligence-sharing remain uncoordinated. Overall, preparations are moderately advanced.

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

There was some progress on **personal data protection**.

Following the latest changes to the Law on Protection of Personal Data, the Director of the Personal Data Protection Agency and his deputy are appointed by parliament. All decisions of the agency are final and can be challenged only before the court of Bosnia and Herzegovina.

The agency increased its staffing. Given the increase in its workload, the 2012 budget has allocated further resources.

The agency started to issue orders to ensure efficient implementation of the Law on Protection of Personal Data. It carried out 17 monitoring inspections and provided 117 expert opinions, three of which were on draft laws and others to legal and private entities. It dealt with 35 complaints and integrated 19 new controllers in the main registry. The Agency has also started with execution of sanctions, issued one penalty, and has carried out 35 *ex officio* procedures.

Amendments to the Law on IDs, Travel Documents and Personal Identity Numbers were adopted to regulate use of copies of such documents.

The agency regularly receives requests to give its opinion on draft regulations, but no systematic screening takes place in the legislative process to make sure that new regulations comply with the Law on Personal Data Protection.

The Law on Personal Data Protection does not apply to the Bosnia and Herzegovina Intelligence Agency.

There was some progress on personal data protection. Overall, preparations for personal data protection are advancing, although still at an early stage.

## Statistical Annex

### STATISTICAL DATA Bosnia and Herzegovina

<b>Basic data</b>							
	Note	2001	2007	2008	2009	2010	2011
Population (thousand)		3 790s	3 843	3 842	3 843	3 843	3 840e
Total area of the country (km <sup>2</sup> )		51 209	51 209	51 209	51 209	51 209	51 209
<b>National accounts</b>							
	Note	2001	2007	2008	2009	2010	2011
Gross domestic product (GDP) (million national currency)	1)	12 641	21 836	24 759	24 051	24 584	25 474
GDP (million euro)		6 463	11 165	12 659	12 297	12 570	13 024
GDP (euro per capita)		1 705s	2 906	3 295	3 200	3 271	3 392e
GDP (in Purchasing Power Standards (PPS) per capita)		:	6 360	7 318	7 259	7 274	:
GDP per capita in PPS (EU-27 = 100)		:	29	32	31	30	:
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		2.4	6.1	5.6	-2.9	0.7	1.3
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	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	2)	10.8	9.8	8.9	8.6	8.3	8.1
Industry	2)	19.8	20.4	21.0	20.2	20.8	21.0
Construction	2)	6.2	5.9	6.4	6.2	5.1	4.8
Services	2)	63.2	63.9	63.7	65.1	65.8	66.1
Final consumption expenditure, as a share of GDP (%)		:	113.6	114.3	114.3	113.3	:
Gross fixed capital formation, as a share of GDP (%)		:	28.1	30.6	24.7	21.7	:
Changes in inventories, as a share of GDP (%)		:	1.5	1.6	-0.5	0.3	:
Exports of goods and services, relative to GDP (%)		28.2	37.2	36.8	32.2	37.4	:
Imports of goods and services, relative to GDP (%)		75.5	68.6	69.6	55.2	59.1	:
<b>Industry</b>							
	Note	2001	2007	2008	2009	2010	2011
Industrial production volume index (2005=100)		72.8e	119.9e	128.7e	130.6e	135.4e	144.1e
<b>Inflation rate</b>							
	Note	2001	2007	2008	2009	2010	2011
Annual average inflation rate (CPI, % change on previous year)	3)	3.1	1.5	7.4	-0.4	2.1	3.7
<b>Balance of payments</b>							
	Note	2001	2007	2008	2009	2010	2011
Balance of payments: current account total (million euro)		-833	-1 191	-1 771	-778	-719	-1 142
Balance of payments current account: trade balance (million euro)		-3 308	-4 142	-4 823	-3 410	-3 232	-3 629
Balance of payments current account: net services (million euro)		255	639	664	563	567	544
Balance of payments current account: net income (million euro)		595	336	457	416	210	164
Balance of payments current account: net current transfers (million euro)		1 626	1 976	1 930	1 653	1 736	1 779
of which government transfers (million euro)		450	193	186	166	168	153
Net foreign direct investment (FDI) (million euro)		133	1 540	695	185	205	327
Foreign direct investment (FDI) abroad (million euro)		0	-20	-11	-4	-32	-14
of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)		133	1 520	684	181	174	313
of which FDI of EU-27 countries in the reporting economy (million euro)		:	333	321	91	:	:
<b>Public finance</b>							
	Note	2001	2007	2008	2009	2010	2011
General government deficit/surplus, relative to GDP (%)		:	1.2	-2.2	-4.4	-2.5	-1.3
General government debt relative to GDP (%)		35.0	18.1	17.1	21.8	25.6	26.1
<b>Financial indicators</b>							
	Note	2001	2007	2008	2009	2010	2011
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)	4)	1 377b	2 931	2 910	2 836	3 017	3 163
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	4)	2 387b	6 112	6 360	6 498	6 968	7 372
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:

Total credit by monetary financial institutions to residents (consolidated) (million euro)	4)	1 707	6 060	7 419	7 184	7 436	7 828
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	5)	:	7.2	7.0	7.9	7.9	7.4
Deposit interest rate (one year), per annum (%)	6)	:	0.4	0.4	0.3	0.2	0.1
euro exchange rates: average of period - 1 euro = ... national currency		1.956	1.956	1.956	1.956	1.956	1.956
Effective exchange rate index (2005=100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	7)	1 385	3 425	3 219	3 176b	3 302	3 284

