



PRIMLIJENO: 18-04-2018			
Organizaciona jedinica	Klasifikaciona oznaka	Redni broj	Broj priloga
01.02 -	06 -	1004 /	18

# Bosna i Hercegovina

# Privremeni izvještaj Evropske Komisije 2018

18 April 2018



European  
Commission

## Sadržaj

- 1. Paket proširenja, Izvještaj o BiH u tom kontekstu, procijenjene oblasti (slajdovi 3-5)**
- 2. Ključni nalazi (slajdovi 6-11)**
- 3. Ključne preporuke (slajdovi 12-21)**



European  
Commission

## Paket proširenja 2018

- Evropska Komisija je objavila paket 17. aprila 2018.
- **Dopunjuje Strategiju proširenja Zapadnog Balkana** iz februara, koja je pružila novi momentum, potvrdila evropsku perspektivu i definisala šest vodećih inicijativa.
- Uključuje sveobuhvatnu komunikaciju o politici proširenja EU, plus sedam pojedinačnih izveštaja za svakog partnera ZB i Turske.
- Svaki izvještaj pruža ocjenu spremnosti države za članstvo u EU, kao i napredak u proteklom periodu u nizu sektora, koristeći dobro definisane i uporedive skale ocjenjivanje.



European  
Commission

## BiH kontekst: Privremeni izvještaj

- Nakon prijema odgovora na Upinik od strane BiH u februaru, **Komisija je započela izradu Mišljenja** baziranog na: odgovorima, posvećenim misijama procijene stanja (peer reviews), i konsultacijama sa međunarodnim organizacijama i civilnim društvom.
- Puna analiza situacije u BiH, u odnosu na kriterijume pristupanja EU, će biti napravljena prilikom izrade obimnog **analitičkog izvještaja koji će pratiti buduće Mišljenje Komisije**.
- Ovaj izvještaj o BiH je **privremeni**, pokriva period od oktobra 2016. do februara 2018., i pruža najnovije informacije o situaciji u zemlji kao i ključne razvoje u "**najprije osnove**" (fundamentals first) oblastima.



European  
Commission

## Procijenjene oblasti

Izvještaj daje ključne nalaze i preporuke u osnovnim oblastima:

- Politički kriterij i vladavina prava
  - **Funkcionisanje demokratskih institucija i reforma javne uprave**
  - **Vladavina prava i osnovna prava**
- Ekonomski razvoj i konkurentnost



European  
Commission

## Politički kriterij (1)

- **Izorno zakonodavstvo je potrebno hitno izmijeniti** kako bi se osiguralo pravilno organizovanje izbora u oktobru 2018. i nesmetana provedba izbornih rezultata. U tom pogledu, **svi politički lideri** trebaju preuzeti odgovornost i pokazati spremnost na kompromis za rješavanje pitanja oko Doma naroda Federacije.
- Odluka Ustavnog suda iz 2010. godine **o poštivanju osnovnih demokratskih prava građana Mostara da glasaju** na lokalnim izborima tek se treba provesti.
- Ustav Bosne i Hercegovine i dalje **krši Evropsku konvenciju o ljudskim pravima**, u slučaju "Sejdić-Finci" i drugim povezanim slučajevima.



European  
Commission

## Politički kriterij (2)

- Na usvajanje zakona proisteklih iz **Reformske agende, negativno su uticalo tenzije između vladajućih koalicionih stranaka** i opstrukcije od strane opozicionih stranaka u Parlamentima na državnom i entitetskim nivoima, što je dovelo do usporavanja tempa reformi.
- Vijeće ministara je ostalo posvećeno unaprijeđivanju agende za integraciju BiH u EU i usvojilo strategije na nivou cijele zemlje u oblastima okoliša i ruralnog razvoja. Međutim, s iznimkom **provedba brojnih reformi je kasnila zbog nedostatka dogovora** između članova vladajuće koalicije.
- **Strategije za cijelu zemlju** u oblastima kao što su energija, zapošljavanje ili upravljanje javnim finansijama tek trebaju biti usvojene.



European  
Commission

## Politički kriterij (3)

- Bosna i Hercegovina je u ranoj fazi reforme svoje **javne uprave** i tokom prošle godine nije postignut nikakav napredak.
  - **Strategija za cijelu zemlju** za reformu javne uprave je u izradi i treba biti usvojena.
  - Dalja **fragmentacija državne službe u entitetu Federacija** te na kantonalnom nivou povećala je rizik od politizacije.
- **Nacionalni program za približavanje zakonodavstva zemlje pravnoj stečevini EU** tek treba biti usvojen.
- **Usaglašavanje BiH sa Zajedničkom vanjskom i sigurnosnom politikom EU** tek treba unaprijediti.





European  
Commission

## Vladavina prava i osnovna prava (1)

- Bosna i Hercegovina ima određeni nivo pripreme u pogledu svog **pravosudnog sistema**. Određen napredak je postignut kada se radi o pravosuđu, ali sveukupno posmatrano, reforme napreduju sporim tempom.
  - Bilo koja izmjena zakona o **krivičnom postupku treba biti u skladu s međunarodnim standardima** i ne bi trebala ugroziti sposobnost institucija da rješavaju slučajeve teškog organiziranog kriminala, korupcije i drugih izazove za vladavinu prava.
- Bosna i Hercegovina ima određeni nivo pripreme u pogledu **borbe protiv organizovanog kriminala**. Određen napredak je postignut, naročito usvajanjem nove strategije za borbu protiv organiziranog kriminala i njegovo suzbijanje te ispunjavanjem akcionog plana za sprječavanje pranja novca i finansiranja terorizma, što je rezultiralo time da Bosna i Hercegovina više neće biti predmet Radne grupe za finansijske mjere u borbi protiv pranja novca.



European  
Commission

## Vladavina prava i osnovna prava (2)

- Postoji određeni nivo pripremljenosti u pogledu **borbe protiv korupcije**. Međutim, korupcija je široko rasprostranjena, te je i dalje pitanje koje zabrinjava.
- Određeni napredak je ostvaren u oblasti **ljudskih prava** i manjina. Međutim, potrebna su suštinska unapređenja strateškog, pravnog, institucionalnog i političkog okvira za poštivanje ljudskih prava (npr. zaštita od rodno zasnovanog nasilja; potreba za integrisanim pristupom romskoj populaciji).
- **Sloboda izražavanja**: politički pritisak i zastrašivanje novinara je nastavljeno, uključujući fizičke i verbalne napade.
- **Kapacitet za upravljanje migracijama**, posebno u radu sa ranjivim grupama, treba dalje jačati.



European  
Commission

## Ekonomski razvoj i konkurentnost

- Bosna i Hercegovina je postigla određeni napredak, ali je još uvijek u ranoj fazi uspostavljanja funkcionalne **tržišne ekonomije**.
  - Ključna preostala pitanja su **slaba vladavina prava, još uvijek loše poslovno okruženje, fragmentirana i neučinkovita javna uprava, te znatne neuravnoteženosti tržišta rada, povezane sa slabim obrazovnim sistemom, slabim institucionalnim kapacitetima, te nepoticaјnom investicionom klimom.**
  - Siva ekonomija je i dalje značajna.
- Bosna i Hercegovina je postigla određeni napredak i ostala u ranoj fazi ostvarivanja kapaciteta da se nosi sa konkurentskim pritiskom i tržišnim silama u EU.



European  
Commission

## **Ključne preporuke u slijedećim oblastima:**

1. Reforma javne uprave
2. Funkcionisanje pravosuđa
3. Borba protiv korupcije
4. Ljudska prava i zaštita manjina
5. Sloboda izražavanja
6. Pravda, sloboda i sigurnost
7. Borba protiv organizovanog kriminala
8. Postojanje funkcionalne tržišne ekonomije
9. Kapacitet za suočavanje sa pritiscima konkurencije i tržišnim snagama unutar Unije



European  
Commission

## Reforma javne uprave

U narednoj godini Bosna i Hercegovina bi trebala posebno:

- usvojiti i započeti primjenu novog **strateškog okvira za reformu javne uprave** i upravljanja javnim finansijama na nivou države;
- osigurati implementaciju efikasnog sistema upravljanja ljudskim resursima, posebno u **zapošljavanju**, i izmjene zakona o državnoj službi kako bi se smanjio rizik politizacije državnih službi na svim administrativnim nivoima;
- usvojiti nacionalni program za usklađivanje pravnih propisa sa **acquis-em EU**.



