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**BOSNIA AND HERZEGOVINA 2010 PROGRESS REPORT**

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TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**Enlargement Strategy and Main Challenges 2010-2011**

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# COMMISSION STAFF WORKING DOCUMENT

## 2010 Progress Report

### 1. INTRODUCTION

#### 1.1. Preface

Since March 2002, the Commission has reported regularly to the Council and Parliament on 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 Stabilisation and Association Agreement and the European Partnership priorities.

This report covers the period from mid-September 2009 to the end of September 2010. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a 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 permits an objective assessment.

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

From the technical analysis contained in this report, the Commission has drawn detailed conclusions regarding Bosnia and Herzegovina, which it is publishing in a separate communication on enlargement<sup>2</sup>.

#### 1.2. Context

Bosnia and Herzegovina is a potential candidate for EU membership. The Stabilisation and Association Agreement (SAA) between Bosnia and Herzegovina and the EU was signed in

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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 2010-2011 (COM (2010) 660 of 09.11.2010)

June 2008. The Interim Agreement, which focuses on the trade-related areas of the SAA, has been in force since July 2008. However, progress on EU-related reforms has been limited.

An international presence under UN auspices — the Office of the High Representative (OHR) — has been in place in Bosnia and Herzegovina since 1995. Making progress towards meeting the conditions which have been set for the closure of the Office of the High Representative (OHR)<sup>3</sup> by the Peace Implementation Council Steering Board remains essential. The country has made very little progress towards meeting the requirements for the closure of the OHR.

There is little domestic consensus on the main EU related reform priorities, such as the harmonisation of the Constitution with the European Convention on human rights and on establishing a single economic space. A shared vision of the direction to be taken by the country remains necessary for smoothly operating institutions, for creating more functional and efficient State structures and for speaking with one voice on EU and international matters. The EU has continued preparations to further coordinate and reinforce the EU presence and implement the EU agenda.

The country's Constitution was drawn up as part of the internationally agreed 1995 Dayton/Paris Peace Agreement and has been a focus of reforms. It establishes a complex political structure that provides for governments at State, Entity, District and Cantonal levels. The State-level is comprised of 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 Constitutional Court, with a High Judicial and Prosecutorial Council being established later.

The process for constitutional reform, which followed two high-level meetings in Butmir in October 2009, produced no tangible results. In December 2009, the European Court of Human Rights (ECtHR) issued a legally-binding decision (Sejdic-Finci vs. Bosnia and Herzegovina case) that found ethnicity-based ineligibility to stand for election "...incompatible with the general principles of the European Convention for the protection of Human Rights and Fundamental Freedoms".<sup>4</sup> Discriminatory provisions that prevent citizens who do not identify themselves as belonging to the three constituent peoples from standing as candidates for the Presidency and the House of Peoples of the Parliamentary Assembly remained in the Constitution and the Electoral Law when the general elections held in October 2010 were called.

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

Bosnia and Herzegovina participates in the **Stabilisation and Association Process**. The Interim Agreement (IA) has been in place since July 2008. The Stabilisation and Association Agreement (SAA) has been ratified by 25 EU Member States thus far. Implementation of the

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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 awards; 4) Fiscal sustainability (promoted by 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> ECtHR decision, application no. 27996/06 and 34836/06, Para 21.

Interim Agreement (IA) by Bosnia and Herzegovina has been uneven. The country is in breach of the IA due to non-compliance with the European Convention on Human Rights and due to the absence of a state aid authority. Moreover, in February, Bosnia and Herzegovina unilaterally changed most-favoured nation (MFN) duties for a number of agricultural and industrial products by adopting Amendments on the Law on Customs Tariffs. No prior consultation with the European Commission took place, which goes against the provisions of the Interim Agreement. Efforts to address obligations under the IA, which is a European Partnership priority, need to be considerably stepped up.

The EU provides guidance to the authorities of Bosnia and Herzegovina on reform priorities as part of the *European Partnership*.<sup>5</sup> Progress on these reform priorities is encouraged and monitored by the bodies established by the Interim Agreement. Six Interim Sub-Committee meetings and two Interim Committee meetings were held during the reporting period. Furthermore, the multilateral economic dialogue between the Commission, EU Member States and potential candidate countries in the context of the pre-accession fiscal surveillance took place in an expert meeting in June 2010.

The regular meeting between Members of the European Parliament and Members of the Bosnia and Herzegovina Parliamentary Assembly took place in February 2010.

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 EU Special Representative (EUSR) continues to promote overall political coordination and to offer the EU's advice and facilitation. The mandate of the EUSR has been extended until 31 August 2011.

The mandate of the EU Police Mission (EUPM) focuses on the fight against organised crime and corruption. The EUPM has continued to monitor and assess implementation of police reform, accountability and provide training. The mission currently has 280 officers and its mandate has been extended until 31 December 2011.

The EUFOR/ALTHEA military operation contributed to maintaining a safe and secure environment in the country. EUFOR forces currently number about 1,900 troops. In November 2009, the UN Security Council extended EUFOR's mandate once again for one more year. In January 2010, the Foreign Affairs Council concluded that the executive mandate of Operation Althea will last until at least November 2010 and expressed the readiness of the EU, should the situation require, to maintain a military executive beyond 2010, under a UN mandate. Particular emphasis has been placed on providing capacity-building and training.

In the framework of the **visa liberalisation** dialogue, Bosnia and Herzegovina has made important progress in the different areas of the roadmaps. The Commission therefore presented a proposal on lifting the visa obligation for citizens of Bosnia and Herzegovina on 27 May 2010, which was subject to the fulfilment of some outstanding criteria. The proposal on visa liberalisation was adopted by the European Parliament on 7 October and the Council

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<sup>5</sup> Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina (2008/211/EC).

on 8 November, following the successful completion of outstanding requirements. A readmission agreement with Bosnia and Herzegovina has been implemented since 2008.

As a potential candidate for EU membership, Bosnia and Herzegovina aligned itself with 67 CFSP declarations out of a total of 74 relevant declarations adopted by the EU during the reporting period (91%).

Bosnia and Herzegovina receives **financial assistance** under the Instrument for Pre-accession Assistance (IPA). The EU Delegation to Bosnia and Herzegovina is responsible for the implementation of financial assistance in the country. Little progress has been made by the country's authorities towards establishing the necessary structure for decentralised management of EU funds. The competent accrediting officer, the national IPA coordinator and the national authorising officer were appointed. However, the legal basis for the operating structure, appointment of the necessary programme officers and adoption of the roadmap towards a decentralised implementation system are still pending.

Following the delayed signature of the 2007 and 2008 IPA Financing Agreements by the authorities of Bosnia and Herzegovina, implementation is still ongoing. An assessment of the Multi-annual Indicative Planning Document (MIPD) for the period 2009-2011 concluded that the overall objectives and strategic choices remain valid, as they are based on the EU strategic documents and lessons learned from programming and implementation of EU assistance.

With a total allocation of €98.3 million, the IPA 2010 programme focuses on political criteria, namely social inclusion, cultural heritage, law enforcement, anti-corruption measures, the judiciary and public administration reform. In addition, it focuses on water infrastructure, customs, rural development and eradication of animal diseases. Bosnia and Herzegovina participates in the IPA multi-beneficiary programmes, including an IPA crisis response package developed in 2008 in response to the financial crisis.

Development of **civil society** in Bosnia and Herzegovina continues to be supported under the Civil Society Facility, with an emphasis on anti-corruption measures, environmental protection, local democracy and networks of civil society organisations.

The cross-border cooperation programmes between Bosnia and Herzegovina and its neighbours Croatia, Montenegro and Serbia were revised to include the additional financial allocation for the period 2010-2011. Implementation of the 2007-2009 cross-border programmes is continuing.

Bosnia and Herzegovina is a full member of the 7th Framework Programme for research, technological development and demonstration activities (FP7) and participates in COST and the EUREKA network. Bosnia and Herzegovina also participates in the Tempus and Erasmus Mundus programmes. Preparations for participation in the Culture 2007-2013 programme have advanced.

## 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 and stability to Bosnia and Herzegovina. However, Bosnia and Herzegovina's Constitution, which is contained in Annex IV to the DPA, established a complex institutional architecture, which remains inefficient and is misused. No steps have been taken to address the problem of legislation relevant for EU integration being blocked. The repeated misuse of rules on quorums complicate the decision-making process, delay reforms and reduce the country's capacity to make progress towards the EU.

There are particular problems in the Federation, where competences of the Entity, the Cantons and the municipalities overlap. Failure to harmonise legislation at the different levels, particularly in the smaller Cantons, adds to the arrangement's complexity.

In autumn 2009, an EU-US initiative to facilitate constitutional changes put forward a proposal to provide the State government with the competences and authority needed to meet the minimum requirements of the EU accession process. It also contained proposals to improve the functionality of the State and to align the Constitution with the European Convention on Human Rights (ECHR). No agreement on a way forward emerged.

The Constitution of Bosnia and Herzegovina prevents citizens who do not identify themselves as belonging to one of the three constituent peoples (Bosniak, Croat or Serb) from standing as candidates for the Presidency and the House of Peoples of the Parliamentary Assembly. In December, the European Court of Human Rights (ECtHR) issued a legally-binding decision (Sejdic-Finci vs. Bosnia and Herzegovina case) that found ethnicity-based ineligibility to stand for election "...incompatible with the general principles..." of the ECHR.<sup>6</sup> Furthermore, by ratifying the SAA with the European Union in 2008, Bosnia and Herzegovina made a commitment to ensure full compliance with the ECHR, which is also a European Partnership priority.

In March, the Council of Ministers adopted an action plan for implementation of the ECtHR decision and set up an inter-institutional working group. The working group failed to reach an agreement.

The prospect of elections in October 2010 reinforced the tendency of political parties and government officials on all sides to engage in nationalistic rhetoric. During the pre-election period, politicians from Republika Srpska frequently challenged the territorial integrity of the country. Meanwhile, some political leaders from the Federation linked the establishment of Republika Srpska to war-time massacres. Leaders in Republika Srpska frequently criticised State institutions, competences and laws. They remained opposed to strengthening State-level competences, including in the context of the Interim Agreement (IA), in particular by delaying the establishment of a State aid authority. Politicians from the Cantons in the

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<sup>6</sup> ECtHR decision, application no. 27996/06 and 34836/06, Para 21.



Federation of Bosnia and Herzegovina also continued to delay reforms needed to establish State-level competences as part of the IA.

On the basis of the Dayton/Paris Peace Agreement, the international community continued to maintain a significant presence in Bosnia and Herzegovina. Very little progress was made towards meeting the requirements set by the Peace Implementation Council Steering Board for the closure of the Office of the High Representative (OHR). No agreement was reached on apportioning State property between the State and other levels of government. There is still disagreement between political leaders on the method for registration of State and defence property. The authorities did not make use of the inventory of State property compiled by the OHR in December. The competent authorities, except Brčko District, have not completed their assessments of which property would be needed for them to fulfil their constitutional and legal responsibilities. In September, the Republika Srpska National Assembly unilaterally adopted its own state property law, which further undermines prospects for a sustainable agreement on state property. The issue of immovable defence property remains unresolved.

Due to political difficulties and challenges posed to the DPA, the HR decided to use the Bonn Powers on several occasions, including in relation to the law on the electricity transmission company, the fulfillment of the Brčko Final Award and the mayor of Mostar City. He also extended the mandates of international judges and prosecutors working on war crimes and rehabilitated several dismissed officials.

The Entities have not made their Constitutions compliant with the 2006 ruling of the Constitutional Court of Bosnia and Herzegovina regarding the Entity coats of arms, flags and anthems, which are not in line with the State-level Constitution.

*Overall*, there has been little progress on addressing the European Partnership priority, which requires measures to achieve more functional and sustainable institutional structures and better respect for human rights and fundamental freedoms, including by adopting changes to the Constitution.

### *Parliament*

On 3 October, general elections were held for the Presidency and the lower chamber of the Parliamentary Assembly of Bosnia and Herzegovina (the 'House of Representatives'). Voters in the Federation elected 98 deputies in the Entity's House of Representatives, ten cantonal assemblies and two representatives (one Bosniak, one Croat) to the tripartite state Presidency. Voters from Republika Srpska elected 83 deputies to the Entity's National Assembly and one representative to the tripartite state Presidency, one Entity President and two vice-presidents.

The elections were assessed by the OSCE/ODIHR as being generally in line with international standards for democratic elections and as representing further progress for Bosnia and Herzegovina. However, they were once again held with ethnicity and residency-based limitations to suffrage rights due to provisions established by the Dayton/Paris Peace Agreement.

Steps were taken to provide the Parliamentary Assembly of Bosnia and Herzegovina with sufficient administrative resources and personnel. Its budget was increased, enabling the parliament's secretariat to recruit new staff. Of the 181 posts in the 2006 staffing plan, 148 have been filled. Parliament prepared a new three-year work plan and adopted an IT strategy for 2010-13.

On occasion, "entity voting"<sup>7</sup> prevented the adoption of laws addressing European Partnership priorities. These included proposed laws on the promotion of SMEs, contractual obligations, witness protection and public procurement. Regarding the law on the population and household census, it was blocked in the House of Representatives by the Federation in January 2010 and later boycotted by Republika Srpska in the House of Peoples in July. The legislative work of parliament, including the various parliamentary committees, proceeded slowly and was characterised by inter-ethnic divergences.

Cooperation between the Council of Ministers and parliament was insufficient. In some cases, laws adopted by the Council of Ministers were later blocked in parliament by the same political actors from the government coalition. In addition, no proper mechanism exists in the legislative process for coordination between the State parliament and the Entity parliaments.

*Overall*, the administrative resources for the Parliamentary Assembly of Bosnia and Herzegovina have increased. Lack of coordination between State and Entity parliaments and political discord between the Entities has continued to hamper the work of the Parliamentary Assembly.

### *Government*

The Presidency of Bosnia and Herzegovina conducts foreign policy and defence policy and proposes the State budget. The Presidency held fourteen regular and fourteen emergency sessions in the twelve months up to September. The Presidency adopted the annual programme on intelligence-security policy and on bilateral agreements. However, individual Presidency members often presented their own party positions in international fora. Foreign policy coordination remained difficult, particularly since January 2010, when Bosnia and Herzegovina began a two year term as a non-permanent member of the UN Security Council. The Chair of the tripartite Presidency rotates every eight months and consensus-building between the three members is weak, which restricts effective policy formulation and implementation.

The Council of Ministers adopted the review of the action plan for meeting the European Partnership priorities and the action plan for implementation of the Interim Agreement (IA) for 2010-11. The Directorate for European Integration (DEI) issues an opinion on all State-level draft laws related to EU integration before they are put on the agenda of the Council of Ministers. However, the capacity of the DEI to assess compliance with the IA remains weak. Furthermore, draft laws of the Entities and Brčko District do not require an opinion from the DEI.

The new Director of the DEI was appointed after a gap of eight months. Staffing levels at the DEI reached 82, including 17 new recruits. However, the DEI has not yet been given the authority necessary to drive the EU integration process forward and is not empowered to coordinate EU-related legislation.

The Directorate for Economic Planning completed the country development strategy and social inclusion strategy. However, they are yet to be adopted. Policy planning in Bosnia and Herzegovina as a whole is impeded by the lack of an up-to-date population and household census. The House of Peoples failed to adopt the Law on the population and household census in September 2010.

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<sup>7</sup> Article IV 4 d) of the Constitution of Bosnia and Herzegovina.

The government of Republika Srpska has established an EU Integration Unit in each ministry, except for the Ministry of Justice. The government and National Assembly of Republika Srpska continued to harmonise legislation with EU standards. However, there was little coordination with the Council of Ministers and the Federation government. The Federation government has established an EU Integration Unit in some ministries but not all. The Federation's Constitution entails complex and expensive governance structures with overlapping competences between the Federation, the Cantons and the municipalities. Divergent ethnic interests adversely affected governance within the Federation.

Both Entities have legislation that is largely in line with the European Charter for Local Self-Government. Some Cantons in the Federation have started to adopt local self-government legislation. In some cases, the Federation Constitutional Court had to issue rulings regarding breaches of the European Charter by Cantons.

*Overall*, only limited progress has been made by Bosnia and Herzegovina on improving the functionality and efficiency of the State-level government structures. Tensions between Entities, inadequate resources and a lack of political dialogue delayed reform. The duplication of competences added to administrative costs. The efficiency of the State-level government was hampered by fragmented policy-making between the State and the Entities.

#### *Public administration*

Little progress was made in the area of public administration reform (PAR), a European Partnership priority.

A new PAR coordinator was appointed. Resources for monitoring the implementation of the PAR strategy, a European Partnership priority, have improved. Resources at Entity and Cantonal level for PAR implementation are insufficient, except in Brčko District. Furthermore, the ability of the State office to influence the process is constrained. Stronger political will and increased resources are crucial for the future success of PAR.

The administrative capacity of Bosnia and Herzegovina to implement SAA and IA commitments is slowly being strengthened. However, the country's administrative structures are still not capable of responding effectively to the requirements of EU integration. They remain cumbersome, fragmented and with an unclear division of powers across the various levels of government.

Only limited progress can be reported concerning the civil service. State-level institutions have adopted a uniform human resources management information system. Several appointments that had been delayed for political reasons were finally decided. However, further key appointments to State-level bodies, such as to the Indirect Taxation Authority, the Communications Regulatory Agency, the electricity transmission company TRANSCO and the State Electricity Regulatory Commission (*See Chapter 4.1 – Internal market*), are still pending. Overall, the civil service remains highly politicised. It is in need of transparent recruitment procedures based on merit, a system of modern career development and professionalisation. No progress has been made towards limiting the role played by political affiliation in public administration.

Some limited progress on civil service management can be reported especially in Republika Srpska, where performance management has started. However, there have been no attempts to harmonise the divergent civil service legislation across the country. In the Federation, attempts were made to politicise the civil service. A ruling by the Federation's Constitutional

Court opened the door for the establishment of separate, Cantonal civil services. This would draw further on the Federation's budget and delay the implementation of the PAR strategy.

During the reporting period, the Entities' Ombudsman's Offices were merged into a State-level Ombudsman, which is functioning. The Ombudsman issued several recommendations on public administration appointments, tenders and anti-discrimination to institutions operating at each of the four administrative levels (State, Entity, Cantonal and municipal), but they were not implemented. The functioning of the Ombudsman's Office was hampered by budgetary constraints and requires further financial support. Enforcement capacity and political will to implement the Ombudsman's recommendations remain weak.

*Overall*, little progress was achieved in the area of public administration reform. A State-level Ombudsman is now operational. Significant further efforts are needed towards developing a professional, accountable, transparent and efficient civil service based on merit and competence at all levels of government. The country's complex and cumbersome institutional structure continues to undermine efficiency.

#### *Civilian oversight of the security forces*

Civilian oversight of the security forces is largely ensured. The committee of the Parliamentary Assembly of Bosnia and Herzegovina in charge of overseeing the Intelligence-Security Agency (OSA) continued its practice of inspecting the OSA's regional centres. The OSA carries out its tasks professionally without political pressure. However, an amendment to the Law on protection of secret data, which ensures that the law is in line with the relevant EU standards and provides for implementation of the bilateral security agreement, remains to be adopted.

#### *Judicial system*

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

The State-level High Judicial and Prosecutorial Council (HJPC) supervised the establishment of a country-wide court information technology (CIT) system. A time management system for prosecutors and a case management system now exist in all courts and all Prosecutor's Offices. This facilitates distribution, management and monitoring of cases. The HJPC also supervised additional development of the judicial documentation centre. Users now have on-line access to over 3,600 court decisions and many legal opinions.