<b>External trade</b>	Note	2001	2007	2008	2009	2010	2011
Value of imports: all goods, all partners (million euro)		:	7 106.1	8 330.2	6 317.1	6 961.9	7 938.4
Value of exports: all goods, all partners (million euro)		:	3 035.3	3 431.6	2 828.1	3 627.9	4 203.9
Trade balance: all goods, all partners (million euro)		:	-4 070.8	-4 898.6	-3 489.0	-3 334.0	-3 734.5
Terms of trade (export price index / import price index)	8)	:	:	:	:	:	99.0p
Share of exports to EU-27 countries in value of total exports (%)		:	57.3	55.0	54.0	54.4	55.6
Share of imports from EU-27 countries in value of total imports (%)		:	47.8	48.0	49.1	45.9	45.4

<b>Demography</b>	Note	2001	2007	2008	2009	2010	2011
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		1.9	-0.3	0.0	-0.1	-0.4	-1.0p
Infant mortality rate: deaths of children under one year of age per 1000 live births		7.6	6.8	6.9	6.5	6.4	5.4p
Life expectancy at birth: male (years)		71.3	72.1e	72.4e	72.4e	72.4e	72.4e
Life expectancy at birth: female (years)		76.7	77.5e	77.7e	77.7e	77.7e	77.7e

<b>Labour market</b>	Note	2001	2007	2008	2009	2010	2011
Economic activity rate (20-64): share of population aged 20-64 that is economically active (%)		:	:	:	:	:	:
* Employment rate (20-64): share of population aged 20-64 in employment (%)		:	:	:	:	:	:
Employment rate male (20-64) (%)		:	:	:	:	:	:
Employment rate female (20-64) (%)		:	:	:	:	:	:
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	31.9	34.4	34.0	33.3	33.6
Employment by main sectors (%)							
Agriculture	9)	:	19.8	20.6	21.2	19.7	19.6
Industry	9)	:	23.0	21.7	21.2	21.9	20.9
Construction	9)	:	9.6	10.8	10.3	9.1	8.0
Services	9)	:	47.5	47.0	47.3	49.3	51.5
Unemployment rate: share of labour force that is unemployed (%)	10)	40.0	29.0	23.4	24.1	27.2	28.0
Share of male labour force that is unemployed (%)		:	26.7	21.4	23.1	25.6	26.5
Share of female labour force that is unemployed (%)		:	32.9	26.8	25.6	29.9	30.5
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	58.4	47.5	48.7	57.5	57.9
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	25.0	20.2	20.0	22.3	:

<b>Social cohesion</b>	Note	2001	2007	2008	2009	2010	2011
Average nominal monthly wages and salaries (national currency)	11)	408.0	645.0	752.0	790.0	798.0	816.0
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	2001	2007	2008	2009	2010	2011
Number of passenger cars per 1000 population		:	171.8	178.8	180.6	188.6	191.4e
Number of subscriptions to cellular mobile telephone services per 1000 population		92.6s	637.6	769.9	830.7	784.3	825.8e

<b>Infrastructure</b>	Note	2001	2007	2008	2009	2010	2011
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		:	19.9	19.9	19.9	20.1	:
Length of motorways (km)		:	28	28	35	35	:

<b>Innovation and research</b>	Note	2001	2007	2008	2009	2010	2011
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 (%)		:	10.9	:	:	:	:

<b>Environment</b>	Note	2001	2007	2008	2009	2010	2011
* 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	62.0	60.0	63.0	62.0	64.0

<b>Energy</b>	Note	2001	2007	2008	2009	2010	2011
Primary production of all energy products (thousand TOE)		:	:	:	:	:	:
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)	12)	:	:	:	3 629bp	3 476p	:
Primary production of natural gas (thousand TOE)		:	:	:	:	:	:
Net imports of all energy products (thousand TOE)		:	:	:	:	:	:
Gross inland energy consumption (thousand TOE)		:	:	:	:	:	:
Electricity generation (thousand GWh)		:	13.0	14.8	15.7	17.1	:

<b>Agriculture</b>	Note	2001	2007	2008	2009	2010	2011
Agricultural production volume index of goods and services (producer prices, previous year=100)		:	:	:	:	:	:
Total utilised agricultural area (thousand hectare)	13)	:	1 670	1 679	1 656	1 649	1 684
Livestock: cattle (thousand heads, end of period)		:	468	459	458	462	455
Livestock: pigs (thousand heads, end of period)		:	535	502	529	590	577
Livestock: sheep and goats (thousand heads, end of period)		:	1 104	1 101	1 125	1 109	1 086
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	724	737	734	693	689
Crop production: cereals (including rice) (thousand tonnes, harvested production)	14)	1 139	1 001	1 329	1 343	1 104	1 119
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)	15)	190	254	282	280	286	287

: = not available

- = not applicable

p = provisional

e = estimated value

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) In 2011, the calculation method for GDP was improved and figures were revised.
- 2) 2001 - 2009, data according to NACE Rev 1.1.
- 3) Until 2005, the growth rate of retail prices is presented, from 2006 onwards growth rate of the consumer price index (CPI).
- 4) Data series for period January 2006 – September 2011 updated based on new methodology.
- 5) Short-term lending rates in national currency to private enterprises and cooperatives (weighted average).
- 6) Demand deposit rates in national currency to households (weighted average).
- 7) Since 2009 gold has been included in reserve assets.
- 8) Based on export and import unit value indices for 2011.
- 9) 2005 - 2011, data according to Nace Rev. 1.1.
- 10) 2001, data from the Bureau for Employment.
- 11) 2011, Currency: BAM (Convertible Mark); including data from Brcko District; net salary.
- 12) 2009 - 2010, primary production of lignite and brown coal included.
- 13) 2007 - 2011, the utilised agricultural area consists of arable land, kitchen garden, permanent crops and permanent grassland as cadastral data (not as UAA).
- 14) 2009, including triticale and buckwheat.
- 15) Including lettuce and melons after 2009.