European  
Commission

## Funkcionisanje pravosuđa

U narednoj godini Bosna i Hercegovina bi trebala posebno:

- implementirati akcioni plan strategije reforme sektora pravde 2014-2018, dodijeliti realan budžet i osigurati da sistem monitoringa i izvještavanja djelotvorno funkcioniše;
- implementirati akcioni plan koji je VSTV usvojio naročito u cilju jačanja **disciplinskih sankcija** i integriteta u pravosuđu, uključujući kroz **poboljšane** deklaracije imovine; razviti više kvalitativne **kriterije za imenovanje i procjenu sudija i tužilaca**; unaprijediti obuke, uključujući i uspostavljanje **efikasnog mentorskog sistema**; revidirati Zakon o VSTV-u na osnovu preporuka Evropske komisije i relevantnog Mišljenja Venecijanske komisije;
- Poboljšati nepristrasnost i efikasnost nadogradnjom postojećeg sistema upravljanja predmetima u VSTV-u, kako bi se efikasno nadgledalo slučajno dodjeljivanje predmeta i omogućili tačniji statistički podaci u skladu sa CEPEJ metodologijom; reformisati zakone o izvršnom postupku kako bi efikasno smanjio broj nepotrebnih predmeta u sudovima i poboljšala izvršna procedura širom Bosne i Hercegovine.



European  
Commission

## Borba protiv korupcije

U narednoj godini Bosna i Hercegovina bi trebala posebno:

- usvojiti **konzistentne i vjerodostojne akcijske planove** (ondje gdje jos nedostaju), podržane realnim budžetom i osiguranjem implementacije i monitoringa antikorupcijskih strategija;
- uspostaviti **preventivna tijela**, gdje jos nisu uspostavljena, i osigurati da saraduju između sebe i sa Agencijom za prevenciju korupcije i koordinaciju borbe protiv korupcije;
- dopuniti zakonodavstvo kako bi se osiguralo efikasno **upravljanje sukobom interesa**, naročito na državnom, federalnom i Brčko Distrikt nivou, unaprijediti zakonodavstvo kojim se uređuju deklaracije imovine, i usvojiti zakonodavstvo za djelotvornu zaštitu onih koji prijavljuju korupciju u FBiH i Brčko Distriktu
- značajno poboljšati evidenciju u oblasti represije i sprečavanja korupcije, uključujući uvođenje efikasnih i zastrašujućih sankcija.



European  
Commission

## Ljudska prava i zaštita manjina

U narednoj godini Bosna i Hercegovina bi trebala posebno:

- usvojiti cjelodržavnu strategiju za ljudska prava i preduzeti dodatne mjere za suzbijanje svih oblika diskriminacije, posebno usvajanjem antidiskriminacionog programa i unapređenjem implementacije antidiskriminacionih mjera utvrđenih zakonom;
- dovršiti pravni i institucionalni okvir u cilju uspostavljanja harmonizovanog, dosljednog, djelotvornog i besplatnog sistema pravne pomoći širom zemlje i osigurati nediskriminatorni pristup pravdi;
- dodijeliti sredstva, sprovesti i pratiti implementaciju strategija i akcionih planova za socijalnu inkluziju ugroženih i marginalizovanih grupa, uključujući osobe sa invaliditetom i nacionalne manjine, posebno romske populacije.





European  
Commission

## Sloboda izražavanja

U narednoj godini Bosna i Hercegovina bi trebala posebno:

- obezbijediti dovoljnu zaštitu novinara i odgovarajuću zakonsku proceduru u slučajevima prijetnji novinarima;
- završiti reformu sistema javnog emitiranja, uključujući osiguranje finansiranja javnih emitera, usklađivanje relevantnog entitetskog zakonodavstva sa državnim zakonodavstvom i osiguranje političke neutralnosti upravnih odbora;
- usvojiti odgovarajuće zakonodavstvo o transparentnosti vlasništva nad medijima, uključujući online medije.



European  
Commission

## Pravda, sloboda i sigurnost

U narednoj godini Bosna i Hercegovina bi trebala posebno::

- razviti na svim nivoima strateški pristup **finansijskim istragama**, uključujući usvajanje FATF koncepta o finansijskim istragama; sprovesti finansijske istrage kao standard od samog početka krivične istrage prilikom prikupljanja dokaza o slučajevima organizovanog kriminala, terorizma, pranja novca i teških slučajeva korupcije; i primjeniti **multidisciplinarni i proaktivni pristup** finansijskim istragama;
- dodatno unaprijediti svoje kapacitete za borbu protiv terorizma kroz bolju saradnju i koordinaciju, razmjenu kriminalističkih obavještajnih podataka, sprečavanje radikalizacije i programe za de-radikalizaciju.
- nastaviti raditi na unapređenju saradnje sa susednim zemljama o pitanjima upravljanja granicom; dodatno poboljšati sprovođenje politike integrisanog upravljanja granicama, posebno jačanjem Zajedničkog centra za analizu rizika, kapaciteta za kontrolu granica i kapaciteta za upravljanje migracijama, posebno u radu sa ugroženim grupama.



European  
Commission

## Borba protiv organizovanog kriminala

U narednoj godini Bosna i Hercegovina bi trebala posebno:

- ubrzati napore za uspostavljanje evidencije **istraga, krivičnih gonjenja, pravosnažnih presuda, zapljena i oduzimanja** prihoda stečenih kriminalom u slučajevima organizovanog kriminala, sa posebnim fokusom na pranje novca, kroz izmjene odredbi Zakona o krivičnom postupku BiH o posebnim istražnim mjerama u cilju usklađivanja sa međunarodnim standardima;
- jačanje okvira za **međugencijsku saradnju** između organa za sprovođenje zakona kako bi se omogućilo uspostavljanje specijalizovanih više-agencijskih istražnih timova za složene slučajeve koji uključuju organizirani kriminal, privredni kriminal i korupciju;
- poboljšati regulaciju zajedničkog **pristupa bazama podataka** i razmjeni informacija između agencija za sprovođenje zakona i tužilaštava, detaljnije utvrđivanje procedura i prava zajedničkog pristupa.



European  
Commission

## Postojanje funkcionalne tržišne ekonomije

U cilju podrške dugoročnog rasta, Bosna i Hercegovina treba posvetiti posebnu pažnju na:

- ojačati **političko vlasništvo nad reformama** i saradnju i koordinaciju između različitih nivoa vlasti;
- poboljšati kvalitet javnog finansiranja jačanjem dobrobiti rasta i poboljšanje ciljanja socijalnih troškova;
- poboljšati pružanje i kvalitet pravovremene i iscrpne **statistike**, sve više primjenjujući evropske i međunarodne standarde.



European  
Commission

## Kapacitet za suočavanje sa prištiscima konkurencije i tržišnim snagama unutar Unije

U cilju podrške dugoročnog rasta, Bosna i Hercegovina treba posvetiti posebnu pažnju na:

- poboljšati **kvalitet obrazovanja i obuke;**
- stvoriti **jedinstveni ekonomski prostor** u cilju podsticanja investicija;
- povećati **veličinu i efikasnost javnih investicija,** posebno u infrastrukturi.



European  
Commission

# Hvala na pažnji!



EUROPEAN  
COMMISSION

Strasbourg, 17.4.2018  
SWD(2018) 155 final

**COMMISSION STAFF WORKING DOCUMENT**

**Bosnia and Herzegovina 2018 Report**

*Accompanying the document*

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

**2018 Communication on EU Enlargement Policy**

{COM(2018) 450 final} - {SWD(2018) 150 final} - {SWD(2018) 151 final} -  
{SWD(2018) 152 final} - {SWD(2018) 153 final} - {SWD(2018) 154 final} -  
{SWD(2018) 156 final}

## Table of Contents

1. INTRODUCTION.....	2
1.1. Context.....	2
1.2. Summary of the report.....	2
2. FUNDAMENTALS FIRST: POLITICAL CRITERIA AND RULE OF LAW.....	4
2.1. Functioning of democratic institutions and Public Administration Reform.....	4
2.1.1. Democracy.....	4
2.1.2. Public administration reform.....	6
2.2. Rule of law and fundamental rights.....	8
2.2.1. Judiciary and fundamental rights.....	8
2.2.2. Justice, freedom and security.....	21
3. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT & COMPETITIVENESS.....	29
3.1. The existence of a functioning market economy.....	30
3.2. The capacity to cope with competitive pressures and market forces within the Union	34
4. BILATERAL RELATIONS WITH NEIGHBOURING COUNTRIES.....	36
ANNEX I – RELATIONS BETWEEN THE EU AND BOSNIA AND HERZEGOVINA.....	38
ANNEX II – STATISTICAL ANNEX.....	<u>40</u>



## **1. INTRODUCTION**

### **1.1. Context**

In February 2016, the country applied for EU membership and in September 2016 the European Council invited the European Commission to submit its Opinion on the merits of Bosnia and Herzegovina's application. In December 2016, the Commissioner for European Neighbourhood Policy and Enlargement Negotiations handed over a comprehensive Questionnaire covering all EU accession criteria. The country's consolidated answers were finalised in February 2018 and the answers handed over to the President of the European Commission. The Commission has started the work on its Opinion, which will be prepared on the basis of the country's answers to the Questionnaire and follow up inquiries, dedicated peer reviews as well as Commission's consultations with international organisations and civil society. Pending finalisation of the Opinion preparation process, this interim report on Bosnia and Herzegovina provides an update on the situation in the country as well as on key developments on "fundamentals' first" areas: the rule of law and fundamental rights, public administration reform and economic development. The full analysis of Bosnia and Herzegovina's situation in relation to the EU accession criteria will be carried out as part of the Commission's future Opinion and its accompanying analytical report. Bosnia and Herzegovina continued to implement the Stabilisation and Association Agreement and the meetings of the joint bodies under the agreement took place, except for the parliamentary committee which has yet to adopt its Rules of Procedures.