The reconstruction of the Sarajevo municipal court, the largest in the country, was completed in December 2009, thus increasing its efficiency and effectiveness. Republika Srpska also renovated several courts. In the Federation, a review of the court system and of the number of court branches is ongoing.

The parliament of Bosnia and Herzegovina adopted amendments to the Criminal Procedure Code, which is expected to facilitate the transfer of war crime proceedings from State to Entity-level. The board overseeing implementation of the national war crimes strategy proved an effective monitoring system.

However, the complexities arising from the four separate judicial systems (State-level, Republika Srpska, Federation and Brčko District) pose serious challenges to the functioning of the judicial system. There is no single body comparable to a supreme court that can guarantee uniform application of the law. The presence of 14 budgetary authorities affects the

independence of the judiciary. In addition, budgetary measures have led to posts in State-level judicial institutions being frozen for two years.

Political pressure on the judiciary continued. The authority of the HJPC, the State Court and the Prosecutor's Office have often been questioned by political leaders. The role of the HJPC in appointing new judges was also challenged when the President of the Federation delayed three appointments to the Entity Constitutional Court, thus undermining the proper functioning of the court. The State-level prosecutor's office faced cases of internal corruption and frequent leaks of information. The impartiality of courts is not always guaranteed.

The backlog of cases remained one of the most acute problems facing the judiciary and court proceedings are generally lengthy. The HJPC took several measures to reduce the backlog, including quarterly reporting by all courts, a new quota system for judges, more judges in critical courts, new specialised software and training for bailiffs. Despite these reforms, the backlog still stands at over 2.1 million cases country-wide. Many of these are claims for unpaid utility bills.

A general lack of political will meant that few steps were taken to implement the Justice Sector Reform Strategy for 2009-13. In particular, authorities at Entity and Cantonal levels failed to integrate the strategy into their work plans. Limited human resources and poor coordination hampered implementation. The work of the five working groups for implementation of the strategy has been undermined by the lack of a quorum.

Specialisation within courts and prosecution services has started on administrative and commercial cases, but without strategic planning or harmonised measures. To speed up case adjudication in commercial disputes and to facilitate business registration, Republika Srpska established six new commercial courts, including a second instance commercial court. In the Federation, a system of commercial courts has not yet been established.

The physical condition of a number of courts and Prosecutor's Offices throughout the country remains inadequate. A comprehensive country-wide approach to improving courts and Prosecutor's Offices is lacking. The two Entity-level judicial and prosecutorial training centres continue to face staffing problems. Further specialised staff are needed. International cooperation needs to be improved. The State-level Law on international legal assistance in criminal matters is implemented unevenly.

Little progress was made in the area of juvenile justice. The State-level juvenile offence strategy is under review. Implementation of the strategy remained uneven due to a lack of resources. Republika Srpska adopted a new law which includes alternative sanctions. A new Department for Juveniles was opened in the Federation's Ministry of Justice.

Implementation of the national war crimes strategy was severely delayed and remained minimal. A caseload database outlining the types, numbers and perpetrators of cases was compiled after a delay of 18 months. A comprehensive approach to implementation of the strategy is needed. Prosecution of war crimes by the State Court has continued to be satisfactory. In December 2009, the High Representative decided to extend the mandate of international judges and prosecutors dealing with war crimes at the State-level court and in the Prosecutor's Office, after parliament failed to adopt the related legislation. Delays to those appointments had repercussions for the planning of operations in both the court and the Prosecutor's Office and for the processing of cases.

War crimes trials at Cantonal and District courts advanced slowly. Progress was hindered by a lack of capacity in the Prosecutor's Offices, inadequate facilities and a lack of appropriate witness protection and support services. Bosnia and Herzegovina has signed bilateral agreements with Croatia, Serbia and Montenegro on mutual recognition and enforcement of court rulings in criminal matters to prevent people with dual citizenship convicted of a crime in one country avoiding prison by fleeing to the other. (*See Chapter 2.3 – Regional issues and international obligations*).

The number of prosecuted war crimes involving cases of sexual violence remained low. Sustained efforts are needed to guarantee successful investigations and prosecution, as well as adequate witness protection and psychological support for victims.

*Overall*, development of an independent and effective judiciary in line with European standards remains at an early stage. Significant efforts are needed to ensure implementation of the justice sector reform strategy and of the national war crimes strategy, including by securing adequate financial resources. The fragmented legal framework across the country and the absence of a single budget restrict effectiveness. The backlog of cases and political pressure on the judicial system continue to be causes for concern.

#### *Anti-corruption policy*

Bosnia and Herzegovina has made limited progress in tackling corruption, which is widespread throughout the public and private sectors, affecting the judiciary, tax and customs administrations, public procurement, and privatisation. Implementation of the 2009-2014 anti-corruption strategy has started and the Law establishing the Anti-Corruption Agency has been adopted.

Bosnia and Herzegovina ratified the additional protocol to the Council of Europe Criminal Law Convention on Corruption. The country does not yet fulfil the requirements for participation in the working group on bribery in international business transactions, which is a precondition for accession to the OECD Convention on combating bribery. Regarding the report of the Group of States against Corruption (GRECO), 4 out of 16 recommendations have been addressed. Bosnia and Herzegovina has amended provisions of the Criminal Code relating to the management of confiscated assets (*See Chapter 4.3.2 – Money laundering*).

Parliament adopted a Law establishing the Agency for Prevention and Coordination of the Fight against Corruption. The law has entered into force and provides for the establishment of an independent agency, thus meeting one of the GRECO recommendations. An acting director was appointed, pending selection of a permanent director. A first draft of the agency's rulebook has been produced. Premises for the agency were identified, but staffing levels have not been finalised.

A State-level code of conduct for civil servants, regulating both prevention and detection of corruption, has not been adopted. Amendments to the code of conduct for civil servants in Republika Srpska were adopted to regulate the movement of public officials to the private sector and to prevent conflict of interest. In the Federation, the code of conduct for civil servants was amended to introduce priorities regarding the risk of corruption and the concept of ethics.

Bosnia and Herzegovina has a Law on conflicts of interest in place. However, country-wide implementation of the law is uneven. In the twelve months to September 2010, the CEC found 2 violations of the State law on conflict of interest and 15 violations of the Federation law.

Republika Srpska has its own commission for determining conflict of interest, which found 1 violation.

The House of Peoples adopted amendments to the Law on financing of political parties to raise the threshold for individual donations. The Central Electoral Commission (CEC) has started to monitor asset declarations, conflicts of interest and reports on financing of political parties. It has imposed financial and administrative sanctions in 18 cases. However, asset declarations by political parties remain voluntary. The Public Procurement Law largely meets basic standards regarding transparency, but its provisions for preventing or detecting irregularities are not applied consistently.

There is no effective investigation, prosecution and conviction of high-level corruption. Corruption is mainly prosecuted under the rules on abuse of office and at Entity-level. A number of high-level cases involving senior politicians and civil servants are at the prosecution stage. One high-level case of abuse of office resulted in an acquittal. The judicial follow-up of cases of corruption remains slow and although special investigative measures are available to police and prosecutors, they are rarely used in corruption cases. Staff working on corruption are insufficiently trained to conduct financial investigations. Cooperation between police and prosecutors needs to be improved in order to make the investigation of corruption cases more effective.

*Overall*, Bosnia and Herzegovina has started to tackle corruption by adopting an updated anti-corruption strategy and action plan and by appointing an acting director who is overseeing their implementation and the establishment of the anti-corruption agency. Some measures have been taken to prevent corruption (e.g. on awareness-raising, education and training). However, corruption is prevalent in many areas and remains a serious problem throughout the public and private sectors. Anti-corruption policies and measures are not adequately implemented. Investigation and prosecution of corruption remain weak.

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

### *Observance of international human rights law*

As regards *ratification of human rights instruments*, Bosnia and Herzegovina has ratified the major UN and international human rights conventions. During the reporting period it ratified the UN Convention on the Rights of Persons with Disabilities. However, implementation of the human rights conventions remained uneven and delays in meeting reporting obligations continued.

There were several cases of non-enforcement of decisions of the Constitutional Court of Bosnia and Herzegovina, which led to cases being lodged before the *European Court of Human Rights* (ECtHR). Between September 2009 and September 2010 the ECtHR issued 20 judgements finding that Bosnia and Herzegovina had violated the European Convention on Human Rights (ECHR). A total of 673 new applications were made to the ECtHR since October 2009. As of September 2010, some 1,216 cases were pending before the Court, approximately 300 of which related to ‘old’ foreign-currency savings in banks based in Bosnia and Herzegovina.

Little progress was made on the *promotion and enforcement of human rights*. Effective monitoring has not been ensured in every area related to human rights. Bosnia and Herzegovina’s Constitution has not been amended to remove incompatibilities with the ECHR, despite a legally-binding decision by the ECtHR (*See Chapter 2.1 – Constitution*).

Following the demise of the Human Rights Chamber (HRCh) and the Human Rights Commission (HRCCom),<sup>8</sup> the State-level Constitutional Court was confirmed as the competent body to review the proper implementation of their outstanding decisions. This is the first step towards ensuring that there is an independent body in charge of monitoring and assessing implementation of HRCh and HRCCom decisions by the Entities.

*Overall*, the main elements of international human rights law have been incorporated into Bosnia and Herzegovina's legal system. However, little progress took place on enforcement of human rights legislation and on enforcing these instruments and complying with the ECtHR rulings. Full compliance with the ECHR remains essential.

#### *Civil and political rights*

With regard to *torture and ill-treatment*, the Council of Europe Committee on the Prevention of Torture (CPT) found several deficiencies in the treatment of detainees and convicted criminals. Areas of concern included ill-treatment, intimidation and poor health services, particularly for vulnerable prisoners. Bosnia and Herzegovina has still not appointed a representative to the CPT. Very little was done to improve the procedures for investigating cases of alleged torture and ill-treatment.

Adequate safeguards are lacking for people facing deportation after being refused citizenship and who are at serious risk of persecution, including torture and ill-treatment, upon return.

The death penalty is prohibited by the Constitution of Bosnia and Herzegovina and by the Constitution of the Federation. However, the death penalty provision in the Constitution of Republika Srpska has not been repealed.

Some progress was made on *access to justice* in civil and criminal trials. However, the adoption of the framework Law on free legal aid needed to comply with the ECHR is still pending. Equality before the law is formally guaranteed. In practice the presumption of innocence and equal treatment are not always ensured during legal proceedings. Republika Srpska has legal aid centres in five locations. The Federation has no comprehensive system of legal aid, but three of the ten Cantons have established offices. The Brčko District Judicial Commission also operates a legal aid office. Legal aid in civil cases continues to be provided on a mainly *ad hoc* basis by privately funded NGOs.

Some progress was made regarding the *prison system*. A new section for juveniles was opened in Tuzla prison, but lacks rehabilitation services. Republika Srpska adopted several laws, including the amended Law on the execution of criminal sanctions, the Law on a special regime for enforcement of imprisonment and the Law on protection and treatment of juveniles in criminal proceedings. The Federation lacks some of this legislation. As a result, the legal framework is not harmonised and criminal sanctions are not uniform across the country.

Prison conditions improved somewhat. In both Entities prison accommodation was expanded with new or upgraded buildings. A pool of social workers specialising in human rights,

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<sup>8</sup> The Human Rights Chamber (HRCh) was established by Annex 6 to the Dayton/Paris Peace Agreement, as a judicial body dealing with complaints concerning violation of basic human rights and freedoms envisaged under the European Convention on Human Rights. The mandate of the HRCh expired on 31.12.2003, without having resolved all the cases it received (15,191). In order to resolve all the cases, the State and Entities agreed to create the Human Rights Commission within the Constitutional Court of BiH (HRCCom).



including in the treatment of vulnerable groups, was established. Construction of a new psychiatric unit in Sokolac has begun. However, construction of a high-security State prison has incurred serious delays and has not started yet affecting the country's capacity to deal with high-security prisoners.

Overcrowding remains of concern and is particularly acute in the Federation, where over 1,000 convicted criminals have not started to serve their prison sentences. Estimates suggest that an average of five years pass between a final conviction and actual imprisonment, particularly in the Federation. Efforts are underway to increase prison capacity and to introduce a system of electronic bracelets for house arrests. Both Entities amended their laws on execution of criminal sanctions in an effort to reduce overcrowding. The scope for applying alternative sanctions has been broadened, in particular in Republika Srpska, but they are still not widely applied.

Proper medical facilities, segregation of vulnerable groups and prison inspections remained insufficient. Coordination between the 15 prison administrations in the country remained a serious concern.

Bosnia and Herzegovina's Constitution provides for the *freedom of expression*, but a growing number of journalists and editors are subject to physical violence and intimidation, including death threats. Political pressure on the media increased and the independence of the Communications Regulatory Agency continued to be undermined. In certain cases, public bodies continued to deny access to information, even after the Ombudsman issued a recommendation to provide access. An increasing number of complaints about news reporting and Press Code violations have been filed with the Press Council. However, the self-regulating Press Council has not been sufficiently active in enforcing professional standards.

Implementation of the Freedom of Access to Information Act remains insufficient. Journalists investigating corruption have faced intimidation. (*See Chapter 4.2.6 – Information society and media*).

*Freedom of assembly and association* are enshrined in the country's Constitution. However, further cases of violence and threats against human rights advocates and civil society organisations have been reported, mostly involving activists investigating suspected corruption.

The governments of both Entities and of Brčko District as well as many municipalities adopted cooperation agreements with *civil society organisations*. At State-level, the office for NGO Cooperation within the Council of Ministers has not been established as envisaged in the cooperation agreement between civil society and the Council of Ministers. The administrative capacity of the department for cooperation with civil society at the Ministry of Justice is weak. Resources for the Civil Society Board remain inadequate and funds allocated to human rights and environmental organisations are insufficient. The development of civil society in Bosnia and Herzegovina requires further support and more transparency in the allocation of funding.

The constitutional and legal guarantees of *freedom of religion* are somewhat compromised. Discrimination on religious grounds is often intertwined with discrimination on ethnic grounds. Consequently, inter-ethnic tensions tend to perpetuate religious intolerance. There were a number of cases of religious buildings being vandalised and of religious officials or

believers being subjected to violence, particularly in the case of those who constitute a religious minority in certain communities.

*Overall*, Bosnia and Herzegovina has made no further progress in the area of civil and political rights. Efforts to address torture and ill-treatment failed to meet European standards. Access to justice and equality before the law are not guaranteed. Prison conditions have improved somewhat, but a comprehensive reform of the prison system has not started. In the areas of freedom of expression, freedom of assembly and freedom of religion, there was little progress. Political pressure on the media has increased. The continuing challenges to the independence of the Communications Regulatory Authority are a serious cause for concern. Further efforts are needed to support the development and funding of the civil society sector.

### *Economic and social rights*

Little progress has been made in the field of *women's rights*. The 2009-11 State-level strategy for preventing and combating domestic violence was adopted. The Law on gender equality was amended in line with the recommendations of the Council of Europe and the UN Committee for the Convention on elimination of discrimination against women (CEDAW). The amendments set a quota of 40% for women within the public administration, but this is not implemented in practice. The State report on elimination of discrimination against women was presented after consultations with NGOs. At Entity-level, collection of gender-disaggregated data was improved with the cooperation of the statistical institutes. However, harmonisation of the Entity and Cantonal laws with the gender equality law proceeded very slowly.

War crimes involving sexual violence have not yet been recognised in the Criminal Code in accordance with international standards. Domestic violence against women remains widespread and under-reported. Bosnia and Herzegovina continues to be primarily a country of origin but also a transit and destination country for trafficking in women and girls. Political representation of women at all levels has increased somewhat, but remain low. There are few women in senior decision-making positions and they are under represented in economic life.

The main mechanisms for ensuring gender equality are adequately funded but still do not monitor sufficiently implementation of the gender law and gender action plans. Cooperation between ministries and agencies, including the Ombudsman's Office, remains weak. Victim support mechanisms for women are insufficient.

Little progress was made in the area of *children's rights*. Protection of children was improved by an amendment to the State-level Criminal Code, which introduced penal sanctions for trafficking and prostitution of children. A common, nine year core curriculum was introduced in most schools throughout the country and the number of 'divided schools' (two schools under one roof) was reduced from 83 to 19. However, at the same time, the number of mono-ethnic schools has grown, making longer term integration more difficult. Children who form part of an ethnic minority in school sometimes suffer discrimination. At Entity and Canton levels the costs of introducing universal pre-school education were analysed, but insufficient resources were made available for implementation. Children continued to suffer from domestic violence and trafficking.

Very little progress was made in improving conditions for *socially vulnerable people and people with disabilities*. The UN Convention on the Rights of Persons with Disabilities was ratified, but implementation has not started. The Federation adopted a Law on professional

rehabilitation, training and employment of disabled people. However, the social inclusion strategy was not adopted. The Entities adopted framework legislation to reform their social protection systems towards a needs-based approach for social benefits, including veterans' benefits. Disparities between the social protection systems of the Entities and Cantons remain. The Council for Disabled Persons has still not been established.

As regards *labour rights and trade unions*, legislation is not harmonised between the two Entities, nor between the Cantons. A State-level Economic and Social Council has still not been established. Individual trade unions belonging to the Confederation of Trade Unions (KSBiH) are able to function satisfactorily. However, the KSBiH itself has still not been registered at State-level, because of divergences between the State-level Ministry of Justice and a trade union from the Federation. Employees continued to have difficulty obtaining social benefits, particularly during maternity leave. The legislative framework for social benefits and pensions remained fragmented (*See Chapter 4.1.8 – Social policies, employment and public health*).

With regard to *anti-discrimination policies*, no steps were taken to remedy the shortcomings of the Anti-Discrimination Law, notably the failure to include age and disability and the broad scope of the exceptions. Social discrimination against lesbian, gay, bisexual and transgender (LGBT) people remained common. Physical attacks and harassment against these groups have continued. There has been no official condemnation of such acts by government authorities. Implementation of anti-discrimination remains weak.

In the field of *property rights*, the vast majority of cases of property repossession requests have been resolved. However, the work of the Commission for Property Claims of Displaced Persons and Refugees on the remaining requests was interrupted after the mandate of its seven members expired in December 2009. A new three-member commission was appointed in June 2010. The database regarding outstanding claims is not available and funding is insufficient. Property registers are largely unreliable. The Ministry for Human Rights and Refugees has no power to enforce the commission's decisions.

*Overall*, little progress was made in the area of economic and social rights. The Law on gender equality was adopted and a common nine year core curriculum was established in most schools throughout the country. However, domestic violence remains a serious problem. Protection of women against all forms of violence needs to be strengthened. No steps were taken to remedy the shortcomings of the Anti-Discrimination Law. More efforts are required on discrimination against vulnerable people and to safeguard the rights of children. Social inclusion policies that effectively promote social cohesion and national reconciliation are needed. Labour rights, the role of trade unions and the mechanisms for social dialogue need to be strengthened.