### **1.2. Summary of the report<sup>1</sup>**

Regarding the **political criteria**, the electoral framework remains to be urgently amended with a view to ensuring the proper organisation of the October 2018 elections and the smooth implementation of the results. In this regard all political leaders need to assume their responsibility and to find a solution with regard to the Federation House of Peoples. The 2010 Constitutional Court decision concerning the respect of the basic democratic right of the citizens of Mostar to vote in local elections has yet to be implemented. The adoption of legislation stemming from the Reform Agenda, including adoption of the excise tax legislation, was negatively affected by tensions between ruling coalition parties and obstruction by opposition parties in Parliaments at state and entity levels, leading to a slowdown of the reform pace. The Reform Agenda has been effectively implemented when the state level and the entity levels have cooperated in a coordinated manner. Bosnia and Herzegovina's constitution remains in breach of the European Convention on Human Rights, as per the *Sejdić-Finci* and related cases.

The functioning of the Presidency of Bosnia and Herzegovina was affected by the expression of divergent positions by its individual members on a number of issues under its competence over foreign policy. The Council of Ministers adopted further country-wide strategies on areas such as environment and rural development. However, with the exception of a few reforms and the notable adoption of the excise legislation, delivery on a number of reforms was delayed by lack of agreement within the ruling coalition members. Countrywide strategies in

---

<sup>1</sup> This interim report covers the period from October 2016 to February 2018. It is based on input from a variety of sources, including contributions from the government of Bosnia and Herzegovina in relevant SAA Sub-Committee meetings, the EU Member States, European Parliament reports and information from various international and non-governmental organisations.

areas such as energy, employment or public financial management are yet to be adopted. The coordination mechanism on EU matters has started to function as of June 2017 with the preparation of country's answers to the Commission's Opinion Questionnaire. A national programme for the country's legal approximation with the EU *acquis* has yet to be adopted.

Bosnia and Herzegovina is at an early stage with the reform of its public administration and no progress has been achieved in the past year. A country wide public administration reform strategy is being developed and remains to be adopted. Further fragmentation of civil service in the Federation entity and at cantonal level increased the risk of politicisation. Bosnia and Herzegovina has some level of preparation regarding its judicial system. Some progress was made regarding the judiciary, but overall, reforms progress at a slow pace. Any revision of the criminal procedural code should be in line with international standards and should not undermine the ability of institutions to tackle serious organised crime, corruption or other rule of law challenges. There is also some level of preparation regarding the fight against corruption. However, corruption is widespread and remains an issue of concern. Bosnia and Herzegovina has some level of preparation on the fight against organised crime. Some progress was made, notably by adopting a new strategy on fighting organised crime and fulfilling the action plan on anti-money laundering and financing of terrorism as a result of which Bosnia and Herzegovina will no longer be subject to Financial Action task Force Monitoring. However, significant efforts are needed regarding financial investigations and improving capacities for countering terrorism as well as enhancing cooperation with neighbouring countries on border management issues.

Some progress was achieved on human rights and minorities' issues. However, the strategic, legal, institutional and policy frameworks for the observance of human rights are in need of substantial improvement. This includes freedom of expression where political pressure and intimidation of journalists continued, including physical and verbal attacks. Lack of effective implementation of legislation on the prevention of and protection from gender-based violence, in particular domestic violence, remains a concern. A more comprehensive and integrated approach towards the Roma<sup>2</sup> population is required to foster their social inclusion.

Bosnia and Herzegovina's alignment with EU Common Foreign and Security Policy has yet to be improved.

Concerning the economic development and competitiveness, Bosnia and Herzegovina has made some progress, but is still at an early stage of establishing a functioning market economy. Some improvements of the business environment have been achieved and the financial sector has been strengthened. Key remaining issues are a weak rule of law, a still poor business environment, a fragmented and inefficient public administration and major labour market imbalances, related to a poor education system, weak institutional capacities, and an unsupportive investment climate. Moreover, the informal economy remains significant.

Bosnia and Herzegovina has made some progress and remained at an early stage in achieving the capacity to cope with competitive pressure and market forces within the Union. The overall level of education and spending on research and development has remained low. The quality of the physical capital suffers from underinvestment. Transport and energy

---

<sup>2</sup> All these groups are considered under the wider "Roma" umbrella term under the EU Framework for National Roma Integration Strategies.

infrastructure is insufficiently developed. The speed of structural adjustment has been slow, although there has been some diversification in the country's regional trade structure.

Migration management capacity, particularly in dealing with vulnerable groups, remains to be strengthened. In this context, Bosnia and Herzegovina needs to put in place a return mechanism for irregular migrants in line with EU standards and policies.

## **2. FUNDAMENTALS FIRST: POLITICAL CRITERIA AND RULE OF LAW**

### **2.1. Functioning of democratic institutions and Public Administration Reform**

#### **2.1.1. Democracy**

Regarding elections, in December 2016, the Bosnia and Herzegovina Constitutional Court declared as unconstitutional the Election Law provisions pertaining to election of the delegates to the Federation entity House of Peoples. Due to the failure of the Parliamentary Assembly to implement the decision within the given timeline of six months, the Constitutional Court, in July 2017, repealed the unconstitutional provisions thus creating a legal loophole potentially hindering the implementation of 2018 General Election results. The 2010 Constitutional Court decision has yet to be implemented in order to safeguard the basic democratic right of the citizens of Mostar to vote in local elections.

Regarding the functioning of the Parliament, the adoption of legislation stemming from the Reform Agenda was negatively affected by tensions between ruling coalition parties, leading to a slowdown of the reform pace. The insistence by some delegates from Bosnia and Herzegovina on the inclusion of a voting mechanism provision which would not comply with European standards continued to prevent the Stabilisation and Association Parliamentary Committee (SAPC) under the Stabilisation and Association Agreement (SAA) from adopting its Rules of Procedure and for its meetings to take place. The *Republika Srpska* entity National Assembly continued to adopt legislation aimed at implementing the Reform Agenda with a focus on health and social protection sector. The disagreements between Federation ruling coalition parties adversely affected the adoption of Reform Agenda measures at the level of the Federation entity parliament. The work of the Brčko District Assembly committees, including the Committee for European Integration, improved, but the Assembly's expert capacities remain limited.

The country's Constitution, which is Annex 4 to the Dayton/Paris Peace Agreement, established a complex institutional architecture that remains inefficient and which is subject to different interpretations. The Constitution prevents citizens who do not declare themselves as Bosniaks, Croats or Serbs, from standing as candidates for the Presidency and the House of Peoples of the Parliamentary Assembly. The rulings in the cases *Sejdić-Finci*, *Zornić*, *Pilav* and *Šlaku* of the European Court of Human Rights recognised that the country's constitution is in breach of the European Convention on Human Rights. A number of Constitutional Court decisions are yet to be implemented at various levels across the country.

The functioning of the Presidency of Bosnia and Herzegovina was affected by the expression of divergent positions by its individual members on a number of issues under its competence over foreign policy. The Council of Ministers remained committed to advancing the country's EU integration agenda. It adopted further country-wide strategies on areas such as environment and rural development. However, delivery on a number of reforms was delayed by lack of agreement within the ruling coalition members. Countrywide strategies in

areas such as energy, employment or public financial management are yet to be adopted. The role and capacity of the Directorate for European Integration will need to be further strengthened. The second cycle of the meetings of joint bodies under the SAA took place as planned, except for the SAPC. The coordination mechanism on EU matters has started to function as of June 2017 with the harmonisation of country's answers to the Commission's Opinion Questionnaire. A national programme for the country's legal approximation with the EU *acquis* has yet to be adopted; the programme is a legal obligation under the SAA and is essential for planning and streamlining the EU approximation process throughout the country.