#### *Respect for and protection of minorities and cultural rights<sup>9</sup>*

As regards respect for and protection of minorities and cultural rights, the legal framework is largely in place, but little progress was made towards implementation. In terms of inter-ethnic

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<sup>9</sup> According to the Law on the protection of rights of persons belonging to national minorities, there are 17 national minorities in Bosnia and Herzegovina (Albanians, Montenegrin, Czechs, Italians, Jews, Hungarian, *Macedonians*, Germans, Poles, Romas, Romanians, Russians, Rusins, Slovaks, Slovenians, Turks and Ukrainians). The three constituent peoples – Bosniaks, Croats and Serbs – do not constitute national minorities.

relations, the National Minority Councils at State and Entity levels are operational. However, they only have an advisory role in parliament and a limited influence over policy formulation.

The European Charter for Regional or Minority Languages was ratified in September. Representation of minorities in the media is limited, despite provisions in the Law on protection of national minorities.

As the Constitution has not been amended to comply with the ECtHR ruling, minorities continue to be excluded from representation in the House of Representatives and the tripartite Presidency (*See Chapter 2.1 – Constitution*). The lack of relevant, up-to-date information on minorities precludes revision of the statutes of the municipalities in accordance with the Electoral Law.

No progress has been made towards nominating the members from Bosnia and Herzegovina on the Council of Europe Advisory Committee for the Framework Convention for Protection of National Minorities. Communication and cooperation between the different levels of authority are inadequate and the political will to implement the Law on national minorities is lacking.

Some progress was achieved with regard to *refugees and internally displaced persons*. In 2009 there were 117,000 internally displaced persons, including 7,500 living in collective centres. The revised strategy for implementation of Annex VII to the Dayton/Paris Peace Agreement was adopted in June. It includes plans for material assistance and reforms to improve access to rights. State-level funding was allocated for the return fund. However, appropriate procedures for allocating assistance are lacking and the transparency of the return fund remains poor. Problems with economic reintegration and access to health care, social protection and pensions remained the main obstacles to sustainable return and local integration. One particularly sensitive issue is the employment of returnees who are members of a minority. Such returnees continued to face discrimination in access to employment.

Regarding landmines from the war, some areas have still not been cleared. In the twelve months to September 2010, 9 people were killed and 17 injured in 16 landmine accidents and others injured. There has been some progress with implementing the mine action strategy. However, the Law on anti-mine actions remains to be adopted. Shortage of financing has slowed down the implementation of the strategy and cast doubt on the goal of clearing the entire country of mines by 2019.

Some progress can be reported concerning protection of the *Roma minority*. Implementation of the Roma action plans on health, employment and housing has improved. The State earmarked a further €1.5 million for reconstruction of houses, for small projects to generate income and employment and for immunisation of Roma children. The Roma population is identified as a priority group to be targeted in the Bosnia and Herzegovina social inclusion strategy for 2008-13, which remains to be adopted. The revised 2004 action plan on educational needs of Roma and other minorities was adopted by the Council of Ministers, but financial resources for implementation are still pending. More efforts are needed on birth registration and on the provision of free legal aid for civil registration. The proportion of Roma children enrolled in primary schools varies between municipalities. The effectiveness and efficiency of measures addressing the Roma have not improved. The Roma continue to be the most vulnerable minority.

The administrative capacity of the Ministry for Human Rights and Refugees to steer the implementation of the Roma strategy remains weak. The coordination board for monitoring implementation of the Roma action plans at State-level has no link to the bodies at lower levels (Entities, Cantons and municipalities). Inter-agency coordination remains insufficient.

*Overall*, some progress was achieved in the areas of minority rights, cultural rights and protection of minorities. The revised strategy for implementation of Annex VII was adopted and includes plans for material assistance for refugees and internally displaced persons. However, the difficulties facing returnees, particularly in finding employment and securing access to health care, social protection and pensions, remain issues of concern. Implementation of the legislation guaranteeing protection of minority rights remains weak. Progress was made towards implementing the Roma action plans, but insufficient priority was given to improving coordination and to establishing monitoring mechanisms. The Roma continue to face very difficult living conditions and discrimination.

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

Implementation of the *Dayton/Paris Peace Agreement* has continued, but narrow nationalistic rhetoric by political leaders challenging the Agreement and the constitutional order remained frequent (*See Chapter 2.1 – Constitution*). During the pre-election period, politicians in Republika Srpska frequently challenged the territorial integrity of the country. Furthermore, statements by Republika Srpska's political leadership denying the gravity of war-time massacres involving the civilian population have continued.

Cooperation with the *International Criminal Tribunal for the former Yugoslavia (ICTY)*, a European Partnership priority, continued to be satisfactory. Cooperation between the ICTY and the State-level and Entity authorities was adequate at operational level and access to witnesses and archives remained good. The Bosnia and Herzegovina Council of Ministers extended the interim measures for freezing funds and economic means of people indicted by the ICTY until October 2011. However, continued efforts are needed to find the remaining fugitives. Ratko Mladić and Goran Hadžić remain at large. Radovan Stanković escaped from prison in 2007 and remains at large. In March 2010 the State Court sentenced, in a first-instance judgement, his brother to two years in prison for assisting his escape.

*Local prosecution of war crime cases* continued. All but one case transferred from the ICTY to the special war crimes chamber of the State Court<sup>10</sup> have been completed. A significant number of other war crimes indictments and trials have also been launched by prosecutors in Bosnia and Herzegovina. In September 2010, 87 war crimes cases were under way, of which 50 were at State-level, 20 in the Federation, 13 in Republika Srpska and 4 in Brčko District.

Nevertheless, the estimated total number of untried cases remains high (over 10,000). Little has been done to implement the 2008 National War Crimes Strategy to reduce the backlog of cases and witness protection mechanisms are insufficient. Further steps are needed to strengthen the capacity to deal with war crimes cases, in particular by improving the functioning of cantonal and district courts and to ensure adequate financial resources. Regional cooperation and the provision of adequate victim and witness protection will be key in this regard.

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<sup>10</sup> Cases transferred by the ICTY for local prosecution.

Cooperation between the courts and prosecutors from Bosnia and Herzegovina, Croatia and Serbia improved. Bilateral agreements were signed on mutual execution of sentences in criminal matters and enforcement of court rulings. This is a positive development. However, considerable legal obstacles to extradition continue to exist in the criminal procedure code.

Bosnia and Herzegovina still maintains the 2003 bilateral immunity agreement with the United States granting exemptions from the jurisdiction of the *International Criminal Court*. This does not comply with the EU common positions on the integrity of the Rome Statute or the related EU guiding principles on bilateral immunity agreements. Bosnia and Herzegovina needs to align with the EU position.

The Parliamentary Assembly of the *Council of Europe* (CoE) frequently monitors the progress made by Bosnia and Herzegovina towards fulfilling the obligations and commitments relating to its membership of the CoE. Bosnia and Herzegovina has made no progress in appointing members to several CoE monitoring mechanisms and advisory bodies. Implementation of requirements stemming from the CoE Conventions remains inadequate.

Bosnia and Herzegovina became a non-permanent member of the UN Security Council in January 2010 for a two-year term.

Fresh impetus was given to the *Sarajevo declaration process* following the Ministerial meeting held in Belgrade in March 2010. The Sarajevo Process was initially launched through the Sarajevo Declaration of 31 January 2005. Bosnia and Herzegovina, Croatia, Montenegro and Serbia cooperate within this process to find solutions for refugees and other people who were displaced as a result of the 1991-1995 armed conflicts in ex-Yugoslavia. The ministerial meeting in March 2010 brought together the countries, all of which agreed to work together in order to clarify refugee statistics. They also committed themselves to work towards solutions to a number of outstanding issues by the end of 2010. However, there are a number of difficult issues, in particular that of occupancy and tenancy rights, which still need a mutually acceptable solution. In June 2010, there were 6,941 registered refugees from Croatia in Bosnia and Herzegovina, the vast majority in Republika Srpska, and approximately 1,300 refugees from Kosovo.<sup>11</sup>

As regards missing persons, in August 2010 there were still 14,631 persons missing from the conflicts in the region. Of these, 10,402 cases were related to the conflict in Bosnia and Herzegovina, 2,392 to the conflict in Croatia and 1,837 to the conflict in Kosovo according to figures provided by the International Committee of the Red Cross (ICRC). During the reporting period, almost 900 cases of missing persons were solved in Bosnia and Herzegovina, mostly related to Srebrenica. The process for solving these cases has been obstructed by the lack of cooperation between the authorities of the Federation and of Republika Srpska. Approximately 3,000 human remains are still unidentified and the modest number of exhumed and identified Serb victims is a concern. Working towards the resolution of the remaining cases within a reasonable time frame is essential for the reconciliation process.

The implementation of the Law on missing persons advanced but the database of missing persons and the Fund to support families remain to be established. The State-level Missing Persons Institute (MPI) continued to account for persons missing from the 1992-95 conflict. As MPI's co-founder, the Council of Ministers allocated sufficient funds for the work of the

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<sup>11</sup> Under UNSCR 1244/1999.

MPI. However, the authorities of Republika Srpska support an entity-level body with similar responsibilities to MPI and have remained critical of the MPI's operations. Politicisation of this issue has impeded the work of the MPI.

*Regional cooperation and good neighbourly relations* form an essential part of Bosnia and Herzegovina's process of moving towards the European Union. Bosnia and Herzegovina continued to be an active participant in regional initiatives, including the South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty and the European Common Aviation Area Agreement. The country hosts the RCC Secretariat, which organised many regional activities. However, difficulties for holders of Kosovo passports in obtaining visas to attend regional meetings in Bosnia and Herzegovina persist. The Council of Ministers issued a decision that facilitated participation in RCC events for holders of Kosovo passports. For participants in other regional cooperation events, the visa procedure remains cumbersome.

Bosnia and Herzegovina has been implementing the CEFTA. A law that protected domestic agricultural and related products by reintroducing customs duties, contrary to the CEFTA and to the Interim Agreement, was abolished, following a ruling by the Constitutional Court. Bosnia and Herzegovina is still behind in meeting its obligations under the Energy Community Treaty. Bosnia and Herzegovina participated in the EU-Western Balkans High-Level Meeting, held in Sarajevo on 2 June 2010.

In May 2010, Bosnia and Herzegovina hosted a summit of the Igman initiative on regional reconciliation, with the participation of the Chair of the Presidency of Bosnia and Herzegovina and the Presidents of Croatia, Serbia and Montenegro. This year marked the 10<sup>th</sup> anniversary of the initiative, involving more than 140 NGOs from the region and aimed at promoting and facilitating local and regional cooperation.

*Bilateral relations with other enlargement countries* developed further. Judicial cooperation in penal matters has improved between Bosnia and Herzegovina, Croatia and Serbia. Bosnia and Herzegovina signed an agreement with Croatia and Serbia in February and with Montenegro in July on mutual recognition and enforcement of court rulings in criminal matters. Under the new agreements, a person convicted of a crime in one country who flees to a neighbouring country can be required to serve their sentence in the country to which they fled. Good progress was made in cross-border cooperation to fight organised crime, trafficking and smuggling, but little progress was made towards resolving outstanding issues, including border issues, and contributing to reconciliation, which is a European Partnership priority. All heads of state from neighbouring countries attended the 15<sup>th</sup> anniversary of the Srebrenica commemoration.

Relations with *Albania* have expanded. Several bilateral agreements on the fight against crime, in particular regarding terrorism, illegal drug trafficking and organized crime, entered into force. A number of agreements were ratified in areas such as readmission, investment, international passenger and freight transport and visa facilitation. Albania has opened an embassy in Sarajevo.

Relations with *Croatia* intensified. The Croatian President visited Bosnia and Herzegovina three times between February and June. He visited war crime sites commemorating victims from all three ethnic groups. A joint session of the Bosnia and Herzegovina Council of Ministers and the government of Croatia was held in June. A bilateral agreement on police cooperation was signed in September. Some progress was made on border issues with the

Inter-state Commission for Borders meeting in July for the first time in several years. No progress took place on border demarcation and agreement on some parts of the land and river borders remains outstanding. Use of the Port of Ploče and Croatia's plans to construct a bridge connecting the Pelješac peninsula with the Croatian mainland have been put on hold. Other unresolved issues include property and refugee return, and the lack of ratification by Bosnia and Herzegovina of the agreement on dual citizenship.

Relations with *the former Yugoslav Republic of Macedonia* continued to be good. A new readmission agreement and an agreement on cooperation in fighting organised crime and terrorism were ratified. An agreement on cooperation on health matters has been signed, but not yet ratified. A declaration on the Srebrenica genocide was adopted by the Parliament.

Relations with *Montenegro* further intensified. Agreements on education, culture and readmission were ratified. Several other agreements have been signed, but not yet ratified, in areas such as science and technology, joint border patrols, cross-border traffic and crossing points, international passenger and freight road transport and on legal aid in civil and criminal matters. Inter-parliamentary cooperation was stepped up, with a specific focus on EU integration. The Inter-State Border Cooperation Commission met on several occasions regarding the delimitation of the border with Montenegro. However, a full agreement on border delimitation is not yet in place.

Relations with *Serbia* improved overall. Serbia's parliament adopted a declaration on Srebrenica, which was welcomed as a significant step towards reconciliation. The President of Serbia attended the 15th commemoration of the genocide in Srebrenica. The Speaker of the Bosnia and Herzegovina House of Peoples met the President of Serbia in Belgrade in June. An ambassador from Bosnia and Herzegovina to Serbia was accredited by Serbia in March, after a three-year delay. A bilateral agreement on police cooperation in areas such as organised crime and terrorism was signed in September. Two protocols intended to strengthen cooperation on integrated border management were ratified. An agreement on culture and sport was signed. After an interruption of four years, the Inter-State Cooperation Council for the border between the two countries met. The Economic Cooperation Agreement between Bosnia and Herzegovina and Serbia entered into force in April. Republika Srpska continued to cooperate closely with Serbia on the basis of the Special Parallel Relations Agreement and the related Protocol on Cooperation.

There are no official relations with *Kosovo*,<sup>12</sup> as Bosnia and Herzegovina has not recognised Kosovo as an independent state. The country has not recognised Kosovo passports and little progress has been made to set up procedures for citizens of Kosovo to obtain visas comparable to those issued by EU Member States that have not recognised Kosovo. Bosnia and Herzegovina does not recognise the Kosovo customs stamps.

Relations intensified with *Turkey*, through trilateral meetings, which took place in 2009 and 2010 between Turkey, Serbia and Bosnia and Herzegovina, as well as Turkey, Croatia and Bosnia and Herzegovina. In April 2010, the heads of state of Serbia and Turkey, and the Chair of the Presidency of Bosnia and Herzegovina signed a Declaration in Istanbul re-confirming the territorial integrity, sovereignty and legal personality of Bosnia and Herzegovina. In September, the President of Turkey paid a State visit to Bosnia and Herzegovina. An

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<sup>12</sup> Under UNSCR 1244/1999.



agreement on cooperation in science and technology between Turkey and Bosnia and Herzegovina was signed.

*Overall*, Bosnia and Herzegovina's cooperation with the ICTY has remained good but its capacity to deal with war crime cases needs to be strengthened. The country has continued to participate actively in regional cooperation. Good neighbourly relations have prevailed, but there has been limited progress in addressing outstanding issues, notably settling border disputes, property issues and removing legal obstacles to extradition with neighbouring countries.

### **3. ECONOMIC CRITERIA**

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

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

##### *Economic policy essentials*

In January 2010 the authorities submitted their fourth Economic and Fiscal Programme for 2010-12. The macroeconomic framework presented is more realistic than in the previous year, but still on the optimistic side. The programme remains fragmented and does not reveal a coherent formulation of economic and fiscal policies. It is not fully integrated into budgetary procedures and its objectives are not adequately quantified or backed by concrete policy measures. The implementation of fiscal adjustment and structural reform measures agreed with the International Monetary Fund in the 2009-12 Stand-By Arrangement has been broadly satisfactory. The conclusions of both the first and the second programme review were delayed due to the slow implementation of structural benchmarks, in particular in the Federation of Bosnia and Herzegovina. In April 2010 the World Bank approved a Development Policy Loan to the country that is linked *inter alia* to transformation of the predominantly rights-based system of social benefits into an increasingly needs-based system. The Fiscal Council failed to adopt the global fiscal framework 2011-13 within the deadlines prescribed by law, reflecting the lack of consensus between the entities and the state on economic and fiscal policy. Fiscal surveillance mechanisms based on fiscal rules, a European Partnership priority, are not well implemented. The Fiscal Council has not met for several months. No progress has been made in the development of fiscal surveillance mechanisms based on fiscal rules, a European Partnership priority. The quality of public spending has remained low. *Overall*, the commitment to structural reforms and sound public finances remained uneven across the country. Some fiscal and structural reform measures have been enacted recently under the pressure of budgetary imbalances and the international support programmes.

##### *Macroeconomic stability*

In 2009, the country endured recession with real GDP dropping by 2.9% after a 5.7% increase in 2008. The economic downturn was mainly caused by a drop in private domestic consumption, falling investments and a contraction of external demand. Trade slowed drastically, construction activity and industrial production decreased in 2009 and unemployment picked up. Per capita income, measured in purchasing power standards (PPS),

was 30% of the EU-27 average in 2009, unchanged from a year earlier. As sufficient fiscal space had not been created in the years prior to the crisis and high spending commitments prevailed, public finances came under severe stress when revenues declined in 2009 as a result of the economic contraction, so that the Bosnian authorities had to resort to the international community for external support. The fiscal adjustment measures agreed with the IMF and the World Bank for the 2009 and 2010 budgets contributed to a consolidation of public finances, while some important structural reforms have been advanced. In 2010 some signs of economic recovery can be noted as the volume of industrial production grew by 1.1% year-on-year in the first eight months and that of exports by 28.8%. *Overall*, available indicators suggest a mild recovery of the economy in 2010 after the recession of 2009.

The current account deficit fell from 14.4% of GDP in 2008 to 6.8% in 2009, driven mainly by a significant improvement of the trade balance due to a contraction of domestic demand which outpaced the contraction of external demand. Hence, the trade deficit fell by 29%, shrinking from 38.2% of GDP in 2008 to 27.8% in 2009 (goods only). While exports fell annually by 17.6%, the drop in imports was even steeper at 24.2%. The surpluses in the other components of the current account all declined. Remittances dropped by around 20% but, nevertheless, transfers still represent the major offset to trade within the current account. The current account deficit was mainly financed by new loans from abroad and, to a lesser extent, by foreign direct investment.

The trade balance continued its improvement in 2010 and the deficit fell by 10% year-on-year (January-August). Unlike in 2009, this development was driven by exports, which soared by 28.8% y/y, while imports increased moderately by 7.7%. However, the trend of an improving trade balance was reversed in recent months when the trade gap widened again for the first time in 20 months. Agriculture and manufacturing were the main sectors recording export growth. As a result, the current account deficit fell by 37.3% year-on-year in the first half of 2010. Bosnia and Herzegovina's external public debt increased by 22.6% in 2009, mainly due to the disbursements made in the context of the IMF programme and the activation of an optional debt to the London Club in December 2009. In terms of GDP it increased from 17.2% to 21.8%. In the first half of 2010, public foreign debt rose by another 13%. Public international creditors account for 88% of the country's foreign debt. The largest creditor remains the World Bank group. Official foreign exchange reserves have remained relatively stable since the last quarter 2009, covering around six months of imports. *Overall*, external imbalances have continued to adjust, characterised by a significant narrowing of the current account deficit towards a more sustainable level.

The average unemployment rate in 2009 was very high at 24.1%. According to the Labour Force Survey conducted annually in May, unemployment significantly increased to 27.2% in 2010 from 24.1% in 2009. Measured according to the national registry, the rate was 43.2% in July 2010. It was particularly high among the young population (48.7% for people between 15 and 24). The sector most affected by rising unemployment in 2010 was the processing industry. On the other hand, the highest growth of employment was registered in financial intermediation and transport. Workers were laid off mainly in the private sector while the number of employees in the public administration increased by 1.6% year-on-year in 2010 (January-July). After the very high wage increases of previous years, nominal gross wages still rose by 3.4% in 2009, but then decreased by 0.5% in 2010 (until July). Structural rigidities such as the high rates of social contributions and low labour mobility continue to hamper job creation and labour market participation. High and poorly targeted social transfers reduce the propensity to work, further highlighting the need for reform of the social benefits system. *Overall*, labour market conditions remained fragmented and rigid.

Annual inflation was negative in 2009, reaching -0.4%, down from 7.4% in 2008. The disinflationary trend was mainly driven by falls in transport, energy and food prices. This downward pressure was, however, reversed in early 2010. Annual inflation rose to 1.7% in August, bringing the 12-month moving average inflation rate up to a moderate 1%. Inflation in 2010 is driven by a hike in excise duties on tobacco and alcohol, as well as transport and communication costs following international price developments. The monetary policy of the Central Bank continued to be conducted under a currency board arrangement, with the euro as the anchor currency. Monetary policy settings have remained unchanged since May 2009 after minimum reserve requirements had been lowered in several steps from October 2008 in order to boost the liquidity of the banking sector during the financial turmoil. The monetary aggregate M2 increased by 9.5% y/y in August. *Overall*, the currency board has continued to function well and monetary and financial stability have been preserved while inflation slowly picks up.

The fiscal situation of Bosnia and Herzegovina worsened significantly in 2009. The share of general government in GDP remains high, with 2009 revenues at 43.1% of GDP and expenditures (including net lending) at 47.6%, thus creating a budget deficit of 4.4% of GDP in 2009 (2.2% in 2008). Following the agreement on a Stand-by Arrangement with the IMF earlier in the year, the Federation revised its budget three times in 2009 and Republika Srpska twice. The 2010 budgets were dominated by a further need for fiscal consolidation, mainly through a reduction of current expenditures. Substantial savings were envisaged in the public sector wage bill and in transfers due to the elimination of special unemployment benefits for demobilised soldiers, the implementation of eligibility audits for civil and war benefit recipients and strict control over pensions provided on favourable terms. The state level froze wages in 2010. After initial delays, the Federation advanced the reform agenda over the summer: The parliament adopted a new civil service wage law at the end of July rationalising the wage bill by *inter alia* consolidating a large number of allowances into the base wage. The government approved a pension reform strategy which however was later withdrawn from parliamentary procedure. Eligibility audits of privileged pension and war disability benefit recipients started in July, albeit slowly. The Federation also rebalanced its budget in September 2010 in order to apply with IMF requirements and to account for increased revenues. In Republika Srpska wages in public administration were cut by 10% (and 15% for the highest paid employees). An eligibility audit for social transfers was conducted in Republika Srpska, reducing the number of beneficiaries.

In the first half of 2010, deficits remained below those targeted in the IMF programme, mainly due to improved revenue collection (increasing by 2.9% year-on-year). As regards indirect taxes, this increase resulted mainly from the growth of revenues from excise duties and road tolls, which had both been increased in the context of the IMF programme. Collection was nevertheless still lower than in the pre-crisis period (first half of 2008), especially VAT, where there has been no change of taxation policy. As regards direct taxes, the highest increase was registered in corporate profits tax. Expenses increased by 3.1% year-on-year in the first half of 2010. Current spending dominates the budgets with wages accounting for 29% of overall expenditure and social benefits for 38%, both marginally lower in relative terms than in 2009. While the wage cuts resulted in a decrease of the nominal wage bill by 2.2%, social benefits were still rising by 2%. An agreement on a permanent formula for the allocation of indirect tax revenues to the state, the entities and the Brčko District is still pending. The Fiscal Council failed to adopt the global fiscal framework for 2011-13 within the deadlines prescribed by law. *Overall*, budgets are still not self-sustaining and depend on international support, especially in the Federation, even though the state of public finances is

improving. The pace of implementation of fiscal adjustment and structural reform measures agreed in the context of the intervention by the international community is uneven.

General government debt, both domestic and foreign, stood at approximately 35% of GDP in 2009, up from 28% in 2008. The total amount of domestic public debt is still subject to verifications related to old foreign currency savings and wartime claims. Nevertheless, it was estimated at around 13% of GDP in 2009 (up from 11% in 2008). Domestic public debt is managed and served by the entities (50.7% Federation, 47.1% Republika Srpska, 2.2% Brčko District). Both Republika Srpska and the Federation continued issuing bonds in 2009 and 2010 to service the debt. The government of the Federation amended the debt law allowing local authorities to issue municipal bonds as already practised in Republika Srpska. *Overall*, even though the debt-to-GDP ratio is still relatively moderate, its recent growing trend needs to be monitored carefully.

The sharp economic downturn of 2009 revealed the vulnerabilities of the country's growth model relying on externally financed consumption, thus creating large external imbalances. The productive capacity and the competitiveness of the economy remain weak as domestic sources of growth are not adequately exploited and national saving is too low. The currency board arrangement enjoys a high level of confidence and credibility, while fiscal policy decisions remain erratic, in particular in the Federation, which undermines their reliability and predictability, despite adjustments and reforms pursued under the international support programmes. *Overall*, the viability of macroeconomic policies suffered from the structural weaknesses of public finances, even though external imbalances have improved and financial and monetary stability has been preserved.

#### *Interplay of market forces*

The private sector's share in GDP is estimated to have remained stable at around 60% of GDP in 2009. In Republika Srpska around 69% of the initial stock of state-owned capital intended for privatisation had been sold by May 2010, practically unchanged from a year earlier. After a series of failed privatisation deals the privatisation agency of the Federation developed a revised action plan for 2009-10, including the privatisation of the entire public share in eight companies. However, the main public enterprises in the Federation, including the two telecom operators, are not covered. Progress on the plan is very slow and several auctions have failed as they did not attract interested parties. The privatisation of an 88% share in the aluminium company Aluminij d.d. Mostar, one of the largest enterprises in the country and a key source of export revenue, which had been pending for more than three years, was declared to have failed. The value of the state's capital in public enterprises in the Federation has fallen in recent years, as many were inefficiently managed, recorded losses and are indebted towards the entity's budget, which also limits the scope for successfully privatising them. Most prices are liberalised even though a number of administered prices remains. *Overall*, the privatisation process did not advance for a second consecutive year.

#### *Market entry and exit*

During 2009 the court registration process for companies registering for the first time was shortened from 5-45 days to 5-20 days; an electronic application form for company registration was made available on the web pages of some courts. However, companies must still register in both entities if they want to do business in the whole country, and procedures remain different. The law on foreign investment policy was amended in order to shorten the lengthy procedure for starting a foreign-owned business (on average 83 days in 2009). The

requirement to register foreign direct investment with the State Ministry of Foreign Trade and Economic Relations has been removed; only registration with local courts is now required. Republika Srpska established five specialised commercial courts responsible for resolving commercial lawsuits, bankruptcy and insolvency procedures, and registration of companies. The transfer of numerous cases from the municipal courts to these newly established commercial courts is expected to speed up and harmonise business-related legal proceedings. Republika Srpska reduced the time for the completion of bankruptcy proceedings to one year for companies with assets of less than €2.5 million, and to two years for larger companies. The respective legislative amendments also increased the threshold for the appointment of a bankruptcy administrator to €2.5 million, compared to €0.5 million before. The ‘legislative guillotine’ project to reduce administrative burdens has been completed in Republika Srpska. In the Federation, the parliament amended 34 laws in July 2010 initiating the second stage of this regulatory reform, simplifying and streamlining 35 priority administrative procedures. Businesses nevertheless continue to suffer from political instability, the high tax burden, and slow contract enforcement and business registration procedures. *Overall*, some improvements in the business environment can be recorded, particularly in Republika Srpska, but reforms are not sufficient to substantially foster private sector developments.

### *The legal system*

No material improvements can be recorded as regards the complex and challenging legal environment in Bosnia and Herzegovina. While in some areas the standard of legislation is relatively high, the practical implementation and application of laws is often poor due to the weak enforcement capacity of key institutions. A law on commercial arbitration does not exist. The rule of law is weak, notably the judicial system often does not function efficiently, is subject to obstruction by the parties and does not cover commercial activities adequately. Property registers are largely unreliable. *Overall*, weak rule of law, prevalent corruption and unreliable contract enforcement continue to hamper the business environment.

### *Financial sector development*

The financial sector in Bosnia and Herzegovina is dominated by banks that mainly engage in traditional credit and savings activities. The share of claims to the private sector in relation to GDP stood at around 58% in mid-2010, up from 54% a year earlier. 30 banks operate in the country, of which 21 are in foreign ownership, seven in domestic private ownership and two majority state-owned, unchanged from a year earlier. The concentration of the banking sector remained at nearly the same level as in 2008; the five largest banks controlled almost 60% of total assets of the banking sector. Banks with foreign ownership accounted for more than 90% of the total banking system assets in 2009, even though they reduced their exposure towards Bosnia and Herzegovina by 9%, experiencing some difficulties in maintaining their commitments under the European Banking Coordination Initiative<sup>13</sup> due to the lack of credit demand and of available instruments to invest excess liquidity (e.g. lack of government treasury bills and bonds). Banking sector assets increased somewhat in 2010, by 2.6% (August compared to December 2009). The capital adequacy ratio fell from 16.1% at the end of 2009 to 15.1% in the second quarter 2010, still comfortably above the legal minimum of 12%, which itself is significantly higher than the 8% required in the Basel II accord.

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<sup>13</sup> Bosnia and Herzegovina was included in the European Banking Coordination Initiative, coordinated by the EBRD, the IMF and the European Commission, in mid-2009. Foreign banks active in the country committed — on a voluntary and non-legally binding basis — to maintain their exposure at the level of December 2008 throughout the duration of the IMF programme.

The aggregated net profit of the banking sector declined by 70% in 2009. Nine banks recorded losses. Following the economic downturn with a lag, the quality of the loan portfolio is deteriorating: The share of non-performing loans to total loans more than doubled from 4% in mid-2009 to 8.7% in the second quarter 2010, the highest level since 2004. However, this is not only due to an increasing volume of non-performing loans, but also to the decreasing volume of total loans. Banking profitability indicators have also worsened: The return on average equity turned negative in the second quarter 2010, decreasing from 1.3% in mid-2009 to -2.9%, its lowest level since 2002. The return on average assets fell from 0.1% to -0.3%. Liquidity indicators remained relatively stable with the rate of liquid to total assets rising from 28.5% at mid-2009 to 29.5% in the second quarter 2010, and liquid assets to short-term financial liabilities marginally falling from 49.5% to 49.3%. The situation was worse in the micro-finance sector, where the proportion of poor quality loans had risen to 20% as it was – contrary to its traditional role – heavily engaged in consumer lending. To improve the oversight of this sector, it has been brought under the supervision of the Banking Agencies and the credit register. A Standing Committee for Financial Stability, comprising the Central Bank, the Banking Agencies and the Ministries of Finance, was established in the context of the IMF programme and had its first meeting in May 2010. The limit on guaranteed bank deposits was further increased to around €18,000 (from around €10,000) as of April 2010. *Overall*, despite an interruption of banking sector growth, lower profitability and a deterioration in asset quality, financial stability was safeguarded.

Annual credit growth turned slightly positive again reaching 0.6% in August after it had been negative since September 2009, confirming the upward trend of recent months. Loans to households continued to drop (by 3%), though at a decreasing pace, but those to private enterprises were growing by 2.2%. Deposits recovered in an annual comparison, growing by 6.5% in August, a clear sign of the return of confidence in the banking sector. This development is mainly due to private households, which increased their savings by 14.1%, while the corporate sector increased its deposits by 8.6%. As a consequence of these developments, the loans-to-deposit ratio declined from 118.7% in September 2009 to 111.4% in August 2010. The spread between average loan and deposit interest rates of commercial banks increased by 26 basis points in the first quarter 2010 to a level of 7.96 percentage points, due to lower deposit rates. This level points to still high intermediation costs. *Overall*, the difficult economic environment has caused market agents to become more risk-averse.

Local stock markets continued to decline. The main index of the Sarajevo Stock Exchange lost 15% in the first three quarters of 2010; that of the Banja Luka Stock Exchange fell by 13.5%. The cumulated turnover at Sarajevo fell by 47% in the first three quarters of 2010 compared to the same period in 2009; at Banja Luka the drop was far less pronounced at 1.3%, but this figure is blurred by one major emission in July. The combined market capitalisation declined to around 44% of GDP from rates at around 50% in 2009 and 100% in 2008. The insurance sector remained small and relatively weak. Its growth lost pace in 2009 when it decelerated to 1.35% (annual growth of premiums). The market was dominated by the non-life insurance segment, which accounted for 85% of the total. 26 companies were active on the market in 2009, two more than in 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*

While external imbalances have been decreasing, fiscal imbalances are still high despite short-term adjustment measures undertaken in the context of the international support programmes. The reform of the system of social benefits contributes to fiscal consolidation and better targeting of benefits to those really in need. However, its sluggish implementation, the still slow pace of economic restructuring, especially in the Federation, prevailing obstacles to private sector development and the excessive influence of the public sector in the economy continue to undermine a more growth-oriented allocation of resources and a strengthening of domestic sources of growth. Progress towards creating one single economic space within the country, a key European Partnership priority, has been limited. Coordination on economic and fiscal policies has been insufficient. *Overall*, the functioning of market mechanisms remained hampered by distortions, an excessive role of the state and lack of competition.

### *Human and physical capital*

Information on the endowment of human capital remains scarce. The law on vocational education has been adopted, but not yet implemented. So far, cooperation between vocational education schools and employers is only pro forma and the profile and number of graduates coming out of the vocational and educational training system often does not correspond to the employers' needs. A curriculum for a nine-year education in all primary and secondary schools country-wide was implemented as of the school year 2009/10. *Overall*, structural rigidities and the weak performance of the education system, in particular delays in reforms of vocational education, continue to contribute to the skills mismatch, hampering the proper functioning of the labour market.

The ratio of investment to GDP dropped significantly from 24.4% in 2008 to 19.1% in 2009. Investment in road and rail infrastructure continued, in particular on corridor Vc. The 'Railway Package II' directives on rail safety have been partly implemented through the issuance of safety instructions by the Bosnia and Herzegovina Railways Regulatory Board. The railway companies of the Federation and Republika Srpska joined those of Slovenia, Croatia and Serbia establishing a regional railway alliance. The reform in accordance with the Addendum to the Memorandum of Understanding on the development of the South-East Europe Core Regional Transport network for a South-East European railway transport area has not been completed. Net foreign direct investment (FDI) flows dropped by more than 70% in 2009, falling to 1.4% of GDP. There were considerable outflows of FDI in the financial sector. Manufacturing and trade accounted for more than 80% of FDI inflows. In the first half 2010 net FDI actually turned negative. *Overall*, the upgrading of physical infrastructure continued, though at a slow pace.

### *Sector and enterprise structure*

The planned restructuring and liquidation of socially-owned enterprises has made only slow progress. The entry of foreign investors has completed the privatisation and liberalisation of the oil derivatives market.

Electricity and gas utilities continue to be public stock companies. Their unbundling and restructuring has not been completed yet. In the Federation, the country's biggest power utility company merged with seven coal mines in 2009. It now needs to inject capital into the mines for their modernisation and restructuring. Market liberalisation remains insufficient as most utility providers still do not apply market prices. Although the market was opened for non-household consumers, they have little incentive to change suppliers as regulated tariffs remain below market prices.

As for unbundling of the electricity networks, progress has been uneven across entities. Republika Srpska completed unbundling of generation from distribution and supply in 2008, but has not yet unbundled the latter two activities. In the Federation no unbundling has occurred so far.

Progress towards a competitive telecommunications market has been limited. The incumbent operators continue to act as de facto monopolies in their respective fixed-line market segments and as oligopolists in the mobile segment. As a result, new entrants have not gained traction. *Overall*, little progress was achieved in the liberalisation of network industries.

As a consequence of the economic crisis a small shift in the sectoral structure of the economy towards services could be discerned in 2009, in particular at the expense of industrial production. Services accounted for 65% of gross value added (up from 63.7% in 2008), industry and construction for 26.2% (27.5%) and agriculture for 8.9% (8.8%). The contribution of public administration, education and health, already at a high level, further increased to 22%. The informal sector, fuelled by weaknesses in tax and expenditure policies, as well as in law enforcement, including the fight against corruption and organised crime, remains large. It reduces the tax base and the efficiency of economic policies. *Overall*, there have been no major changes in the structure of the economy. The informal sector is an important challenge.

#### *State influence on competitiveness*

The large public sector absorbs significant parts of the labour force and continues to act as a wage setter. However, while in previous years high wage increases hampered the competitiveness of the Bosnian economy, the recent reductions in public sector wages can have a reverse effect. In 2009, direct budget subsidies to industry and agriculture increased to a consolidated 1.7% of GDP from 1.5% in 2008. In the first half of 2010, they increased by 16.8% annually. Indirect subsidies continue to be sizeable. Bosnia and Herzegovina has still not established a state aid authority as required by Article 36 of the Interim Agreement. *Overall*, state influence on competitiveness remains high.

#### *Economic integration with the EU*

Bosnia and Herzegovina remains an open economy even though total trade (added volume of exports and imports) declined significantly in 2009, falling from around 94% of GDP in 2008 to approximately 76%, mainly due to the steep drop in imports. In 2009, the real effective exchange rate based on the country's 20 largest trading partners depreciated marginally. The EU continues to be the largest trading partner, with shares of 54.5% of total exports and 45.9% of total imports in the first eight months of 2010 (goods only). While the share of exports to the EU has increased slightly, the share of imports has decreased slightly. The other main trading partners remain the countries of the CEFTA region, accounting for 33.9% of exports and 26.9% of imports. The share of net FDI inflows from the EU to total net FDI inflows decreased to 24% in 2009 from 55% in 2008, mainly due to net FDI outflows in the financial sector caused by constraints in the home markets of some parent banks. *Overall*, the level of integration of trade with the EU remained fairly high.

## **4. EUROPEAN STANDARDS**

This section examines Bosnia and Herzegovina's capacity to gradually 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 has been some progress in the area of free movement of goods.

Some progress can be reported in the field of **standardisation**. The Institute for Standardisation of Bosnia and Herzegovina (BAS) adopted 2.053 European standards (ENs) as national standards, bringing the total to 11.279 ENs. Altogether there are 50 technical committees. The BAS increased its human resources. It was certified in accordance with the EN ISO 9001:2009 standard. The BAS signed agreements on professional and technical cooperation with the Turkish Standardisation Institute and the Croatian Standards Institute.

There has been little progress in the area of **conformity assessment**. Five New Approach Directives, including the relevant conformity assessment procedures, have been transposed. However, conformity assessment is not being performed on all locally manufactured or imported products before they are released onto the market. There is no coherent system for verifying product conformity. Appropriate designation procedures for conformity assessment bodies remain to be established. Preparations to set up a homologation system for vehicles have been launched; nevertheless, the continuous ban on the import of used motor vehicles is contrary to the Interim Agreement and needs to be removed.