**The Federation of Bosnia and Herzegovina Government** prepared some legislative acts stemming from the Reform Agenda action plan.

**The Republika Srpska Government** continued to prepare legislation under the framework of the Reform Agenda action plan. The entity's Voluntary Pension Fund started its operation as the first of its kind in Bosnia and Herzegovina. The *Republika Srpska* Government has embarked on an ambitious reform program to restructure its railways. The entity continued to separately work on harmonising its legislation with the EU *acquis* and developed its own approximation methodology, which foresees the adoption of annual approximation action plans by its Government, without cooperation with other levels of governance across the country.

The adoption of new banking legislation was a good step towards harmonisation of economic reforms between the entities.

**The Brčko District Government** has continued to play a constructive role in the adoption of the EU related strategies and documents, notably in the area of transport, environment and rural development. However, the overall pace of implementation of the Reform Agenda measures has slowed down in 2017.

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

**The Ombudsman's Office** continued to lack adequate human resources and to face serious financial constraints despite recent budgetary increases. This is detrimental to its overall performance, including to the implementation of the anti-discrimination legislation.

Regarding civil society, there was some progress in establishing institutional mechanisms for cooperation between governments and civil society organisations (CSOs), as well as in public financing of CSOs. A Charter on Cooperation between the Council of Ministers of Bosnia and Herzegovina and CSOs was signed in November 2017. A strategic framework for cooperation with civil society still needs to be developed at all governance levels. A number of institutions at various levels of government designated contact points in charge of dialogue and cooperation with CSOs. Consultations with CSOs were occasionally held in specific sectors, also thanks to the use of institutional mechanisms such as e-consultation web platforms. Public funding calls and, in some cases, results of selections were publicly available, but some funding mechanisms for distribution of funds remained non-legally binding and were not fully implemented. Transparency remained weak due to lack of monitoring and evaluation mechanisms. The "Alliance for EU Integration" – a platform bringing together civil society actors – published their Alternative Responses to Commission's Opinion Questionnaire in October 2017.

On civilian oversight of the security forces, large quantities of unsafely stored and unstable ammunition, weapons and explosives (AWE) continued to pose a risk. The AWE Masterplan to finalise the disposal by 2020 of all concerned material held by the military was complemented in December 2016 with specific measures related to weapons' disposal. The large stockpiles held by the 16 Law Enforcement Agencies in the country and the widespread illegal presence of weapons among the population remain issues of concern.

### 2.1.2. Public administration reform

Bosnia and Herzegovina is at an early stage with the reform of its public administration. No progress has been achieved in the past year and the Commission's recommendations from 2016 have not been implemented. There has been an increase in political support for development of a country-wide public administration reform strategy. The civil service in the Federation entity and at cantonal level remained fragmented. Weaknesses in policy development and coordination and accountability remain to be addressed. A national programme for approximation of legislation with the *acquis* remains to be adopted.

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

- adopt and start implementation of a new country-wide strategic framework for public administration reform and for public financial management;
- ensure implementation of an effective human resources management system, in particular in recruitment, and amend civil service legislation to reduce the risk of politicisation of the civil service at all administrative levels;
- adopt a national programme for legal approximation with the EU *acquis*.

#### Policy development and coordination

The policy making system in Bosnia and Herzegovina remains very fragmented. Separate legislative frameworks for policy planning are in place for state level and entities. There has been no progress towards a country-wide approach to policy development and coordination. Country-wide requirements and common standards for the development of sector strategies have not been established so far. Coordination among different levels of government and quality review of policy contents remain insufficient. Hence, improving quality and ensuring coherence and financial affordability of public policies across the country remains a major challenge.

Administrative coordination on EU matters was established through the coordination mechanism in August 2016. A national programme for legal approximation with the EU *acquis* has yet to be adopted.

The legal framework for inclusive and evidence-based policy and legislative development is not fully coherent, and the legal requirements are not complemented with detailed guidelines or quality control to ensure effective implementation. Financial impact of policy proposals should be assessed at all levels according to legal requirements, but this is not systematically implemented. Due to limited capacity, regulatory impact assessments and public consultations are not carried out systematically. The limited quality of and practice in monitoring and reporting as well as lack of a formal requirement to publish key government planning documents are serious obstacles to public scrutiny of government work.

## Public financial management

**Public financial management reform programmes** have been adopted at all levels of government, except in *Republika Srpska* entity. A country-wide reform strategy remains to be developed.

Considerable shortcomings exist regarding institutions' internal control mechanisms at all levels, rendering the system vulnerable to inefficiency and waste, particularly in the area of public procurement. Ministries of Finance at various levels lack administrative capacity for further implementation of reforms in public finance management.

Bosnia and Herzegovina has not yet achieved sufficient **budget transparency**. Annual budgets are published, but no consolidated monthly reports exist at any level of administration. The lack of harmonisation on the charts of accounts at state and entity level hampers access to consolidated data. Follow-up on external audit findings needs improvement. There have been initiatives to prepare and plan a citizens' budget, especially for some institutions at the level of the Council of Ministers, but their development needs still to be followed through.

## Accountability of the administration

The organisation and the typology of public administration bodies remains unclear, with no detailed functional criteria for differentiating between independent bodies and bodies which are subordinated to ministries. Also, there are no clear procedures for establishing, merging or abolishing administrative bodies. **Clear lines of accountability** are not ensured among institutions. Also, decision-making is very centralised, with little delegation from political level to senior civil servants. Performance management is not developed.

The financial independence of the Ombudsman from the executive remains a concern and the implementation of its recommendations remains low, thus affecting **citizens' right to good administration**. The **right to access public information** is not ensured uniformly across government levels due to shortfalls in legislation and inconsistent implementation at all levels. Mechanisms for monitoring implementation remain weak. Efficiency of courts in dealing with administrative cases has improved, thus strengthening **citizens' right to administrative justice**. The **citizens' right to seek compensation** in cases of wrongdoing is regulated at all levels, but implementation cannot be verified due to lack of data on practical implementation.

## Service Delivery to citizens and business

The legal framework for a **user-oriented administration** has been improved. The Office for Supervision and Accreditation has been set up through the necessary adoption of a series of rulebooks, and made operational through finalisation of recruitment procedures as of January 2018. A new Law on Electronic Identification and Trust Services has been developed and is in the phase of opinion obtaining, after which it will be referred to the adoption procedure. Ensuring its adoption and the operability of the Office for Supervision and Accreditation is needed, in order to meet all conditions for the functional use of the e-signature in the open system. The current legal framework at different levels enshrines the key principles of good administrative behaviour. Harmonisation between laws on **administrative procedures** and their legislative amendments needs to be ensured. Special administrative procedures still need to be reviewed and either abolished or brought in line with the law on administrative procedure at various administrative levels.

## Strategic Framework for public administration reform

All levels of administration are actively contributing to the development of the country-wide public administration reform strategic framework. Consensus on the current draft is in place but political support needs to be confirmed. The Public Administration Reform Coordinator's Office continued to implement projects of the previous strategy, financed by the PAR Fund. The validity of the PAR Fund, which is an important instrument for financing public administration reform, needs to be confirmed so as to ensure the financial sustainability of the next reform strategy. Better donor coordination and a new database on the donor financial assistance for the next reform strategy are needed.

### **2.2. Rule of law and fundamental rights**

#### **2.2.1. Judiciary and fundamental rights**

*The EU's founding values include the rule of law and respect for human rights. A proper functioning judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.*

Bosnia and Herzegovina has some level of preparation to implement the *acquis* and European Standards in this area. Some progress was made regarding the judiciary but overall, reforms proceeded at a slow pace. Corruption is widespread and remains an issue of concern. Regarding the enforcement of human rights, the country made some progress, notably with the adoption of the revised Roma action plan on employment, housing and health care, while overall observance of human rights remained in need of substantial improvements. The provision on the death penalty in the constitution of the *Republika Srpska* entity still needs to be repealed.

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

Bosnia and Herzegovina's justice system has some level of preparation. Some progress was made in addressing some of the 2016 report's recommendations, namely through the adoption of the action plan on the implementation of the 2014-2018 justice sector reform strategy and the establishment of the monitoring and reporting structures. The High Judicial and Prosecutorial Council (HJPC) adopted a detailed action plan to implement the European Commission's recommendations on issues within the HJPC remit, including the reinforcement of disciplinary procedures. However, most measures are to be addressed by the legislator. Reduction of the utility-cases backlog in the courts and reforming enforcement procedures are still a challenge. Politically motivated threats on the judiciary continued. Judicial independence, including from political influence, remains to be strengthened.