Some progress can be reported in the field of **accreditation**. The Institute for Accreditation of Bosnia and Herzegovina (BATA) granted four further accreditations for testing laboratories, resulting in a total number of 39 accredited bodies. The BATA's application to sign bilateral agreements with the European co-operation for Accreditation (EA) for testing and calibration laboratories and inspection bodies was accepted. In addition, the BATA signed bilateral cooperation agreements with the accreditation bodies of Hungary and the former Yugoslav Republic of Macedonia. However, the BATA does not have sufficient staff to develop accreditation schemes in areas where it is not active. The further conditions for future international recognition of testing and calibration results and certification remain to be fulfilled.

Some progress has been made in the area of **metrology**. The State-level Institute of Metrology was granted full membership of the European Association of National Metrology Institutes (EURAMET). The Institute signed a memorandum of understanding with the International Association of Assay Offices and bilateral agreements with the national metrology institutes of Germany and Austria. Despite a staff increase the Institute needs further human resources to fulfil its tasks. It was certified in accordance with the EN ISO 9001:2008 standard. However, legislation needs to be harmonised with the *acquis*. The procurement of new equipment to upgrade the metrology infrastructure remains to be finalised. The strategy for the development of the metrology system remains to be adopted. There is still no cooperation and coordination between the State-level Institute of Metrology and metrology institutes of the Entities which would help create harmonised competence criteria for laboratories dealing with verifications.

Little progress has been made on **market surveillance**. A law on general product safety and a law amending the law on market surveillance as well as implementing decisions restricting the placing on the market of products containing the biocide dimethylfumarate were adopted. The structure of the market surveillance system of the State-level Market Surveillance Agency remained unchanged; the number of staff increased but remained well below the required level. The Market Surveillance Agency became an authorised publisher of RAPEX notifications in the official languages of Bosnia and Herzegovina. However, the framework legislation is not yet based on the horizontal *acquis* for harmonised products. Despite the progress made, the market surveillance system remains largely based on mandatory standards and pre-market control. Coordination among the relevant bodies is inadequate. Further efforts need to be made regarding institutional and administrative capacities to ensure efficient market surveillance. Additional measures are needed for further alignment with the *acquis*.

Little progress has been made regarding the New and the Old Approach *acquis*. New Approach Directives on low voltage equipment, electromagnetic compatibility, machinery, lifts and personal protective equipment have been transposed. However, the division of responsibilities for transposing the Old Approach *acquis* remains to be further clarified to start approximation of legislation. Line ministries and institutions involved in transposing and implementing directives do not have sufficient capacity to perform these tasks. A suitable mechanism is needed for internal consultation before the adoption of new technical regulations that have an impact on trade.

There has been some progress in the area of **consumer protection**. The Ombudsman's office was sufficiently strengthened to fulfil the duties laid down by the consumer protection law. The efficiency and the output of the office increased. In 2009 the Ombudsman handled 241 cases, of which 229 were resolved, compared with 147 and 138 respectively in 2008. In 2009, the Ombudsman delivered 34 expert opinions, provided 620 items of legal advice and answered 1,764 requests for information. The Consumer Protection Council adopted the 2010 State-level annual consumer protection programme. However, the ministry allocated no budget for the implementation of the programme.

*Overall*, preparations in the fields of standardisation, accreditation, conformity assessment, metrology, market surveillance and consumer protection are moderately advanced. The creation of favourable conditions for the internal market and foreign trade, further strengthening of institutional and administrative capacity as well as closer cooperation and coordination among the relevant ministries and institutions are essential. Further efforts remain to be undertaken to achieve a fully functional, single economic space, which is a European Partnership priority.

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

No progress has been made in the area of **movement of persons**. The fragmented nature of internal labour legislation and social security systems, which differ between the Entities as well as among cantons, continues to hamper the movement of workers within the country. Alignment with European standards remains at an early stage.

No progress has been made in reforming the *coordination of social security* systems between the Entities and among cantons.

Little progress was achieved in the **provision of services**. Preparations have not yet started for transposing the Services Directive. In terms of cross-border services, there is no distinction

between the treatment of EU operators providing cross-border services and those providing services through a permanent establishment in the country.

Little progress can be reported in the area of *financial services*. The State-level Law on deposit insurance was amended to increase further the amount of guaranteed deposits. This law remains to be transposed at Entity-level. The Entities proceeded separately and at a different pace with the adoption of the Basel II capital measurement rules and capital standards. The Federation of Bosnia and Herzegovina Banking Agency adopted implementing legislation on market risk. Republika Srpska adopted decisions on operational and market risk. Temporary measures on loan repayments were adopted by the Entities' banking supervisory agencies to address the increase in non-performing loans resulting from the economic crisis. To improve coordination of banking supervision, the Central Bank and Entity supervisors established a standing committee for financial stability. However, no further steps were taken to transpose the *acquis* or to establish a single State-level agency for banking supervision. Memorandums of understanding with supervisors of foreign banks present in the country were not signed.

There has been little progress towards creating a single economic space for *insurance services*. An insurance company registered in one Entity can operate in the other only if it establishes a branch there. There are currently 26 insurance companies operating in Bosnia and Herzegovina. Of the 15 insurance companies registered in the Federation, 9 have branch offices in Republika Srpska and 5 of the 11 insurance companies registered in Republika Srpska have branches in the Federation.

The Federation amended the law on intermediation in private insurance and the transitional provisions of the law on insurance companies in private insurance. The Republika Srpska amended the legislation on intermediation in insurance and on insurance companies. The legislation is partially harmonised with the *acquis* and between the entities. Various pieces of implementing legislation in the field of insurance have been adopted. The Republika Srpska Insurance Ombudsman's office is functional. In the Federation, the insurance agency is acting as Insurance Ombudsman as stipulated by the consumer protection law. However, no insurance ombudsman's office is envisaged at the State-level.

In coordination with Entity insurance agencies and with international support, the State Insurance Agency completed an insurance supervision self-assessment for the sector. The management board of the Agency adopted a decision regulating the submission of statistical data by the Entity insurance supervision agencies. Implementation of the decision will facilitate compilation of insurance statistics at the State-level. Nonetheless, the Agency's role remains limited as the responsibility for licensing and supervision lies with the Entity agencies. Supervisory enforcement improved moderately, resulting in one insurance company in the Federation being placed under temporary administration. The agencies in the Entities increased their on-site inspections and recommendations, and pressed a number of charges against insurance operators. In Republika Srpska the licence of one company was revoked.

Little progress can be reported in the field of *leasing services*, which are regulated at Entity-level. The two Entity laws have been harmonised. However, divergences remain in the implementing legislations. A leasing operator registered in one Entity is required to establish a branch in the other to provide services. Differences in regulations impose additional costs on operators.

There has been little progress in the area of *capital markets*. Republika Srpska amended its legislation on acquisition of shareholding companies, and both entities have adopted some implementing legislation. Regulatory authority and oversight remain fragmented between the Entity-level securities commissions. A harmonised approach throughout the country towards developing the sector is needed. Institutional arrangements for coordination of policies and regulations between the Entities remain to be established.

Little progress can be reported in the field of *postal services*. Current provisions provide for an unclear definition of the *de jure* monopoly and, among others, include express services within the scope of the statutory monopoly. In Republika Srpska a new law on postal services was adopted. It reserves a significant share of postal services for the universal service provider, whilst otherwise following the main principles of the postal *acquis*. Several licences for courier services were issued in both Entities. However, Entity-level licensing remains an additional and unnecessary administrative burden for postal service providers and runs counter to the goal of a single economic space. Effective monitoring mechanisms need to be put in place. The issue of the scope of the reserved areas remains to be solved, as under the current legislation it is not always clear what services may be reserved under the statutory monopoly.

No progress has been made in the area of the **right of establishment**. Administrative procedures for licensing and obtaining permits for both foreign and domestic companies, as well as the self-employed, need to be streamlined. The absence of a single company registration system for the entire country continues to hamper business activity. Bosnia and Herzegovina made no progress towards recognition of EU professional qualifications.

Little progress has been made in the area of **company law**. Amendments to Entity company laws were adopted to improve inspection and permit processes. However, coordination is lacking. Bosnia and Herzegovina needs to implement systematic company registration procedures. Some procedures have been harmonised, but there is no system of data sharing among different company registers. The legislation on *accounting and auditing* remains to be further harmonised with the *acquis*.

*Overall*, preparations in the area of movement of persons, services and right of establishment are at an early stage. Little progress was made in simplifying the business environment and ensuring a harmonised framework across the country in the area of company law, accounting and auditing. More efforts remain to be undertaken to establish the legal framework for providing universal postal services across the whole country. Further simplification of company registration and court procedures would attract new investments. Few efforts have been made towards ensuring a single economic space, a European Partnership priority.

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

There has been some progress in the area of **free movement of capital**.

Bosnia and Herzegovina continues to apply relatively liberal rules on inward capital flows. Restrictions remain on outward transfers by residents. Residents may hold accounts abroad, but the amounts that may be transferred are limited. The Federation adopted a new law on foreign currency operations. The Republika Srpska amended its existing law. However, in both Entities the new legislation limits the amount that non-residents may transfer. Throughout the country, coordination in designing and implementing legal reform in this area

is lacking and the legal framework is not harmonised. Capital markets in Bosnia and Herzegovina are not fully functional.

The State-level Law on foreign investment policy was amended. The procedures for registration of foreign direct investment were streamlined; companies are now required to register only with district courts. However, restrictions on foreign direct investment continue to apply in the media sector, where a 49% limitation on foreign capital exists. Privatisation of state enterprises continues to be slow. Overall levels of foreign investment have decreased.

Within the Central Bank, Bosnia and Herzegovina has a modern **payment system** for giro clearing and real-time gross settlement operations. In 2009 giro clearing and real-time gross settlement operations represented 31% of the number of transactions and 42% of the value of internal traffic in the country. Within the commercial bank system they represented 69% of the number of transactions and 58% of the value of transactions between clients with accounts in the same bank.

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

#### 4.1.4. *Customs and taxation*

Progress has been limited in the field of **customs**. The customs tariff was fully harmonised with the EU Combined Nomenclature 2010, which Bosnia and Herzegovina applies. Rules on origin are used in accordance with the Interim Agreement, and operational instructions have been prepared. However, the customs law has yet to be revised regarding issues such as paperless environment, security and trade facilitation.

The regime on free zones remains to be aligned with the *acquis*, since it provides for an exemption from duties on equipment intended for production activities in the free zones.

The TIR procedure is fully operational, and Bosnia and Herzegovina has acceded to the Istanbul Convention on temporary admission of goods. However, the use of the ATA carnet is not yet implemented. Laws on intellectual property rights (IPR) have been adopted and the first results are visible. A law to clarify the role of the customs services in implementing and enforcing IPR remains to be agreed.

The capacity of the customs authority to apply simplified procedures for export and import has improved. However, the number of traders applying for authorisation is relatively small. Customs controls remain too frequent and not well targeted owing to the lack of a risk analysis system. Enforcement of intellectual property rights remains weak.

Some progress can be reported in the area of **taxation**. Double taxation agreements were signed with Ireland, Spain and the Czech Republic. Direct taxation remains in the exclusive jurisdiction of the Entities and Brčko District. The direct taxation systems of the Entities were partly harmonised. The Federation's law on income tax and implementing legislation were amended. However, discrepancies with regard to double taxation persist between tax laws of the Entities on the one hand and the Brčko District on the other. A permanent formula for allocation of indirect tax revenue among the State, Entities and the Brčko District remains to be agreed. Further alignment with EU VAT rules needs to be ensured. In the area of business taxation, some measures do not comply with the Code of Conduct.

As regards **administrative and operational capacity**, the ITA's organisational structure needs strengthening to address present and future challenges. Some progress was made on enforcing legislation, but further steps are essential. A substantial number of junior professionals have been recruited. However, the appointment of a director-general remains pending and a formal staffing plan is not in place.

The 2010 investment plan provides for improvement of office premises and investment in the maintenance of technical equipment. The ITA adopted business and IT strategies in the past but these are outdated and do not reflect EU standards. Furthermore, implementation of strategies continues to be delayed owing to a lack of resources. A training unit was established, but the training facility needs to be set up, and a training strategy to be developed. Advanced training on risk analysis and IPR enforcement as well as training for the customs laboratory remains to be delivered.

Cooperation and coordination within the ITA and with other authorities remain weak. The ITA is not sharing data with the Agency for Statistics of Bosnia and Herzegovina. The effectiveness of border crossing checks needs to be improved. The functionalities of customs laboratories remain limited. The IT system cannot cope with the necessary changes in customs and tax administration, such as simplification, risk analysis, integrated enforcement, local clearance, the guarantee procedure and e-government.

*Overall*, preparations in the areas of customs and taxation are not very advanced. Substantial efforts are required to further align customs legislation with the *acquis* and to ensure effective implementation of legislation and the Interim Agreement. Positive developments are the improved knowledge and use of the use of rules of origin, the implementation of the TIR Convention and the accession to the ATA Convention. However, the regime on free zones needs to be aligned with the *acquis*. The effectiveness of customs controls has to be improved. Further efforts will be needed to enforce the recently enacted IPR legislation. Further harmonisation regarding the VAT legislation is essential. The ITA's administrative capacity needs to be reinforced. Improved communication and cooperation is essential, particularly between the ITA and the Agency for Statistics of Bosnia and Herzegovina.

#### 4.1.5. *Competition*

Some progress can be reported in the field of **anti-trust**. The six-year mandate of the Competition Council members expired on 1 July 2010. The Council of Ministers has appointed three new members, the Federation two and the Republika Srpska one. The new Council is operational.

There has been some progress regarding the enforcement of competition rules. The Competition Council's activities continued to focus on mergers and abuse of dominant positions. The Competition Council initiated 12 procedures and issued 20 decisions. It collected approximately €100,000 in fines from economic operators that breached the competition law. However, the administrative capacity of the Competition Council remains insufficient.

No progress can be reported on **state aid**. The state aid legal framework needs to be put in place. Legislative alignment remains to be started. A State-level, operationally independent authority for the control of state aid in line with the Interim Agreement was not established by 1 July 2010. Transparency of all aid granted in Bosnia and Herzegovina is not ensured.

*Overall*, preparations in the areas of anti-trust and mergers are moderately advanced. Substantial further efforts are needed to remedy the absence of state aid control.

#### 4.1.6. *Public procurement*

Limited progress has been made in the area of **public procurement**. The legal framework for fighting corruption in public procurement has improved with the enactment of anti-corruption legislation. However, its implementation awaits the establishment of the anti-corruption agency. The Public Procurement Agency prepared a Strategy for development of the public procurement system in Bosnia and Herzegovina, covering the period 2010-2015. The overall legislative alignment needs to advance. Many provisions of the new EU Directives remain to be transposed; simplified procedures for low-value procurement have not been introduced. Contract notices are not systematically published in electronic form on the website of the Public Procurement Agency (PPA).

The system for awarding concessions is fragmented because of the different legislation at State, Entity, cantonal and Brčko District levels. Most concessions and public-private partnership contracts continue to be awarded through the ‘unsolicited proposals’ procedure without a transparent and competitive process. An independent review of the concessions award procedure does not exist. The Brčko District enacted a law on public-private partnerships without coordinating with other levels, which resulted in further fragmentation of the procurement framework. Overlapping competences, high administrative costs and the lack of formal cooperation between commissions needs to be tackled.

Domestic preferential treatment remains in force until 2015, except for the electricity sector.

The PPA now employs 21 people, 10 short of the 31 posts to be filled by 2012. Its move to larger premises allows for further staff increases.

The Public Procurement Review Body (PRB) adopted a rulebook on internal organisation which provides for a staff increase. The PRB operates efficiently and was able to address most of the complaints it received. No specific measures have been undertaken to enhance the transparency of remedial decisions. The PRB’s decisions are not published, despite a legal requirement to do so. This makes it impossible to assess their quality.

Monitoring of public procurement procedures across the country improved. However, the capacity of the contracting authorities to apply the law is not sufficient. The weak support of the central public procurement institutions for contracting authorities and economic operators hampers the effective implementation of legislation. The provisions concerning public-private partnerships, as well as services and works concessions at all levels, do not guarantee competitive and transparent procedures in line with the *acquis*.

There has been no progress regarding the building of a single economic space in the field of public procurement. As regards concessions and public-private partnership contracts, different provisions apply to companies based in the Entity other than that of the contracting authority. This does not make for equal treatment in tender procedures.

*Overall*, preparations in the field of public procurement remain at an early stage. The new public procurement law taking into account the new *acquis* remains to be adopted. The coordination mechanisms and administrative capacities of the main stakeholders need strengthening to improve the coherence of public procurement policy and to reduce corruption.

#### 4.1.7. *Intellectual property law*

Some progress has been made in the area of intellectual, industrial and commercial property rights (IPR).

Bosnia and Herzegovina ratified the Agreement concerning the International Patent Classification, the *World Intellectual Property Organisation* (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty.

State-level laws were adopted on patents, trademarks, topographies of integrated circuits, geographical indications, industrial design, copyright and related rights, and collective management of copyright. The legislation has been further approximated with the Agreement on Trade Related Aspects of Intellectual Property Rights and the *acquis*. However, Bosnia and Herzegovina needs to align its IPR-related policies and laws in the audiovisual field.

The level of staffing of the Institute for Intellectual Property increased. Further measures were taken to improve the institute's functioning and to disseminate information about intellectual property. However, another 20 posts remain to be filled, and the administrative and operational capacity of the institute is not sufficient to perform its tasks.

As regards **industrial property rights**, the number of patent applications increased. The Institute for Intellectual Property received 654 patent applications and 186 applications for extending a European patent to Bosnia and Herzegovina; it processed 280 applications, including some from previous years. The average time taken to process a patent application was reduced from five to two years, and trademark applications from four to two and a half years. However, no applications for protection of geographical indications and topographies of integrated circuits have been filed.

The regulatory framework for the collective management organisations is inadequate. Awareness-raising is lacking among rights holders and users of protected subject matter.

Enforcement remains to be improved. The Indirect Taxation Authority referred files to the Prosecutor's Office and seized counterfeit goods valued at approximately €622,500. However, high levels of counterfeiting and piracy persist. The country remains a point of distribution to the rest of Europe. No significant awareness-raising activities took place. The action plan for capacity building remains to be prepared. Coordination among enforcement bodies at various levels remains inadequate.

*Overall*, preparations in the area of intellectual, industrial and commercial property rights are advanced. Progress was made in adopting IPR-related laws. Further efforts are required to strengthen the administrative and enforcement capacity of the Institute for Intellectual Property. Cooperation among law enforcement bodies and among relevant stakeholders needs further strengthening.

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

Some progress has been made in alignment with European standards in the area of **employment policy**. The adoption of the State-level employment strategy 2010-2014 is a significant step. However, at Entity-level, major policy documents are awaiting final adoption. In Republika Srpska and the Brčko District employment strategies are not in place. In the Federation, the action plan for the implementation of the employment strategy remains to be finalised.



Unemployment remains very high; nearly half of the younger age group is unemployed. The labour market participation of women is low. Moreover, the lack of reliable labour market data remains a serious obstacle to developing labour market policy. (See Chapter 3.1 — *Macroeconomic stability*).

Republika Srpska adopted a law on mediation in employment and entitlements during unemployment. In the Federation, a similar law aimed at streamlining cantonal and Entity-level employment services is not in place.

Most resources allocated to assisting the unemployed are spent on passive labour market measures. However, effective active labour market programmes are needed to help the long-term unemployed and curb long-term unemployment.

The large number of labour and employment institutions at State, Entity and canton levels and the lack of coordination among them remain a matter of concern. Unified standards and methodologies for data collection are lacking. Institutions at different levels are unequally equipped to offer effective services. The capacity of employment services across the country is a matter of particular concern. The registration system for the public employment services remains to be reviewed to achieve a greater focus on providing support and services to job-seekers.

Links between employment and education policy are weak. The State-level Law on vocational education and training is not being fully implemented. Neither the Entities nor the Brčko District have a life-long learning concept. Measures to develop skills, in particular for women, remain to be developed.

No progress can be reported in the area of **social policies**. Republika Srpska adopted a law on peaceful resolution of labour disputes. The Republika Srpska Agency for Mediation became operational. However, no steps were taken to harmonise the *labour laws* of the Entities and Brčko District with the *acquis*. A *labour law* at the State-level remains to be adopted. Provisions regulating labour matters at cantonal-level are not aligned with the *acquis* and make for further fragmentation in the Federation.

There was little progress in the area of *health and safety at work*. The cantons agreed to transfer responsibility for this area to the Entity-level. Republika Srpska adopted amendments to the Law on Safety at Work and implementing legislation to reinforce the capacity for monitoring health and safety at work. The Brčko District adopted similar legislation. However, the Federation needs to adopt a law on safety at work. The State-level Ministry for Civil Affairs needs to complete the analysis of compliance with the ILO Conventions and the *acquis*. Labour inspectorates are understaffed and unable to monitor fully the implementation of health and safety at work standards. Reliable data on accidents at work are not available. There is a particular problem in the Federation, where records are held at cantonal level.

There has been no progress in the area of *social dialogue*. Republika Srpska adopted a new general collective agreement. Basic steps were taken to establish a country-wide Economic and Social Council. However, no agreement has been reached on the membership criteria for the social partners. The non-recognition of trade unions at State-level remains an outstanding issue. The legal framework is not in place and the rules for the recognition and registration of social partners need to be clarified. The Law on social partners' representativeness remains to be adopted. (See Chapter 2.2 – *Human rights and the protection of minorities*) In general, the

complex system of government and the fragmentation of legislation continue to hamper social dialogue across the country.

Little progress can be reported in the area of *social inclusion and anti-discrimination*. The UN Convention on the Rights of Disabled Persons was ratified. The Federation adopted a law on the professional rehabilitation, training and employment of disabled people. However, no steps were taken to remedy the shortcomings of the anti-discrimination law, not least the absence of age and disability and the broad scope of exceptions. The State-level social inclusion strategy remains to be adopted.

There has been some progress in the area of *social protection*. The economic crisis increased the risks faced by vulnerable groups and public expenditure levels on social protection were kept high. Both Entities adopted framework legislation to reform their social protection systems by moving towards a needs-based approach. Means-testing for social benefits, including veterans' benefits, was introduced. However, Republika Srpska needs to put in place implementing legislation on means-testing as of 2011, and in the Federation, objections from veterans prompted the government to dilute the corresponding implementing legislation. Social assistance and entitlement still varies considerably across the country. Some groups continue to have privileged access to several social protection and assistance schemes based on their status, thus going against the needs based approach. The pension systems remain fragmented (*See Chapter 2.2 – Human rights and the protection of minorities*).

Little progress can be reported in the field of **public health**. The Entities finalised their strategies for healthcare reform. They served as a basis for the State-level strategy for healthcare reform, which was rejected by the Republika Srpska Ministry for Health and Social Welfare, on the ground that health care is an Entity responsibility.. The Federation adopted laws on blood and blood components, organ transplantation and tissues for the purpose of medical treatment. The Federation adopted the Law on health protection, the Law on the rights, duties and responsibilities of patients and the Law on pharmaceutical activities. Republika Srpska enacted laws on transplantation of human organs, transplantation of human tissues and cells, protection against contagious diseases and health care as well as implementing legislation on transfusion medicine. Republika Srpska also adopted amendments to laws on the use and advertising of tobacco products. However, there is no plan to align laws with the *acquis* at the State-level.

The conference of health ministers meets regularly. The health ministers adopted the 2008 roadmap for EU integration of the sector. Harmonisation of reform activities between Entities needs to be improved and the coordinating role of the Ministry for Civil Affairs remains to be strengthened. The institutional and legislative framework remains fragmented. No steps were taken to address problems of inadequate coverage of health insurance and non-transferability of health funds. Little was done to improve the quality of healthcare services.

The Agency for Medicines and Medical Devices is only partly functional. The institutional capacity to produce reliable statistical data on health is insufficient. Data need to be harmonised with European standards.

Implementation of International Health Regulations (IHR) is slow. Country mechanisms for reporting and exchanging information on communicable diseases remain to be developed. An action plan for meeting core capacity requirements in the event of outbreaks of diseases remains to be adopted.

There has been some progress in the area of *mental health*. The South-Eastern Europe Health Network accepted the application of the Ministry for Civil Affairs to establish the regional centre for cooperation and development in the area of mental health for South-Eastern Europe. The regional centre is operational. Both Entities adopted mental health strategies and new mental health centres were opened. However, establishment of community-based services, provision of aid to dependent persons and mental health care for children and young people need further attention.

*Overall*, the country's preparations regarding social policies and employment policy remain at an early stage. Sustained efforts are essential to establish a country-wide social dialogue, which is a European Partnership priority. The fragmentation of legislative and institutional frameworks hampers progress in developing public health policy.

#### 4.1.9. *Education and research*

Some progress has been made in the field of **education**. The number of divided schools was reduced, but the separation of children within schools along ethnic lines and the existence of mono-ethnic schools remain issues of concern. (*See Chapter 2.2 — Economic and social rights*). Coordination mechanisms at the State-level became more effective. A nine-year curriculum is being implemented in most schools country-wide. The Agency for Development of Higher Education and Quality Assurance is an associate member of the European Association for Quality Assurance in Higher Education. Some provisions of the higher education qualifications framework are being implemented. An initial national qualifications framework for life-long learning was completed. A department of statistics and informatics was established within the Ministry for Civil Affairs, with the task of contributing to statistical reporting on education in line with Eurostat standards.

In the Federation, harmonisation of cantonal laws with the framework laws has advanced. Some cantons adopted laws on pre-school education and vocational education. Eight out of ten cantons adopted a higher education law. The Republika Srpska adopted a law on adult education and a law on higher education institutions, which is not fully in line with the framework law and provides for Entity agencies to be set up in parallel with State institutions.

However, pre-school attendance is very low. State-level agencies (Centre for Information and Recognition of Documents in the Field of Higher Education, Agency for Development of Higher Education and Quality Assurance and Agency for Pre-school, Primary and Secondary Education) are not entirely functional. The State-level strategies and framework laws are not fully implemented. In the Federation, harmonising laws with the State-level framework legislation is advancing slowly. There are no State-level laws on recognition of qualifications and adult education. Almost all cantons insist on the exact equivalence of diplomas which has led to the non-recognition of many qualifications obtained abroad. The issue of education meeting the needs of the labour market remains to be addressed.

There has been some progress towards alignment with European standards in the area of **culture**. The establishment of a cultural contact point promoting the Culture programme throughout the country was a significant step towards participation in the programme. Negotiations on the Memorandum of Understanding regarding the country's participation in the programme as of 2011 were completed. Republika Srpska adopted its cultural development strategy which was based on the State-level strategy on cultural policy. However, there is no law on cultural heritage. The Federation reduced its allocation.

Further progress has been made in the area of **research**. The number of successful projects under the 7<sup>th</sup> Research Framework programme (FP7) has increased and the administrative capacity was strengthened. A country-wide network of national contact points to provide information on research cooperation in FP7 and other research programmes (Cost, Eureka) has been established and nominations in the FP7 Committees made. Further actions are essential, particularly regarding the involvement of the private sector and SMEs and the mobility of scientists. The Framework Law on scientific and research activities was adopted, improving coordination of Entity-level research actions with the State-level research strategy. A science and development strategy for 2010-2015 and an action plan were adopted. The Science Council was appointed to assist the Ministry for Civil Affairs in the strategic development of science, research and innovation policy.

However, investment in research is very limited. Statistics on research and development activities are lacking. No data exist on business, foreign and private non-profit funding. The Entities and cantons fund their specific policies through their own budgets. This makes it difficult to streamline research policies and avoid fragmentation, one of the key European Research Area (ERA) objectives.

*Overall*, alignment with European standards in the areas of education and culture is advanced. The main challenges are divided schools, the full implementation of strategies and framework laws, and the adoption of the initial national qualifications framework. In addition, State-level agencies for education and quality assurance structures need further strengthening. In the area of research and development, preparations for future integration into the ERA are on track but closely monitoring and follow-up is very important.

#### *4.1.10. WTO issues*

Some progress has been made in the accession negotiations with the World Trade Organisation (WTO). The WTO working party met for a seventh time. Bosnia and Herzegovina has brought more legislation into line with WTO requirements. The country proceeded in its bilateral negotiations, in particular on market access for goods and services, and in multilateral negotiations on domestic support to agriculture and export subsidies.

## **4.2. Sectoral Policies**

### *4.2.1. Industry and SMEs*

Some progress has been made in the area of industry and SMEs.

There has been some progress in the area of **industrial policy**. The strategies for development and for social inclusion include industrial policy elements. However, a country-wide industrial strategy remains to be developed. The Entities prepared industrial policies and action plans. The industrial policy framework remains inconsistent. Cooperation and harmonisation of measures to boost competitiveness and restructuring of the major industrial sectors remain insufficient. Harmonised statistics are needed for effective industrial policy planning.

Little progress has been made in the area of **SMEs**. Bosnia and Herzegovina is participating in the European Enterprise Network. The European Charter for Small Enterprises is being implemented slowly and unevenly and preparations for implementing the Small Business Act are at an early stage. The State-level SME development strategy needs to be implemented.

The law on promotion of SMEs and entrepreneurship, which was needed to implement the SME development strategy, remains to be adopted.

The Entities took some initiatives to support SMEs. However, SMEs continue to operate under different conditions across the country.

A single registration system for the whole country which would simplify conducting business in both Entities remains to be established. Inter-Entity investment flows are small. The e-government strategy to provide on-line public services to businesses remains to be fully implemented and a systematic approach to business education is lacking.

An export promotion strategy does not exist and the institutional framework remains weak. The Export Promotion Agency is operational but the related department in the Ministry of Foreign Trade and Economic Relations and the Export Council are not.

*Overall*, preparations in the area of industry and SMEs remain at an early stage. Bosnia and Herzegovina has to develop a comprehensive industrial strategy and to implement the State-level strategy for SMEs. Further improvements in the business environment are essential for the expansion of business and trade.

#### 4.2.2. *Agriculture and fisheries*

There has been little progress in alignment with European standards in the field of **agriculture and rural development**.

A State-level strategic plan and operational programme for harmonisation of agriculture, food and rural development are in place. However, implementation has not started. The Republika Srpska rural development strategy and action plan and the Federation operational programme for harmonisation of agriculture, food and rural development need to be harmonised with the State-level framework.

Some legislation implementing the Framework Law on agriculture, food and rural development and the law on tobacco were adopted. However, the law on wine remains to be adopted. An overall lack of implementing legislation impedes coordination of harmonised strategies and legislation in this area throughout the country.

There has been no progress towards establishing a State-level Ministry of Agriculture, Food and Rural Development. The Ministry of Foreign Trade and Economic Relations appointed working groups on the payment agency and managing authority for IPA rural development structures. The Entities increased their staffing and continued to build up paying agencies, particularly Republika Srpska. The Council of Ministers adopted a decision on the location of the Office for Payment Harmonisation and allocated budget for additional staff. However, the office is not operational. Coordination of rural development policy is weak. At the State-level the sector for agriculture, food, forestry and rural development did not increase staffing.

The Advisory Council for agriculture, food and rural development is operational. However, inter-sectoral coordination and participation by the non-governmental sector remain weak. The Entities did not increase their overall support for agriculture and rural development, but a larger proportion of this support was allocated to rural development measures. The lack of an efficient administration and effective rural credit schemes impede the competitiveness of farmers and the agri-processing industry.

Limited progress was made towards improving agricultural statistics. An action plan for developing a Farm Accountancy Data Network in selected municipalities was agreed. Preparations have started for the agricultural census, which will be carried out after the population and household census. The population and household census will only provide data on agricultural holdings (*See Chapter 4.2.8 – Statistics*). However, the 2009 report on agricultural statistics remains to be published. The lack of reliable statistics hampers the development of agricultural policy.

A decision on establishing a State-level monitoring and evaluation system for agriculture, food and rural development was adopted. The information system for the integrated register of agricultural holdings is being tested. However, land registration systems have not been harmonised and land management needs to be improved.

Overall, preparations in agriculture and rural development are at an early stage and stronger coordination between the State and the Entities in aligning with the *acquis* in the field of agriculture and rural development is required.

There has been little progress in the field of **food safety**. Implementing legislation has been adopted. The assessment of food laboratories was completed and training of inspectors intensified. However, a national food laboratory plan remains to be drawn up. Reference laboratories have yet to be designated and testing capacity to be upgraded. Implementation of existing legislation remains weak. An overlap in competences between the veterinary and food safety sectors persists. No steps were taken to upgrade agri-food establishments. Enforcement capacity of inspection services and laboratories remains weak.

Overall, closer coordination between the State and the Entities is essential for an effective administrative system and for food control legislation. The lack of progress in the food safety sector has a negative impact on trade in agricultural products.

Some progress can be reported in the field of **veterinary and phytosanitary policies**. In the veterinary sector, implementing legislation on animal health and welfare was adopted. Conditions were established for placing certain imported products on the market. Amendments to the rules governing the examination of animals for slaughter were adopted. However, the State veterinary law remains to be amended to allow for alignment with the *acquis* and harmonisation of legislation at Entity-level. Because of budgetary restrictions there were no further staff increases within the State-level administration for food safety, veterinary and plant health. The division of competences within the administration responsible for food safety, veterinary and phytosanitary policies remains unclear. There has been no progress towards accreditation of veterinary diagnostic laboratories.

An amended decision on animal identification and movement control provided the legal basis for identification of small ruminants and pigs. An IT system for comprehensive national animal identification is being prepared. A vaccination campaign against brucellosis has produced the first positive results, and a control strategy is being drafted.

Veterinary health control at borders has improved.

In the phytosanitary sector, implementing legislation was published which paved the way for the potato monitoring programme and enhanced Bosnia and Herzegovina's export capacity. Amendments to the legislation on plant protection products were adopted. The national list of varieties was adopted. Bosnia and Herzegovina began to implement the Rotterdam Convention by nominating the Plant Health Agency to be the designated national authority.

State-level legislation that transposes the **fisheries** *acquis* remains to be drafted. In terms of quantity and value, imports of fish and fishery products from the EU to Bosnia and Herzegovina decreased. There was an increase in exports of these products to the EU.

*Overall*, preparations in the fields of agriculture and rural development, food safety, veterinary and phytosanitary policy and fisheries remain at an early stage. Bosnia and Herzegovina lacks a comprehensive strategy for aligning with the *acquis* on agriculture and rural development. State-level capacity for policy formulation is weak. There is no coordination between State and Entity levels, which hampers the harmonised implementation of legislation. No structures have been set up to implement the IPA rural development component. Limited implementation of the State-level veterinary, food safety and phytosanitary legislation is preventing agri-food establishments from making more substantial progress towards meeting EU standards. Official control capacities, the laboratory system for food safety as well as the veterinary and phytosanitary fields need strengthening.

#### 4.2.3. *Environment*

Progress in the field of environment remained limited.

There has been some progress in **horizontal legislation**. Bosnia and Herzegovina ratified the Espoo Convention on Environmental Impact Assessment in a Transboundary Context. Implementation of Bosnia and Herzegovina's international obligations, in particular of the Aarhus and Espoo Conventions, remains at an early stage. The directive on Strategic Environmental Assessment has been transposed by the Federation. However, it was not transposed by the State, Republika Srpska and Brčko District. Transposition and implementation of the *acquis* in the area of horizontal legislation requires further efforts.

Little progress can be reported on **air quality**. The Stockholm Convention on Persistent Organic Pollutants was ratified. The Federation adopted legislation transposing the directives on air quality, and legislation on ambient air quality.

There has been little progress in the area of **waste management**. Bosnia and Herzegovina has started to address infrastructure needs by constructing sanitary landfills. Use of resources available for waste management measures has improved. However, no concrete steps were taken to establish systems for recycling and recovering priority waste streams, such as packaging, electrical and electronic equipment, hazardous substances, motor oil and tyres. Management of waste streams of animal origin requires improvement.

There has been little progress in the area of **water quality**. The Federation established water councils to oversee public consultation procedures for river basin management planning. It also adopted implementing legislation on identifying and monitoring areas sensitive to eutrophication and nitrates. Republika Srpska established water agencies. However, a large amount of legislation transposing the *acquis* is not in place. There is a lack of harmonised implementation of water laws, monitoring and river basin planning between the Entities. Untreated discharges of wastewater, access to drinking water and flood management remain key challenges.

No progress has been made on **nature protection**. The percentage of designated protected areas remains at 2.2%. Alignment with the Habitats and Birds Directives is at an early stage. No developments have taken place in the fields of **industrial pollution control and risk management, chemicals and noise**.

There has been some progress in the area of **genetically modified organisms (GMO)**. The GMO Council was appointed and national GMO laboratories were designated.

In the field of **climate change**, the plan to phase out ozone-depleting substances (ODS) is being implemented. Licences, annual quotas and permits for importing and exporting ODS are being issued in accordance with the existing Entity and State-level legislation implementing the Montreal Protocol. Consequently, Bosnia and Herzegovina phased out the use of ODS and banned imports, except hydrochlorofluorocarbons. The country associated itself with the Copenhagen Accord. Bosnia and Herzegovina submitted its first national communication under the United Nations Framework Convention on Climate Change, covering only the greenhouse gas inventory. However, despite progress made towards the establishment of a designated national authority (DNA), a final decision to set it up is still outstanding. Participation in the international climate negotiations was limited.

Bosnia and Herzegovina's **administrative capacity** in the environment sector remains overall weak. The Federation's environment fund was established, and its director and management board were nominated. Republika Srpska's environment fund is fully operational. However, sources for the Entity funds are limited to vehicle registration and water fees. A State-level environmental law providing for harmonised environmental protection and an adequate legal and institutional framework were not adopted. A State-level Environmental Protection Agency, which is a European Partnership priority, needs to be established. Environmental institutions do not have the capacity to implement and enforce legislation at Entity, Canton and local levels. Integration of environmental concerns in other sectors remains weak.

*Overall*, preparations in the field of environment remain at an early stage. Establishment of a harmonised legal framework for environmental protection, of the State Environmental Protection Agency and of a functioning environmental monitoring system remain priorities.

#### 4.2.4. *Transport policy*

Some progress can be reported in the field of **trans-European transport networks**. Bosnia and Herzegovina is actively participating in implementing the memorandum of understanding on the development of the South-East Europe Core Regional Transport Network. It is also taking part in the South-East Europe Transport Observatory (SEETO) by updating and implementing the multi-annual plan for 2010-2014.

In the Pan-European Corridor Vc upgrading of the road continued, with the building of additional stretches of motorway. Repair and overhaul of the rail track and signalling continued. However, the bottleneck at Ivan tunnel and Bradina ramp has yet to be tackled, and overhaul and repair designs for the remaining railway sections have not been drawn up. Nor has a comprehensive study on safety and capacity requirements been prepared.