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

- implement the action plan of the 2014-2018 justice sector reform strategy, allocate a realistic budget and ensure that the monitoring and reporting system is effectively functioning;
- implement the action plan adopted by the HJPC notably with a view of strengthening disciplinary sanctions and integrity in the judiciary, including through improved assets declarations; develop more qualitative criteria for appointment and appraisal of judges and prosecutors; upgrade training, including through the establishment of an effective mentorship system; revise the HJPC Law on the basis of the European Commission's recommendations and the relevant Venice Commission Opinion;

→ improve impartiality and efficiency by upgrading the existing case management system within the HJPC in order to monitor random allocation of cases effectively and provide more accurate statistical data in line with CEPEJ methodology; reform the execution procedure laws to reduce effectively the utility-cases backlog in courts and improve the enforcement procedure throughout Bosnia and Herzegovina.

#### Strategic documents

The action plan of the 2014-2018 countrywide justice sector reform strategy, with new adjusted timelines for implementation, was adopted by the Council of Ministers in March 2017. The ministerial conference (justice ministers at all levels and presidents of the Brčko District Judicial Commission and the HJPC) is responsible for supervising the implementation of the strategy. It adopted its rules of procedure in June 2017 and established the technical structures to monitor the implementation of the strategy. These structures are now fully operational and produced a first activities' implementation report adopted at the session of the ministerial conference held in March 2018. The ministerial conference supported the extension of the strategy's timeframe beyond 2018, to be approved by the Council of Ministers, and the signing a memorandum of understanding with CSOs representatives on regular monitoring and reporting on the implementation of the strategy. The authorities need to take more decisive action to implement the strategy, notably by providing adequate budgetary allocations for each activity envisaged, and demonstrate that the implementation of the strategy has a measurable impact.

The draft Law on Bosnia and Herzegovina Courts needs to be finalised under the leadership of the Bosnia and Herzegovina Ministry of Justice, in line with the standards related to criminal jurisdiction set in the Treaty on the Functioning of the European Union. The adoption of this law is needed to reinforce legal certainty and functioning of the judiciary, notably in the fight against serious crime.

#### Management bodies

Shortcomings remain in the law on the High Judicial and Prosecutorial Council, notably concerning appointment, appraisal and disciplinary procedures, conflict of interests, declaration of assets as well as the right to appeal HJPC final decisions. These need to be addressed in the light of the 2014 opinion of the Venice Commission and the recommendations issued by the European Commission, notably on the basis of the peer reviews. Despite this clear guidance there has not been any new draft law since 2013. This issue needs to be addressed as a matter of priority.

The HJPC started addressing issues regarding transparency of its sessions, strengthening voting procedures as well as disqualification of judges and prosecutors. The HJPC adopted in November 2017 a detailed action plan with clear deadlines for the implementation of the Commission recommendations within the HJPC remit, in the areas of financial declarations, appointment and disciplinary procedures, performance appraisal, HJPC rules of procedure, judicial training, including an effective monitoring mechanism. The Council needs to continue to improve its capacity in the areas of strategic, budget and human resources planning, as well as its public relations work. The 2018 budget of the HJPC is EUR 5.07 million compared to EUR 4.86 million in 2017. At the end of 2017, 135 out of 173 positions of the HJPC organisation chart were staffed. These figures encompass both the permanent and project-based personnel.



### Independence and impartiality

In October 2017, the HJPC adopted controversial conclusions that could have endangered **judicial independence and prosecutorial autonomy** as they envisaged, *inter alia*, the possibility of dismissing judges and prosecutors on the basis of alleged past war-time activities without conducting disciplinary procedures. In November the HJPC adopted new conclusions replacing the previous ones with a view to complying with European standards.

This episode revealed the vulnerability of the judiciary to various types of pressure. Judicial independence and prosecutorial autonomy must be further strengthened, including in practice. Politically motivated threats against courts and prosecutor's offices must be detected on time and properly addressed. The constitutional and legal framework remains weak as to the guarantees of independence, impartiality and autonomy of judges and prosecutors.

The case management system for judges and prosecutors provides for random case allocation but its security and transparency need to be upgraded. Reassignments without a specific justification are possible and no reallocation control system is in place.

### Accountability

The HJPC guidelines related to the prevention of conflict of interest in the judiciary, the drafting of integrity plans in the judiciary and the improvement of disciplinary proceedings started being implemented. The HJPC rules of procedures were amended to better regulate the disqualification procedure in case of conflict of interest. The HJPC also started addressing the issue of the very loose regulations on **declarations of assets** which require some financial statement from judges and prosecutors but do not set any publicity or verification mechanism. The template for asset declaration has been modified but it is still in need of improvements. Moreover, verification needs to be strengthened, notably by allowing cross-checking with databases of other relevant administrations.

Efforts need to be stepped up to strengthen **disciplinary procedures**. The scope of some disciplinary offences is still to be clarified and relevant jurisprudence needs to be collected and published. In 2017 the Office of the Disciplinary Prosecutor registered 1077 complaints against holders of judicial and prosecutorial functions (17.2 % more compared to 2016). It initiated 25 disciplinary proceedings which resulted in 19 sanctions being imposed - mainly salary reductions, one dismissal and one demotion of the Chief Prosecutor to the status of prosecutor. Disciplinary committees have issued 24 decisions on merits, including the previous years' remaining cases. The sanctioning policy needs to be stricter as deterrent sanctions in disciplinary rulings against judges and prosecutors remain rare. Decisions not to prosecute need to be based on a clear reasoning and there needs to be a possibility for challenging those decisions and having effective legal remedy.

The Office of the Disciplinary Prosecutor needs to become independent from the HJPC. The HJPC can still reverse the final decision of the Disciplinary Prosecutor, who has limited possibilities for appeal. As disciplined judges and prosecutors may still get promoted, there is the need for taking disciplinary measures duly into account in the performance, appraisal and promotion systems.

**Codes of ethics** for judges and prosecutors exist, but there is not yet any formal enforcement mechanism with the power to initiate disciplinary cases. Corruption in the judiciary still needs to be more forcefully addressed.

### Professionalism and competence

Procedures regulating appointment and career management of judges and prosecutors need to be improved as a matter of priority to ensure that they become more transparent, efficient and merit-based. A clear distinction needs to be introduced between procedures for first entry into the judicial career and procedures for transfer and promotion. The performance appraisal system needs to be mandatory for all judges and prosecutors, including at the State-level, and be based not only quantitative criteria but also on qualitative ones. A clear correlation should be established, on the one hand, between performance appraisal and career advancement, notably for managerial positions, and on the other hand, between performance appraisal and disciplinary procedures. The HJPC started addressing some of these issues, notably by amending its internal rules. Moreover, the legislator has to address the lack of effective legal remedy against the final decision on appointment and performance evaluation by amending the Law on HJPC.

### Quality of justice

**Training** for judges and prosecutors in Bosnia and Herzegovina is provided through the judicial and prosecutorial training centres in the entities, and through the internal training structure of the Court of Bosnia and Herzegovina. Multiannual training programmes still need to be systematically developed on the basis of a sound needs assessment, and an independent monitoring and assessment system has to be introduced. The content, methodology and delivery of training need upgrading, particularly on building specific capacity to handle complex cases and basic judgecraft skills, in line with European Commission's recommendations. Courts' presidents and chief prosecutors need to be more involved in identifying the training needs of their staff. The HJPC needs to supervise all judicial training activities in line with its legal obligations. Both training centres require sufficient budgeting to maintain sustainable training programmes.

**Monitoring and measuring** of the day-to-day activities of courts and prosecutors' offices take place through the case management system, evaluating the performance of judges based on the annual workload. Statistical data on the performance of the judicial system is not systematically collected or analysed.

The courts' work is becoming increasingly transparent through more allocation of access password to anonymised judicial decisions free of charge for judges, prosecutor and following the payment of an annual fee for defence attorneys, individual or legal entities. The conditions for recording court proceedings need to be improved and more court decisions need to be made available to a larger number of parties, while further complying with data protection legislation through systematic anonymisation.

Activities undertaken in order to increase the consistency of jurisprudence across the country, in the absence of a supreme court ensuring uniform interpretation of the law, slowed down significantly in 2017, with the civil joint panel of the highest-level courts in Bosnia and Herzegovina meeting twice and the administrative and criminal panels holding no meetings.