Uneven progress can be reported in the field of **road transport**. Bosnia and Herzegovina introduced unrestricted transit traffic in land transport, one of its commitments under the Interim Agreement. It also started to implement the TIR carnet system (*See Chapter 4.1.4 – Customs and taxation*). Maintenance and upgrading of roads continued. The Law on digital tachographs was adopted. However, delays in implementation of the digital tachograph to meet international obligations remain an issue. The Law on transport of dangerous goods remains to be adopted.

Uneven progress can be reported in the area of **rail transport**. Steps were taken to create the conditions for competition on the rail network, including regulatory and safety institutions.



However, no implementation has taken place so far. The separation of operational functions from infrastructure management in the two vertically integrated companies, the Railways of the Federation and the Railways of Republika Srpska, still needs to be implemented. The opening of the rail market is at an early stage.

The Bosnia and Herzegovina Railways Regulatory Body issued a set of safety instructions which partly implemented the 'Railway Package II' Directives. The railways of the Federation published their network statement and the template contracts for access by railway undertakings. The condition of the rolling stock has improved. However, many aspects of railway safety remain to be addressed. The reform envisaged in the addendum to the memorandum of understanding on development of the South-East Europe Core Regional Transport network for a South-East European railway transport area remains to be completed.

No progress has been made on **maritime transport**. Bosnia and Herzegovina is not a party to the International Convention for the Safety of Life at Sea nor to the International Ship and Port Facility Security Code. Some progress has been made in the area of **inland waterways**. Demining and rehabilitating the River Sava waterway remain a priority. No progress has been made in the area of **combined transport**.

Progress has been made in **air transport**. The laws on the civil aviation authority and the air navigation services-provider were adopted, and the sector was restructured. The Civil Aviation Directorate remains responsible for regulatory issues. The air navigation services provider was established. Bosnia and Herzegovina completed the first transitional phase of the European Common Aviation Area Agreement. However, further efforts are needed to transpose and implement the single European sky regulations, in particular with regard to a national supervisory authority.

Bosnia and Herzegovina needs to adopt the transport policy document; the transport strategy and an action plan remain to be approved by the Government.

*Overall*, preparations in the area of transport are at an early stage. Transport infrastructure strategies remain to be prepared and the legal framework to be completed. Upgrading of the transport infrastructure has barely started.

#### 4.2.5. Energy

There has been uneven progress with **oil stocks and security of supply**. Republika Srpska passed a law to transpose the directives on mitigation measures and 90-day stocks. However, no official figures are available on the country's level of oil stocks. The Energy Community *acquis* on security of gas and electricity supply remains to be implemented. There is no State-level energy strategy.

Little progress has been made regarding the **internal energy market**. There has been no progress in transposing the electricity *acquis* as applicable under the Energy Community Treaty. Issues such as tendering procedures for new generation capacity have not been addressed. The lack of implementation of legislation remains a problem. The situation of the State-level transmission company (TRANSCO/Elektroprijenos) has not improved. A working group set up by the Entities' Prime Ministers has been unable to resolve the continuing stalemate. No business or investment plans have been approved by TRANSCO. The company's management operates in an acting capacity only. Only technical operations and minor maintenance tasks are being carried out. There has been no improvement in communication with the independent system operator (ISO/NOS). Cross-border capacity is

allocated on an *ad hoc* basis rather than according to open competition. The viability of TRANSCO as a country-wide enterprise and the fragmentation of the electricity market are issues of concern and would represent an obstacle the full implementation of the Energy Community Treaty. Moreover, the 2009 amendments to the electricity legislative framework need to be reviewed in order to comply with the objective of a competitive and transparent electricity market as required by the Energy Community Treaty.

The independence of the regulatory commissions is not ensured. The Republika Srpska regulator revised tariffs. The State Electricity Regulatory Commission (SERC) issued new tariffs for transmission services, for the independent system operator, and for ancillary services. Since the market was opened up for non-household customers, two industrial companies have purchased part of their electricity on the market. Consumers have little reason to change suppliers, as regulated tariffs remain below market prices.

No progress can be reported in the gas sector. There is no State-level gas law and transposition of the gas *acquis* is missing, including a number of basic network access elements.

There has been little progress on **energy efficiency and renewable energy**. Regulators provide for some feed-in tariffs and lower network connection fees. Entities plan to develop hydropower plants and wind parks over the next 10 years. However, there is no comprehensive strategy, and the Entities have not coordinated their plans. Commitments made under the Energy Community Treaty regarding the promotion of renewable energy and biofuels have not been fulfilled. The development of an energy efficiency action plan to meet obligations under the Energy Community Treaty is behind schedule.

Some progress can be reported in the area of **nuclear safety and radiation protection**. Three international conventions on nuclear safety (Convention on Nuclear Safety, Convention on Early Notification of a Nuclear Accident and Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency) have been ratified. A new director was appointed for the State Regulatory Agency for Radiation and Nuclear Safety. However, the law on radiation and nuclear safety remains to be implemented. The existing regulations are not in line with the *acquis*. In addition, the structure, mandate and operation of the Regulatory Agency have not been specified. A national emergency plan and a strategy for radioactive waste management need to be developed.

Administrative capacity within the Ministry of Foreign Trade and Economic Relations on energy issues remains low.

*Overall*, preparations in the field of energy are not very advanced. Further efforts are needed for the country to meet requirements under the Energy Community Treaty. The lack of cooperation and coordination between the Entities hampers development of a functioning energy market and compromises improvements in the security of supply. Bosnia and Herzegovina lacks a fully functioning transmission company and remains at the early stages in implementing the *acquis* on the internal gas and electricity market. The development of a comprehensive energy strategy, including promotion of energy efficiency and renewable energy sources, remains essential. Further efforts are needed on oil stocks. The transposition of the nuclear safety and radiation protection *acquis* has not started.

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

Little progress can be reported in the area of **electronic communications and information technologies**. The three incumbent operators kept a market share of 99% in the fixed-line segment. They operate as *de facto* monopolies in their geographical areas. Other operators have a larger share of the international calls market. Operators with significant market power published their reference unbundling offers. Three contracts were signed between an incumbent and an alternative operator. Implementation of competitive safeguards is proceeding slowly which means that even though there is liberalisation, there is no healthy competitive market. Six operators offer carrier selection services and only one carrier pre-select services. New licences were granted for internet service providers and network operators.

The Communications Regulatory Agency (CRA) has developed guidelines for mobile virtual network operators, which provided for competition in the mobile telephony sector. The CRA took a decision on fixed-to-mobile termination tariffs, halving the wholesale tariff. This is a positive development. However, price squeezes still exist. Steps to rebalance tariffs, a key element for creating a competitive market, are at an early stage.

The level of broadband internet access is fairly low, with the incumbent operators dominating xDSL provision (more than 90%), although cable broadband offers a strong competitive alternative.

The challenges to the CRA's independence have intensified (*See Chapter 2.2 – Human rights and the protection of minorities*). The law on ministries and administrative bodies was amended to include the CRA. This is not in line with the relevant EU provisions and specific national legislation, since the independence of the CRA is enshrined in the law on communications. The CRA has been without a director-general since 2007. No decision was taken on the nomination of the CRA Council members whose mandate ended in April 2009. Payment of compensation to the CRA Council, suspended in 2009, was resumed but cut by half. The overall situation in the CRA hampers its administrative capacity. The administrative capacity of the Ministry of Transport and Communications remains weak.

Little progress has been made in the area of **information society services**. The pace of developments regarding information society varies across the country. However, the State-level law on development of the information society was not adopted, and the State-level agency not established. The E-commerce Directive needs to be transposed in national legislation. Implementation of the 2006 e-signature law is slow. Implementing legislation on conditional access services remains to be adopted.

There has been some progress as regards **audiovisual policy and media**. Bosnia and Herzegovina has ratified the European Convention on Legal Protection of Conditional Access Services. Implementing legislation and the strategy for transfer from analogue to digital terrestrial broadcasting were adopted. All existing radio and television stations were granted new licences.

However, the Public Broadcasting System (PBS) Board of Governors failed to adopt the statutes of the PBS corporation due to disagreements over ownership of equipment and revenue-sharing. Since its statutes have not been adopted, the PBS corporation could not be registered, which delayed the reform of the public broadcasting sector. The Entities' laws on public broadcasting services are not aligned with the State-level law.

*Overall*, Bosnia and Herzegovina's preparations in the field of information society and media are advancing slowly. Implementation of the public broadcasting legal framework is necessary for reforms in this sector, a European Partnership priority. Ensuring the functional independence of the CRA remains a top priority. Continued challenges to the CRA's independence are having a negative impact on the development of competition.

#### 4.2.7. *Financial control*

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

Further steps have been taken to introduce **Public Internal Financial Control (PIFC)**. Laws on internal audit continued to be implemented at State and Entity level and the administrative capacity is slowly being strengthened to ensure sound management of public funds. However, the number of skilled internal auditors remains very low.

The State-level Council of Ministers and the governments of Republika Srpska and the Federation adopted their PIFC policy papers. In the Federation and Republika Srpska internal audit units are being established. Central Harmonisation Units (CHUs) exist in the Ministries of Finance of the State and Republika Srpska. However, the Federation has not yet recruited managers for its CHU. Lack of staff is an impediment to further development of PIFC. Adequate financial management and control systems need to be developed. A coordination board to ensure a harmonised approach to PIFC across all three CHUs remains to be established.

As regards **external audits**, the four supreme audit institutions (SAIs) (State, Entities and Brčko District) are performing well, but have no impact on public financial management. In the Entities SAIs are not subject to administrative and civil service laws. The State-level SAI is not entirely independent from the Council of Ministers. The audit offices at State and Entity level are building capacity for performance audits. Cooperation among SAIs through the Coordination Board continued. The Coordination Board issued guidelines for performance audits and a human resource development strategy. The establishment of parliamentary audit committees increased the capacity of all three parliaments to deal with audit reports. As a result, based on audit reports, the audit committee of the Bosnia and Herzegovina Parliamentary Assembly recommended budget changes.

*Overall*, in the area of financial control Bosnia and Herzegovina has partly met its objectives regarding PIFC legislation, regulations and re-organisation. Internal auditing is being introduced. Financial management and control systems need to be further developed. The issue of the independence of external auditors remains to be addressed.

#### 4.2.8. *Statistics*

Limited progress has been made in the area of statistics.

Very little progress has been made on **statistical infrastructure**. The staff number of the Agency for Statistics of Bosnia and Herzegovina (BHAS) increased. However, cooperation between the BHAS and the Entities institutes for statistics needs to be considerably improved. Different interpretations of the existing legislation persist. Neither the State-level statistics law nor the Agreement on cooperation and coordination in the area of statistics are being correctly implemented.

Cooperation between the BHAS and the Indirect Taxation Authority (ITA) is poor. The ITA does not provide administrative data to the BHAS in a sufficient way. The results are low-quality business, macro-economic and external trade statistics (*See Chapter 4.1.4 – Customs and taxation*).

Some progress has been made regarding **classifications and registers**. The statistical business register is operational, but the lack of data from certain administrative sources negatively affects its quality. Approximation to the NACE Rev. 2 statistical classification of economic activities is moderately advanced.

Some progress has been made on **sector statistics**. Technical preparations for the population and household census are advanced. Entities are at different stages of preparation of maps for census enumeration areas. However, the State-level law on the population and household census was not adopted. Political agreement could not be reached on the use of the census results for the composition of public bodies. In the absence of a census law, no pilot census has taken place.

In the area of social statistics, the 2010 extended Labour Force Survey (LFS) has been carried out and first results were published.

Limited progress has been made on macro-economic statistics. The annual GDP estimate for 2009 was published. However, the Republika Srpska Statistical Office does not fully implement the multi-annual master plan for developing national accounts. Therefore, quarterly national accounts cannot be developed.

The quality of short-term statistics, construction industry statistics and structural business statistics improved. Quarterly surveys are being conducted on input prices in agriculture. Preparations for an agriculture census started (*See Chapter 4.2.2 – Agriculture and fisheries*). A pilot farm structure survey was carried out. Progress has been made on energy statistics.

*Overall*, preparations in the field of statistics are moderately advanced. National accounts, business and agricultural statistics remain to be improved. The BHAS development plan has to be implemented to ensure necessary capacity. Technical preparations for the population and household census are advanced. The Law on the population and household census remains to be adopted. Closer cooperation between the BHAS and Entity statistical offices as well as between the BHAS and State agencies remains essential.

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

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

Progress has been made in the field of **visa policy** and in the framework of the visa liberalisation dialogue. The visa facilitation agreement between the EU and Bosnia and Herzegovina is being implemented. The number of visas issued at the border was further reduced from 684 in 2008 to 345 in 2009. However in the first half of 2010, 145 visas were issued which is an increase of 20% compared to the same period of 2009. At the moment, positive and negative lists are not fully harmonised with the EU visa list.

Biometric passports started to be issued. The Agency for identification documents, registers and data exchange (IDDEEA) finished verifying all registers and entering data into the central database. As of end September 2010, a total of 329,400 biometric passports had been issued.

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

Good progress has been made in the area of **border management**. Legislation implementing the Law on border control has been adopted, with the exception of the by-law on demarcation of the borderline. An agreement on mutual cooperation between the institutions involved in integrated border management (IBM) was signed, providing a general framework for inter-agency cooperation. The IBM joint risk analysis centre has become operational. However, the connection between the centre and the databases of the agencies involved remains to be established. Revision of the IBM strategy and action plan is pending. The Council of Ministers appointed a new director and deputy director of the border police.

Infrastructure at existing border crossing points has been further improved, in particular surveillance and equipment. All border crossing points are connected to the I-24/7 Interpol system. Two new, fully equipped border crossing points have been constructed on the border with Montenegro in Klobuk and Zupci. The majority of border crossing points for international traffic are equipped with biometric passport readers and are connected to the integrated system of control of State border crossings (CSBC). CSBC is one of the four modules of the migration information system, which allows automatic registration of border crossings, entry refusals and access to relevant databases. Installation of IT access and equipment at border crossing points needs to continue.

Responsibility for management and maintenance of border crossings has been assigned to the indirect taxation authority (ITA). ITA prepared an amendment to its internal rulebook foreseeing an increase in the number of posts for management and maintenance of border crossings. However, the adoption of this amendment by the ITA governing board is outstanding. The border police has adopted development, human resources and information management strategies for 2010-14.

Border demarcation has advanced. Along the green border with Croatia, the remaining illegal crossings for vehicles have been physically blocked with the necessary infrastructure and are monitored by the border police. On the border with Montenegro, illegal crossings have also been identified and blocked. More efforts are needed to close unauthorised border crossing points with Serbia. Bosnia and Herzegovina and Croatia are reviewing the relevant border agreements, including the number of crossing points. Agreements with Montenegro on border crossing points and local cross border traffic have been signed in October 2010. Implementation of the working arrangement with Frontex is well on track and Bosnia and Herzegovina participates in the Western Balkans risk analysis network.

*Overall*, Bosnia and Herzegovina's preparations in the area of border management have advanced but need to be intensified. Efforts need to focus on strengthening the infrastructure at border crossing points, settling unresolved border demarcation issues and reinforcing staff.

There has been some progress in the area of **asylum**. Bosnia and Herzegovina has adopted all the legislation necessary for implementing the 2008 Law on aliens and asylum. The asylum and migration action plan is being fully implemented. Training has been provided for staff employed in the asylum sector. The number of asylum applications in 2009 decreased to 32 (71 people) in comparison with 49 applications (95 people) in 2008. In 2009 the Ministry of Security (MoS) granted asylum status to one person and denied it for twenty nine.

All asylum-seekers from Kosovo, whose temporary protection status expired in 2007, received first instance decisions from the Sector for Asylum. The sector issued 279 negative

decisions. Of this number, 205 people have appeals pending. A further 163 former asylum-seekers from Kosovo have received final binding negative decisions on their asylum claims. Others are being resettled or voluntarily repatriated.

The Sector for Asylum in the MoS has 16 of the 17 employees provided for by the ministry's rulebook. The asylum module of the migration information system (MIS) is being fully utilised. The Ministry for Human Rights and Refugees has been connected to the MIS. The temporary asylum centre in Rakovica has 12 employees and 86 occupants. Work has begun on a permanent asylum centre in Trnovo with 150 beds.

*Overall*, the asylum and international protection system in Bosnia and Herzegovina has come into operation and has been further enhanced.

Good progress has been achieved on **migration**. The permanent reception centre for irregular migrants has been upgraded and meets EU standards. Its total capacity has been increased to 120 beds and it employs 53 professional staff. The State has assumed full responsibility for the centre's financing and management. In 2009, 191 irregular migrants passed through the centre. In 2010, 116 foreign nationals were accommodated, 93 of whom were returned.

In 2009, the number of readmitted persons has decreased to 311 (from 459 in 2008), of whom 122 were foreign nationals and 189 citizens of Bosnia and Herzegovina. Bosnia and Herzegovina continues to readmit the largest number of individuals under the readmission agreement with Croatia. In accordance with the EU readmission agreement, Bosnia and Herzegovina accepted 173 of its citizens in 2009 (20 in 2008). A strategy for the reintegration of returnees is being implemented. Bosnia and Herzegovina has continued its efforts to conclude readmission agreements with non-EU countries, but no new readmission agreements were signed.

There has been a significant decrease in the number of people intercepted whilst attempting to cross the border unlawfully. In 2009, 381 people were intercepted when trying to enter or leave the country.

The Service for Foreigners Affairs (SFA) in the MoS continued to improve its administrative capacity. Despite budgetary constraints, the SFA hired new professional staff. It increased the level of cooperation with other law enforcement agencies. The SFA regularly accessed the MIS. Access has been granted to the relevant agencies at both central and local levels. In 2009, the SFA issued 7,512 permits for temporary stays, an increase of 29% in comparison with 2008. In 2009, 359 permits for permanent stays were issued, an increase of 67% compared with 2008. The SFA issued 474 expulsion decisions in 2009, a decrease of 40% on 2008.

All legislation implementing the Law on movements and stays of aliens and asylum-seekers entered into force. The migration action plan is being implemented. The coordination body established to implement the asylum and migration strategy and action plan has improved inter-agency cooperation. An administrative structure for monitoring migration flows, with regular updates, has been established. The first migration profile of Bosnia and Herzegovina was adopted by the Council of Ministers. The MIS now provides statistical reports for the migration profile.

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

#### 4.3.2. *Money laundering*

Limited progress has been made in the fight against money laundering. The rulebook for implementation of the Law on prevention of money laundering and financing of terrorist activities was adopted, as well as a by-law implementing this law for insurance supervisory agencies in the country.

The third round Moneyval Mutual Evaluation Report concluded that Bosnia and Herzegovina achieved minimum level of compliance with international and European standards on combating money laundering and financing of terrorism. However, the evaluation report identified shortcomings in the legislation and in the functioning of the Financial Intelligence Department (FID). At present the FID is within the State Investigation and Protection Agency. The FID is understaffed, in particular the investigation section, and does not have sufficiently trained staff to fully perform its functions.

The FID tends to operate in isolation from other law enforcement agencies as inter-agency cooperation regarding the FID's activities remains weak. Financial intelligence gathered by the FID is not requested by or disseminated to other law enforcement agencies for investigations into predicate offences or money laundering at the Entity-level and in the Brčko District.

The Ministry of Security established a multi-agency working group to prepare amendments to the Law on prevention of money laundering and financing of terrorist activities, including measures to ensure the institutional independence of the FID. Draft amendments to the law were submitted to the Council of Ministers.