In addition to judicial conciliation, other alternative dispute resolution methods, notably mediation, need to be improved in line with European standards and best practices.

The 2018 budget for the judiciary is EUR 130.5 million, which is more than the 2017 budget (EUR 122.2 million accounting for 0.8 % of GDP). In 2018, EUR 99.2 million was allocated to courts (2017: EUR 93.2 million) and EUR 28.7 million to prosecutors' offices (2017: 26.5 million). Given that the largest part of the budget is spent on salaries, the funds allocated

remain insufficient, in particular to cover investment needs and to improve the judicial infrastructure.

### Efficiency

The length of court proceedings in 2017 decreased by very little (474 days) compared to 2016 (476 days) and so did the clearance rate at 105 % (109 % in 2016)

The overall backlog for pending court cases by the end of 2017 amounted to 2.1 million cases. The bulk of the backlog was made up of 1.7 million of unpaid utility cases, without any significant reduction since the last reporting period. The specific backlog for pending non-utility cases was reduced by 5.2 % compared to end of 2016 with a total of 339 385 pending cases. The average duration of pending non-utility-related civil cases before first instance courts in Bosnia and Herzegovina in 2017 was 494 days, compared to 502 days in 2016.

No legislative initiative has yet been taken to reduce the backlog of unpaid utility bill cases and small financial claims by improving enforcement procedures. The authorities need to endorse an action plan aiming at finding the most appropriate model for transferring these cases from courts to other public entities or private entities.

### Domestic handling of war crimes cases

The backlog of war crimes cases was further tackled. The number of indictments decreased, with 40 indictments filed against 69 suspects in 2017 compared to 72 indictments filed against 154 suspects in 2016. In 2017, courts in Bosnia and Herzegovina confirmed 46 indictments against 95 suspects, and concluded 47 cases at first instance against 75 suspects, 46 being convicted and 29 acquitted.

There was a continued positive trend in the successful prosecution of war crimes cases involving sexual violence. Final convictions amounted to 13 cases involving 20 defendants.

The in-court victim and witness support was further improved with the courts' police being formally authorised to ensure protection in both entities. However, its long-term sustainability remains linked to the continued guarantee of domestic financing.

The implementation of the national war crimes strategy objectives continued, including through the transfer of less complex cases by the state-level judiciary to other judicial levels and the state-level judiciary taking over the most complex cases from other jurisdictions.

Draft amendments to the national war crimes strategy need to be adopted to have a more efficient distribution of cases between levels of governance and ensure that new criteria and timelines for processing the most complex cases are established. The role of the Supervisory Body overseeing the implementation of the strategy needs to be reinforced to ensure the effective monitoring of the strategy.

### **Fight against corruption**

Bosnia and Herzegovina has some level of preparation in the fight against corruption. Some progress was made on addressing the previous report's recommendations with the adoption of strategies and action plans at various levels of governance. However, the legal and institutional framework remained inadequate and the fragmentation of the action plans makes their implementation less effective. There remains a gap between the declared political will and the lack of concrete results.

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

- adopt consistent and credible action plans (where they are still missing), underpinned by a realistic budget and ensuring the implementation and monitoring of anti-corruption strategies;
- establish prevention bodies, where not yet set up, and ensure that they cooperate among themselves and with the Agency for prevention of corruption and coordination of the fight against corruption;
- amend legislation to ensure effective management of conflicts of interest, notably at state, Federation entity and Brčko District levels, improve legislation governing asset declarations, and adopt legislation for the effective protection of whistle-blowers in the Federation entity and Brčko District;
- significantly improve the track records in the areas of repression and prevention of corruption, including by imposing effective and deterrent sanctions.

### Track record

In 2017, there were a total of 193 investigations of the State Investigation and Protection Agency into financial crimes and corruption, out of which 125 were finalised. 26 reports against 107 persons (97 natural and 10 legal entities) and 11 supplementary reports against 68 persons (52 natural and 16 legal entities) were sent to the competent prosecutor's offices.

There were a total of 232 indictments countrywide, with an increase of 18 % compared to 2016 while the number of convictions was 156 (151 in 2016), a majority of which were suspended sentences. There was no final conviction in high-profile cases. Proceeds of crime for the amount of EUR 837 000 were confiscated. Most of the convictions were for abuse of office or authority.

Audit reports and tax administration reports continue not to be used in a systematic and proactive way to fight corruption. Financial investigations are still not launched systematically in corruption cases and the concept needs further alignment with Financial Action Task Force (FATF) standards. The political authorities should respect the operational independence of law enforcement bodies and ensure that these bodies are fully empowered to act effectively and impartially when investigating corruption allegations.

There is still no track record of effectively checking political party and electoral campaign financing.

Asset declarations remained governed by separate and uncoordinated pieces of legislation, making their implementation ineffective, including the penalties imposed. In 2017, 96 % of the 522 state level public officials submitted income and asset declarations. The Central Electoral Commission refused to publish the asset declarations of the officials running in elections, in line with the interpretation given by the Agency for Protection of Personal Data, contrary to the election law.

The state level Commission for deciding on conflict of interest became operation in mid-2016. Since then it has checked the asset declarations submitted by public officials and civil servants. Decisions imposing sanctions have been issued in 10 cases. Fines collected amounted to a total value of EUR 1 750. Implementation of conflict of interest rules on other levels of governance remained uneven.

There is no legislation in place governing lobbying and there remains a weak inspection capacity in public procurement. The country should introduce a full e-procurement system

so as to foster transparency and to reduce opportunities for abuses. There is no dedicated policy in place.

### Institutional framework

#### *Prevention of corruption*

The state level Anti-Corruption Agency has an appropriate budget but 20 % of its 41 positions are vacant, including in key areas. Premises are not adequate. Dedicated corruption prevention bodies were set up in both entities, in the Brčko District and in almost all cantons, with the exception of West Herzegovina. The Anti-Corruption Agency has concluded in total 30 Memoranda of Understanding with dedicated preventive bodies on the other level of governance as well with HJPC, governmental agencies and non-governmental organisations and a number of institutions for higher education. The Agency does not have direct access to the databases of other bodies (e.g. Ministry of the Interior, Real Estate Agency, tax authorities, land register, registry of vehicles, Central Depository Agency) which would allow for instance cross-checking of data in real-time and automatic detection of potential incompatibilities of functions.

#### *Law enforcement*

A Special Prosecution Office was established at the state level and in the *Republika Srpska* entity. In the Federation entity, specialised departments at the Federation prosecutor's office and at the Supreme Court have not yet been established in spite of the adoption of the relevant legislation. The capacity to investigate economic, financial and public procurement-related crimes remained weak and should be substantially improved in terms of numbers, level of specialisation and equipment. Greater specialisation is needed within the police and judiciary.

### Legal framework

Some of the GRECO (Council of Europe Group of states against corruption) recommendations still need to be addressed, notably on political party financing and conflict of interests.

A new Bosnia and Herzegovina Conflict of Interest Law in line with international standards has not yet been adopted. This would contribute significantly to stepping up anti-corruption efforts. The Federation entity and Brčko District need to adopt legislation on conflict of interest as well as on the effective protection of whistle-blowers.

The Law on protection of whistle-blowers in *Republika Srpska* entity entered into the force in July 2017. It defines procedure of reporting corruption as well as obligation and competencies of bodies responsible to provide protection.

There is still no effective criminal justice policy, including for penalties, which do not act as a deterrent. Frequent conflicts of jurisdiction, leading to transfers of cases between levels of governance, result in slowness and inefficiency of proceedings, thus impacting on the credibility of the system. Lack of pro-activeness of the police in investigating corruption cases remains a concern.

Rules are in place on the immunity of members of parliaments in criminal procedure and procedures governing the lifting of immunity.

There is no legal framework in place to effectively prevent and address corruption in the private sector. The country should conduct a detailed analysis of its anti-corruption

legislation, identifying and addressing gaps and weaknesses in a coherent legal roadmap towards complying with international and European standards.

### Strategic framework

The **Anti-Corruption Strategy and action plan** at state level adopted in May 2015 continue to be implemented. An Anti-Corruption Strategy is missing in the Brčko District. All cantons have their strategies for prevention of corruption except Sarajevo Canton and Bosnia-Podrinje Canton while Sarajevo Canton has opted to have just an action plan. Action plans have not been adopted in the Bosnia-Podrinje and the West Herzegovina Canton.

In December 2017, a software application became operational in order to improve proactive monitoring of the policy documents. The fragmentation of strategies and the action plans makes their implementation less effective.

According to corruption risk assessments, some sectors like employment, health and education remain particularly prone to corruption. More risk assessment has to be conducted in other vulnerable areas.