Reports of suspicious transactions increased, with most originating from the banking sector and a few from the insurance and securities sectors. However, the quality of reporting requires improvement. The electronic reporting system does not include the non-banking sector and its operational scope and capacity do not support the FID.

There have been convictions for money laundering and two cases on financing of terrorism were filed. However, the overall statistics on money laundering, the financing of terrorist activities and on predicate offences are still incomplete and do not provide sufficient information for preventive measures. Furthermore, there is a lack of information exchange between the authorities responsible for combating money laundering.

The provisions on confiscation in the Criminal Code have been amended to harmonise them with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. However, the legal framework for confiscation of proceeds from crime is not applied adequately. Procedures for managing seized and confiscated assets have not been set up.

*Overall*, in the fight against money laundering, Bosnia and Herzegovina has started to address its objectives. Further efforts are needed regarding administrative structures, enforcement of legal provisions and awareness-raising on money laundering.

#### 4.3.3. *Drugs*

There has been some progress in the fight against drugs. Bosnia and Herzegovina remains a transit country for heroin and synthetic drugs along one of the main Balkan routes to Western



Europe. Drug-related illegal activities remain one of the most widespread forms of organised crime.

Amendments to the Law on prevention and suppression of abuse of narcotic drugs were adopted. They establish the State-level office for drugs envisaged in the strategy and action plan and improve control over precursors. A rulebook for destruction of confiscated drugs has been adopted. Bosnia and Herzegovina has improved its cooperation with the International Narcotics Control Board. Implementation of the action plan for the prevention and suppression of drug abuse is not very advanced. The overall institutional situation of the country does not facilitate the establishment of the coordination mechanism and the implementation of the measures announced in the national action plan on drugs. Specific budgetary allocation for data collection would facilitate the implementation of the strategy.

Some progress was achieved on inter-agency exchanges of information. The Ministry of Security established a database on perpetrators of drug-related offences which is accessible at most border crossing points. The State Investigation and Protection Agency, the border police, Brčko police and the Federation police regularly submit data to this database. Nonetheless, Inter- and intra-agency cooperation in this area is insufficient.

Narcotics control capabilities have improved. Action by the police and prosecutors leading to seizures and arrests has increased considerably as a result of improved cooperation with neighbouring countries and EU Member States. There has been some improvement in international cooperation as the country began implementation of the Police Cooperation Convention for South-East Europe. However, effective judicial follow-up is lacking.

Some progress has been made on collection of information in line with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) standards. Notably, a European School Survey Project on Alcohol and Other Drugs (ESPAD) was implemented in the two entities, and a first country overview and an information map were produced. A situation analysis has been conducted and a standardised registration form for drug users at rehabilitations centres was introduced. However, the institutional cooperation with the EMCDDA is still at a preliminary stage, and its further progress is likely to depend on the consolidation of the cooperation mechanisms between the State and the entities.

*Overall*, preparations in the area of fight against drug trafficking are at an early stage. Information collection and exchange, narcotics control capabilities and international cooperation have improved. Further efforts are needed regarding the lack of inter- and intra-agency cooperation within law enforcement and effective judicial follow-up.

#### 4.3.4. *Police*

Uneven progress has been made on police matters. Implementation of legislation on police reform, which is a European Partnership priority, continued. All institutions established under the police reform laws have had directors and deputies appointed. Rulebooks have been adopted for the agencies of forensic examinations, of education and training and of police support.

The 2010 budget allocations for the State-level Ministry of Security and a number of law enforcement agencies increased. The budget of the Directorate for coordination of police bodies was approved and its rulebook adopted. The independent board that supervises the police has been established and is operational. The Directorate received the responsibility and staff for international police cooperation (including Europol and Interpol) and VIP protection.

Initial preparations for the electronic data exchange system between police and prosecution services advanced. Within the law enforcement sector, the police have the necessary resources to develop its capacity and joint capability. However, the Directorate for coordination of police bodies is not staffed with police officers.

The State Investigation and Protection Agency (SIPA) has reached a staffing level of 70%. Not enough qualified candidates could be found to fill all the vacancies. The laws on the SIPA and border police were brought into line with the new police reform laws.

Laws on police officials have been harmonised and further improved across Cantons, the Entities and the State. Some progress has been made on exchange of information between the police and prosecution bodies. Regulations regarding record-keeping were harmonised. Records will be exchanged through an electronic data exchange system. No progress was made on harmonising Entity-level regulations on arms.

The strategic agreement with Europol is being implemented, including a gap analysis with a view to preparing the operational agreement. Bosnia and Herzegovina regularly submitted strategic information. The office for cooperation with Interpol has a secure data link to all law enforcement agencies. However, the level of security in the Interpol office needs to be improved and the communication link with Europol is still not operational. Both the Interpol and Europol offices are staffed with civilians, not police officers, making effective police work difficult.

Some progress has been made on operational cooperation between law enforcement agencies in the fight against organised crime, including sharing of intelligence and joint action. However, formal coordination and exchange of information, particularly of intelligence, remains weak. SIPA's cooperation with other police bodies was poor. A coordination mechanism has been set up between police directors, the chief prosecutor and the Ministry of Security. Results of police operations have not been adequately converted into successful prosecutions and convictions.

*Overall*, Bosnia and Herzegovina's preparations in the police field remain at an early stage. As part of the police reform, particular efforts are necessary to strengthen cooperation and exchange of information between police agencies. The successful completion of police reform requires the constructive involvement of all levels of government in Bosnia and Herzegovina.

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

There has been some progress in fighting **organised crime**. However, the presence of organised criminal networks and their attempts to infiltrate the legal economy remain a major cause for concern. The structure and high number of different law enforcement bodies within the country is problematic and reduces effectiveness.

The Criminal Code of Bosnia and Herzegovina was further harmonised with the UN Convention against transnational organised crime. It was also harmonised with the Council of Europe Conventions on combating organised crime, on the prevention of terrorism and on action against trafficking in human beings. The Entities and Brčko District have harmonised their criminal codes accordingly. An updated action plan for the fight against organised crime was adopted in February 2010.

Republika Srpska adopted a new Law on confiscation, which provides for the establishment of a specialised agency for asset recovery. However, a comprehensive legal framework and structures for managing confiscated assets have not been established throughout the country.

Bosnia and Herzegovina is not a party to the Council of Europe Convention on the International Validity of Criminal Judgments nor to the additional protocol to the Council of Europe Convention on the Transfer of Sentenced Persons. Mutual legal assistance agreements have been concluded with Croatia and Serbia. They enable fugitives to serve sentences passed in Bosnia and Herzegovina in those countries and vice versa. In October 2010, an agreement establishing a regional office in Belgrade for improving cooperation in the fight against organised crime was signed with Albania, Croatia, Montenegro, former Yugoslav Republic of Macedonia and Serbia. New action plans for the fight against organised crime have been adopted. However, Bosnia and Herzegovina has not negotiated an agreement with Eurojust. The country has not harmonised its legislation with the Council of Europe Convention on cybercrime.

The State Investigation and Protection Agency (SIPA) has been involved in investigations into prominent organised crime groups. In majority of cases, the investigations have not resulted in convictions. Inter-agency joint investigation teams, acting on the instructions of prosecutors, became more frequent. Special investigative measures increased. Cooperation with neighbouring and EU countries improved.

The lack of transparent and reliable crime statistics remains a cause for concern and impacts upon joint strategic operational planning and threat assessments.

*Overall*, Bosnia and Herzegovina has started to address its priorities related to organised crime. The issue remains a serious concern and affects the rule of law and the business environment. Recurring challenges such as the lack of intra- and inter-agency cooperation, of an adequate legal framework and of modern investigative practices persist.

Some progress has been made on combating the **trafficking of human beings**. Bosnia and Herzegovina continued to implement the national action plan for combating trafficking of human beings. Offences related to trafficking of human beings are regulated by the Criminal Code of Bosnia and Herzegovina. The Entity and Brčko District criminal codes have been harmonised with the latest amendments to the State criminal code.

The number of identified victims and investigations related to human trafficking increased, against the decreasing regional trend. Bosnia and Herzegovina continues to be a country of origin, of transit and a destination for trafficking in women and girls. Most of the victims were women from Bosnia and Herzegovina.

The national coordinator's office continued to coordinate a campaign targeting young people seeking employment abroad. It was renamed the Department for Combating Trafficking in Human Beings and given additional funding for planning and monitoring. However, the department remains understaffed and not fully operational.

The State-level government secured funds for victim 'safe houses'. A database of traffickers has been established within SIPA. The necessary amendments to the Law on witness protection have not been adopted. Witness protection remains insufficient.

*Overall*, Bosnia and Herzegovina continues to be at an early stage in the fight against trafficking of human beings. Some progress was made regarding the identification of victims. The provision of victim support and witness protection requires improvement.

There has been some progress in the **fight against terrorism**. Operational capacities of the Entity-level police forces and cooperation with SIPA on terrorism issues improved. International cooperation on terrorism was good. A strategy for preventing and combating terrorism for 2010-13 was adopted. An action plan for civil-military cooperation in the event of a terrorist attack was adopted but its implementation needs to start. However, the lack of an effective system for freezing funds used for financing terrorism is an issue of concern. The existing legislation is overlapping and incomplete. The Counter-Terrorism Unit in the SIPA is sufficiently staffed, but its capacity remains limited.

*Overall*, Bosnia and Herzegovina remains at an early stage in the fight against terrorism. The strategy for 2010-2013 was adopted. Effective implementation needs to be ensured.

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

Progress can be reported on personal data protection. Regulations and instructions on record-keeping in the law enforcement sector have been harmonised with the Law on personal data protection. The Agency for Personal Data Protection is operational. Its Inspection Department has carried out inspections and issued recommendations. As the national supervisory authority for hardware and software, the agency has set up a central register for all data protection systems. The director of the agency acts independently of other state authorities. However, complete independence remains to be achieved. Its independence is crucial for cooperation with Europol and Eurojust. Most public institutions have neither adopted regulations to enforce the Law on personal data protection nor established a plan for personal data security.

*Overall*, preparations for protection of personal data remain at an early stage. In particular, the independence of the Agency for Personal Data Protection is not ensured.

## Statistical Annex

### STATISTICAL DATA (as of 14 October 2010) Bosnia and Herzegovina

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

<b>National accounts</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Gross domestic product (GDP) (million national currency)		11 689	12 565	13 821	14 505	15 786	17 127	19 252	21 760	24 702	23 994
GDP (million euro)		5 977	6 424	7 067	7 416	8 071	8 757	9 844	11 126	12 630	12 268
GDP (euro per capita)		1 581	1 691	1 846	1 935	2 103	2 279	2 561	2 896	3 287	3 192
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	5 500.0	6 400.0	7 200.0	7 900.0	7 200.0
GDP per capita in PPS (EU-27 = 100)		:	:	:	:	:	24.4	27.0	28.9	31.5	30.5
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		:	2.0	4.9	3.8	6.3	3.9	6.1	6.2	5.7	-2.9
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	-1.4	7.9	7.5	8.0
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:	:	:	:	:
Gross value added by main sectors (%)											
Agriculture and fisheries		11.6	11.4	10.9	9.7	10.5	10.2	10.3	9.8	8.9	8.8
Industry		19.2	19.0	18.0	19.2	19.4	20.5	20.2	20.4	21.0	20.0
Construction		6.9	6.2	5.6	5.2	4.9	5.2	5.3	5.9	6.5	6.2
Services		62.3	63.4	65.6	65.9	65.2	64.2	64.3	63.9	63.7	65.0
Final consumption expenditure, as a share of GDP (%)		:	:	:	:	112.0	111.8	105.0	100.5	100.6	:
Gross fixed capital formation, as a share of GDP (%)		:	:	:	:	24.2	26.7	22.3	26.1	26.8	:
Changes in inventories, as a share of GDP (%)		:	:	:	:	2.9	0.1	-0.9	1.3	1.4	:
Exports of goods and services, relative to GDP (%)		:	:	:	:	27.8	30.4	32.9	32.9	32.4	:
Imports of goods and services, relative to GDP (%)		:	:	:	:	66.9	68.9	59.2	60.8	61.1	:

<b>Industry</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Industrial production volume index (2000=100)		100.0	105.3e	112.4e	118.0e	132.8e	144.7e	162.7e	173.4e	186.2e	188.9e

<b>Inflation rate</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Annual average inflation rate (CPI, % change on previous year)	1)	4.8	3.1	0.4	0.6	0.4	3.8	6.1b	1.5	7.4	-0.4

<b>Balance of payments</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Balance of payments: current account total (million euro)		-429	-833	-1 253	-1 439	-1 319	-1 500	-783	-1 191	-1 819	-840
Balance of payments current account: trade balance (million euro)		-3 000	-3 308	-3 524	-3 671	-3 678	-3 962	-3 406	-4 142	-4 823	-3 406
Balance of payments current account: net services (million euro)		203	255	232	297	347	446	534	639	643	549
Balance of payments current account: net income (million euro)		641	595	540	473	408	377	312	336	431	385
Balance of payments current account: net current transfers (million euro)		1 727	1 626	1 500	1 462	1 604	1 639	1 775	1 976	1 930	1 633
of which government transfers (million euro)		338	450	347	298	261	251	237	193	186	147
Net foreign direct investment (FDI) (million euro)		159	133	282	338	566	493	608	1 499	627	184
Foreign direct investment (FDI) abroad (million euro)	2)	0	0	0	0	-1	0	-3	-20	-9	7
of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	:	:	:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)	2)	159	133	282	338	567	493	611	1 520	636	177
of which FDI of EU-27 countries in the reporting economy (million euro)		:	:	:	:	340	410	448	531	348	43

<b>Public finance</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
General government deficit/surplus, relative to GDP (%)		:	:	:	0.7	1.6	2.4	2.9	1.2	-2.2	-4.4
General government debt relative to GDP (%)		37.9	35.2	31.3	27.7	25.5	25.3	21.1	18.2	17.2	21.8

<b>Financial indicators</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		717	1 377	1 538	1 592	1 808	2 098	2 593	3 149	3 063	3 011
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		1 262	2 387	2 593	2 810	3 493	4 129	5 129	6 244	6 493	6 648
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		1 543	1 707	2 189	2 619	3 031	3 858	4 759	6 110	7 442	7 209
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	3)	:	:	12.6	10.9	10.3	9.6	8.0	7.2	7.0	7.9
Deposit interest rate (one year), per annum (%)	4)	:	:	1.4	1.1	0.9	0.7	0.5	0.4	0.4	0.3
euro exchange rates: average of period - 1 euro = ... national currency		1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956
Effective exchange rate index (2000=100)		:	:	:	:	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	5)	525	1 385	1 270	1 428	1 779	2 160	2 787	3 425	3 219	3 176

<b>External trade</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Value of imports: all goods, all partners (million euro)		:	:	:	2 927.8	3 965.8	5 669.8	:	:	:	:
Value of exports: all goods, all partners (million euro)		:	:	:	908.3	1 298.6	1 919.8	:	:	:	:
Trade balance: all goods, all partners (million euro)		:	:	:	-2 019.5	-2 667.2	-3 749.9	:	:	:	:
Terms of trade (export price index / import price index)		:	:	:	:	:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	53.4	54.2	53.8	:	:	:	:
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	58.5	53.0	51.9	:	:	:	:

<b>Demography</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		2.4	1.9	1.5	0.9	0.6	0.1	0.2	-0.3	0.0	0.0p
Infant mortality rate: deaths of children under one year of age per 1000 live births		9.7	7.6	9.4	7.6	7.2	6.7	7.5	6.8	6.9	6.5
Life expectancy at birth: male (years)		71.3	71.3	71.3	71.3	71.3	72.1	72.1	72.1	72.4	72.4e
Life expectancy at birth: female (years)		76.7	76.7	76.7	76.7	76.7	77.5	77.5	77.5	77.7	77.7e

<b>Labour market</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		:	:	:	:	:	:	51.3	52.2	53.5	53.2
Employment rate (15-64): share of population aged 15-64 that is in employment (%)		:	:	:	:	:	:	35.0	36.8	40.7	40.1
Employment rate male (15-64) (%)		:	:	:	:	:	:	46.1	48.7	52.9	51.2
Employment rate female (15-64) (%)		:	:	:	:	:	:	24.0	25.0	28.7	29.3
Employment rate of older workers (55-64): share of population aged 55-64 that is in employment (%)		:	:	:	:	:	:	30.6	31.9	34.4	34.0
Employment by main sectors (%)											
Agriculture		:	:	:	18.1	19.4	19.6	20.6	19.8	20.6	21.2
Industry		:	:	:	24.8	24.2	21.4	30.7	32.6	32.5	31.4
Construction		:	:	:	10.6	10.5	4.9	:	:	:	:
Services		:	:	:	46.5	45.9	54.1	48.7	47.5	47.0	47.3
Unemployment rate: share of labour force that is unemployed (%)		39.7	40.0	41.1	41.6	41.8	43.9	31.1	29.0	23.4	24.1
Share of male labour force that is unemployed (%)		:	:	:	:	:	:	28.9	26.7	21.4	23.1
Share of female labour force that is unemployed (%)		:	:	:	:	:	:	34.9	32.9	26.8	25.6
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	:	:	:	62.3	58.4	47.5	48.7
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	:	:	:	:	:	26.7	25.0	20.2	20.0

<b>Social cohesion</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Average nominal monthly wages and salaries (national currency)	6)	372.0	408.0	446.0	484.0	505.0	538.0	:	:	:	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI) (2000=100)		:	:	:	:	:	:	:	:	:	:
Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)		:	:	:	:	:	:	:	:	:	:

<b>Standard of living</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Number of passenger cars per 1000 population		:	:	:	:	:	:	162.6	171.7	178.7	180.5
Number of subscriptions to cellular mobile telephone services per 1000 population		49.6	92.6	176.2	271.8	344.2	412.5	489.0	637.4	770.8	831.8

<b>Infrastructure</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		:	:	19.7	18.2	20.3	20.1	20.1	19.9	19.9	19.9
Length of motorways (thousand km)		:	:	:	:	:	0.0	0.0	0.0	0.0	0.0

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

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

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

<b>Agriculture</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Agricultural production volume index of goods and services (producer prices, previous year=100)		:	:	:	:	:	:	:	:	:	:
Total utilised agricultural area (thousand hectare)		:	:	1 697	1 722	1 722	1 712	1 722	1 670	1 679	1 656
Livestock: cattle (thousand heads, end of period)		:	:	:	:	453	460	515	468	459	458
Livestock: pigs (thousand heads, end of period)		:	:	:	:	596	654	712	535	502	529
Livestock: sheep and goats (thousand heads, end of period)		:	:	:	:	965	976	1 081	1 104	1 101	1 125
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	583	629	662	724	737	734
Crop production: cereals (including rice) (thousand tonnes, harvested production)		930	1 139	1 309	793	1 439	1 350	1 341	1 001	1 375	1 343
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)		176	190	247	204	276	257	297	254	282	280

: = not available

p = provisional value

e = estimated value

1) Until 2005, the growth rate of retail prices is presented; from 2006 onwards growth rate of the consumer price index (CPI) is used.

2) The balance of payments sign conventions are used. 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.

3) Short-term lending rates in national currency to private enterprises and cooperatives (weighted average).

4) Demand deposit rates in national currency to households (weighted average).

5) As of 31 December; since 2009 gold has been included in reserve assets.

6) For 1998-2004, net salary; for 2005, including data from Brcko District.