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

Some progress was achieved over the reporting period in addressing previous recommendations on human rights and the protection of minorities. The strategic, legal, institutional and policy frameworks should be fully implemented and further improved. Non-discrimination among citizens in electoral matters (the Sejdić-Finci case law) and in the education system remains to be tackled. The provision on the death penalty in the constitution of the Republika Srpska entity still needs to be repealed.

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

- adopt a countrywide strategy for human rights and take additional measures to combat all forms of discrimination, notably by adopting an anti-discrimination programme and advancing implementation of anti-discrimination measures stipulated by law;
- complete the legal and institutional framework with a view to establishing a harmonised, consistent, effective and free legal aid system across the country and ensure non-discriminatory access to justice;
- allocate funding, apply and monitor the implementation of the strategies and action plans for the social inclusion of vulnerable and marginalised groups, including persons with disabilities and national minorities, especially of the Roma population.

Bosnia and Herzegovina has ratified all major European and international human rights instruments. Bosnia and Herzegovina signed the Optional Protocol to the Convention on the Rights of the Child in July 2017. However, it has not yet fully implemented the 128 accepted recommendations from the 2014 Universal Periodic Review. This includes recommendations on constitutional changes to recognise the equality of all citizens, prevent discrimination against minorities and gender-based violence, ensure non-discrimination, inclusive education, criminal code reform on war crimes and harmonisation of law and policy at all levels of government.

Since September 2016, the European Court of Human Rights (ECtHR) has found violations of the European Convention on Human Rights (ECHR) in 10 cases (out of 11) relating mainly to the right to a fair trial. During the reporting period, 1 588 new applications were registered by the Court. On 1 February 2018, the total number of applications pending

before the Court was 859. The remaining outstanding cases relate mainly to repossession of occupancy rights, missing persons and discrimination on ethnic grounds. No progress was made in implementing the Court's judgments on the *Sejdić-Finci*, *Pilav* and *Zornić* cases. There are currently 6 cases against Bosnia and Herzegovina under the enhanced supervisory procedure.

There is still no overarching policy on antidiscrimination and on the promotion and enforcement of human rights. The Ombudsman institution has yet to be reformed in line with the Paris principles and the recommendations issued by the Global Alliance of National Human Rights Institutions during the re-accreditation process in late 2017, in order to improve its independence and effectiveness and allow it to function as national preventive mechanism against torture and ill-treatment. Draft amendments to the Ombudsman Law should be adopted as soon as possible so as to ensure compliance with the Paris Principles. Adequate resources also need to be allocated to ensure its proper functioning.

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

The establishment of a national preventive mechanism for prevention of torture and ill treatment in line with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment is substantially overdue. Reports of ill treatment of suspects in some police stations and of prisoners in some prisons and detention facilities remain a matter of serious concern which needs to be addressed. A state law on the rights of civilian victims of torture during the war, in compliance with the Convention against Torture, has yet to be adopted. In its November 2017 review, the UN Committee against Torture made recommendations to address shortcomings in this area.

Legislation on the prison system is neither sufficiently harmonised throughout the country nor aligned with European standards. The condition of certain facilities does not allow for decent detention conditions. Healthcare services in prisons also remain deficient due to insufficient resources and medical staff. Police holding facilities are in extremely poor condition and often lack natural light, inadequate ventilation and have deplorable hygienic conditions. Bosnia and Herzegovina should strengthen its efforts to enhance conditions in prisons and police holding facilities and ensure that they are in conformity with the United Nations Standard Minimum Rules for the Treatment of Prisoners. The psychiatric institution in Sokolac, intended to provide mandatory psychiatric treatment requested during criminal proceedings, is not yet operational. Execution of criminal sentences was hampered by the lack of coordination and harmonisation of procedures across the country. There is no further backlog in the execution of criminal penalties in the Federation entity. No reintegration programmes are foreseen after inmates have served their sentences.

On the protection of personal data, Bosnia and Herzegovina has ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, and its additional protocol. In 2016, the Personal Data Protection Agency received 113 complaints against data controllers in the public and private sector, and carried out 93 inspections. In 2017, the Agency received 96 complaints, and carried out 83 inspections. The Agency needs adequate resources to perform its tasks effectively. Further efforts need to be undertaken to align the legislation with the General Data Protection Regulation 2016/679 and Directive 2016/680.

The constitutional and legal guarantees on the freedom of thought, conscience and religion continued to be generally upheld. While religious tolerance was symbolically promoted on

some well-publicised occasions, cases of discrimination on religious grounds continued to occur, as well as incidents targeting religious sites.

### **Freedom of expression**

There is some level of preparation on freedom of expression. However, no progress was achieved in this area and no progress was made in addressing last year's recommendations. The financial stability of the public broadcasting system was neither fully nor sustainably addressed. Political pressure and intimidation towards journalists, including physical and verbal attacks, continued during the reporting period without a systemic institutional follow up. Authorities made no attempt to address the lack of transparency of media ownership.

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

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

### **Intimidation of journalists**

Political and financial pressure on the media continued. Cases involving intimidation and threats to journalists (including those reporting on the ICTY decision on Prlić and others), verbal and physical attacks, hacking of websites, political, institutional and economic pressure and defamation continued to be reported. Authorities do not collect data on threats and attacks against journalists and media workers, and swift investigations and prosecution of perpetrators is not always ensured. The authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against media, and should refrain from making statements that may create an environment not conducive to freedom of expression.

### **Legislative environment**

Legal provisions guaranteeing freedom of expression are in place. However, political and ethnic lines continue to divide the public sphere and drive the development of legislative proposals in the media sector.

### **Implementation of legislation/institutions**

The political and institutional independence of the Communications Regulatory Agency was strengthened by legislative amendments. Its financial independence continues to be an issue of concern. The Agency's political neutrality, independence and its public perception as a neutral body have yet to be ensured.

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

### **Public service broadcaster**

The independence of the three public service broadcasters within the country's public broadcasting system has yet to be ensured. The public broadcasters in the two entities



continued to be exposed to political influence, particularly via their politically-controlled steering boards; worrying cases of self-censorship have been reported also in the state-level public service broadcaster. Entity-level legislation on public service broadcasters remains to be harmonised with the state-level law on Public Broadcasting Service.

The financing of the state-level public service broadcaster remains unsustainable. Due to political obstruction, the steering board failed to establish a functional Public Broadcasting Service corporation, as provided by the law.

#### Economic factors

Transparency of media ownership has yet to be fully achieved and the accessibility to full information is yet to be secured due to problematic legal provisions hampering systematic insight into ownership structures. The country still lacks a law on media ownership transparency. Public broadcasters that are not part of the public broadcasting system are financed from municipal and cantonal budgets and remain under strong political influence. Legislation addressing State aid and competition includes provisions that seriously hinder the broadcasters' independence and ability to operate. At entity level, *Republika Srpska* has a legal possibility to fund both public and private media. Lack of transparency and clear criteria in the distribution of subsidies are a serious concern. Media integrity is also harmed by the advertising practices of public companies and advertising agencies linked to political parties.

#### Professional organisations and conditions

The Bosnia and Herzegovina Journalists' Association is the most active civil society organisation in the field of freedom of expression, the freedom of the media, the protection of journalists and media integrity.

The freedom of assembly and association is enshrined in the constitutions and legislation at different levels of government in the country. Although these rights were generally upheld, the legislation across Bosnia and Herzegovina still needs to be harmonised with international standards. Some incidents have also raised concerns. A protest march by LGBTI organisations in Sarajevo on 17 May 2017 had to be cancelled due to delays of the administrative authorities in issuing due permits. An environmental demonstration was broken by riot police in August 2017 near Vitez. Cases of attacks and intimidation against human rights activists continued to be reported.

On property rights, land registration is dealt with at entity level. Updated and mutually linked cadastre and land register databases are yet to be established. Entity-level legislation on expropriation prescribes compensation at market value. Legalisation of properties is variously managed at entity and cantonal level. There is no legislative framework on handling restitution claims. Few pending cases related to repossession remain. The Commission for Real Property Claims of Displaced Persons and Refugees has not yet resumed operation.

Concerning non-discrimination policies, countrywide human rights and anti-discrimination strategies have yet to be adopted. Some initial steps were undertaken in developing a Mid-term Anti-discrimination Programme. The *Sejdić and Finci* ruling of the European Court of Human Rights has still not been implemented, meaning that Bosnian citizens not declaring themselves as Bosniaks, Croats or Serbs are still not allowed to stand for office in the state-level House of Peoples and Presidency. No progress was achieved in eliminating the "two schools under one roof" phenomenon, which is in breach of a ruling of the Federation entity Supreme Court from 2014. Disputes over education in mother tongue, national groups of subjects and curricula continue, whilst systemic solutions for ensuring inclusive and

non-discriminatory education are not in place. The common core curriculum is not yet completed nor applied throughout the country, and the availability of National Group of Subjects teachings remains limited. The lack of recognition of the name of the Bosnian language in the *Republika Srpska* entity leads to periodic school boycotts, often by families of returnees.

Criminal provisions on hate crimes at all levels are harmonised, while the legislation on hate speech remain to be harmonised across the country. A mechanism to collect data on hate crimes and discrimination cases has still not been established. Failure to identify acts as hate crimes as well as the high burden of proof placed on the intent lead to low numbers of indictments and convictions. Two cases out of 54 in the reporting period led to a conviction.

Legal provisions providing equality between women and men are broadly in place but their implementation continues to be ineffective. Gender impact assessments of policy and legislative processes are not implemented, although they are provided for in legislation. Women are still underrepresented in politics and public life. Lack of effective implementation of legislation on the prevention of and protection from gender-based violence, in particular domestic violence, remains a concern. Relevant legislation is still not aligned with the Istanbul Convention on preventing and combating violence against women and domestic violence. A harmonised system for monitoring and data collection on cases of violence against women is still lacking. The number of protective measures issued remained low, and the general system of response and support to victims needs to be improved. Existing safe houses remained in most cases strongly underfunded, which is in breach of existing legislation.

On the rights of the child, lack of resources and of coordination among authorities hampered the implementation of the 2015-2018 action plan for children. Concerns persist on the inadequate standards of care provided to children placed in institutional care, 70 % of whom have some form of disability. During the reporting period the Federation entity adopted a law on foster care, whose implementation should allow for an improved protection of approximately 1 500 children without parental care. The exploitation of children and child begging remain issues of concern. Violence against children continues to be widespread. Reporting of violence against children remained insufficient, resulting in few cases being brought before the courts. Not all children in Bosnia and Herzegovina are covered by compulsory health insurance and concerns continued over the exclusion of marginalised groups. The legal framework on juvenile justice is in place but requires further harmonisation across the country. The absence of separate units for juveniles during pre-trial detention and in police stations across the country is a breach of international standards. The use of alternative measures to juvenile detention needs to be stepped up, as detention should only be a last resort. Support to juveniles upon release from an institution is still insufficient, with only limited reintegration measures undertaken.

Little progress has been made on the rights of persons with disabilities, which are not effectively protected. The UN Committee on the Rights of Persons with Disabilities reviewed Bosnia and Herzegovina in March 2017 and issued a series of recommendations that require urgent follow-up. During the reporting period, both entities adopted a strategy for the improvement of rights and status of persons with disabilities between 2016 and 2017. Efforts are needed to swiftly and effectively implement it. As party to the International Convention on the Rights of Persons with Disabilities, Bosnia and Herzegovina has set up a Council for Persons with Disabilities to monitor the Convention's implementation. However, some

disability groups including those representing deaf and hard of hearing individuals, people with psycho-social disabilities or children with disabilities, have no representation in the Council and thus fewer possibilities to have their voice heard. The Anti-Discrimination Law formally offers protection against discrimination but in practice persons with disabilities often face discrimination in accessing education, employment, social protection and health. Support services for children and their families are generally not available. The failure to implement relevant regulations, amongst other causes, mean that children and young people, particularly those with physical and learning disabilities, are excluded from the mainstream educational process. Most public buildings and institutions, as well as public transport, are reported as inaccessible.

On the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, criminal codes were harmonised to include hate crimes on grounds of sexual orientation and gender identity. In addition, by adopting the amendments to its Anti-Discrimination Law in 2016, Bosnia and Herzegovina improved its legal framework, with sexual orientation and gender identity becoming prohibited grounds for discrimination. Training programmes for law enforcement and judiciary members continued during the reporting period. In terms of public awareness, visible events take place regularly and the annual Merlinka Queer Film Festival took place in 2016 and 2017 with adequate support and protection from the police. Failure of the authorities to grant a permit on time meant that an LGBTI march against violence planned for the International Day against Homophobia, Biphobia and Transphobia had to be cancelled. Regarding violence against LGBTI persons, the prosecution of hate crimes as well as hate speech remains insufficient. Moreover, past violent attacks on LGBTI persons have not led to indictments. Same-sex couples are continuously discriminated against, as the legal system fails to recognise their social and economic rights. By introducing sex characteristics as a ground for discrimination in the Anti-Discrimination Law, intersex persons are now explicitly protected; more remains to be done to promote their social inclusion. Transgender persons continue to be marginalised and discriminated against.

The procedural rights of suspects, accused persons and victims are generally in line with European standards. However, the lack of harmonisation of the legal framework leads to differences in the scope of protection of such rights across the country and to inequality in access to justice for all type of proceedings. Vulnerable groups such as victims and witnesses in war crimes cases continue to face particular obstacles. Without clear minimum common standards for free legal aid applicable to the various levels of authorities, this right continues to be upheld in an uneven way, particularly to the detriment of the most vulnerable groups. Legislation on free legal aid is yet to be adopted at the Federation entity level and in one canton. A comprehensive transitional justice strategy as well as a solid mechanism for compensation of wartime gross human rights violations across the country, including for victims of war related sexual violence, have yet to be introduced.

The legal framework for the protection of minorities is largely in place and in line with the Council of Europe Framework Convention for the Protection of National Minorities. No progress was achieved to implement existing laws due to the continued lack of coordination between the state and the entities. Members of national minorities continued to have a low presence and participation in political and public debates and in the media. Bosnia and Herzegovina still lacks a countrywide strategic document on national minorities.

The Roma remain the country's most vulnerable and disadvantaged minority. A more comprehensive and integrated approach is required to foster their social inclusion. A revised

2017-2020 Roma action plan on housing, employment and healthcare was adopted in late 2017, but remains in need of appropriate funds for implementation. The action plan on education is not part of the general one and lack funds for its implementation. A Roma Committee within the Bosnia and Herzegovina Council of Ministers is active but has only a consultative role. Progress continued on housing with the support of international donors; the legalisation of settlements and access to sanitation should also be addressed. Enrolment rates in compulsory education increased, but the number of school drop-outs remained very high, with Bosnia and Herzegovina being one of the countries of the region with low completion rate of compulsory education. The Roma community continued to experience major difficulties in accessing healthcare services and the labour market, with an unemployment rate among the highest in the region. The civil registration process has improved but the attention on this question should remain.

On refugees and internally displaced persons, some progress was made on the Annex VII of the Dayton Peace Agreement strategy, in the areas of repossession of property and occupancy rights, reconstruction of houses and infrastructure. However, significant attention is still required on damage compensation for property that cannot be returned, access to healthcare and to employment, health and social protection, safety and demining, and education. The official data on the internally displaced persons remain to be consolidated. Cases of attacks against properties of returnees show the need to ensure safety and security in order to achieve sustainable returns to pre-war residence areas.

### 2.2.2. Justice, freedom and security

Bosnia and Herzegovina has some level of preparation to implement the *acquis* and European standards in this area. Some progress was achieved with the adoption of the strategy on fighting organised crime and with implementing the action plan on anti-money laundering and on financing of terrorism as well as the integrated border management strategy.

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

- develop at all levels a strategic approach towards financial investigations, including by adopting the FATF concept on financial investigations; conduct financial investigations as a standard from the very start of the criminal investigation when gathering evidence on with organised crime, terrorism, money laundering and serious corruption cases; and apply a multidisciplinary and proactive approach to financial investigations;
- further improve its capacity for countering terrorism through better cooperation and coordination, exchange of criminal intelligence, prevention of radicalisation and de-radicalisation programmes;
- continue to work on enhancing cooperation with neighbouring countries on border management issues; further improve the implementation of Integrated Border Management policy; especially by strengthening the Joint Risk Analysis Centre, border control capacity and migration management capacity, particularly in dealing with vulnerable groups.

#### Fight against organised crime

Bosnia and Herzegovina has some level of preparation on the fight against organised crime. Some progress was made, notably by adopting a new strategy on fighting organised crime and implementing the action plan on anti-money laundering and financing of terrorism in

order to comply with the FATF recommendations. However, financial investigations remained underused. In the coming year Bosnia and Herzegovina should in particular:

→ step up efforts to establish a track record of investigations, prosecutions, final convictions, seizures and confiscations of proceeds of crime in organised crime cases, with particular focus on money-laundering, notably by amending the provisions of Bosnia and Herzegovina criminal procedure code on special investigative measures in order to align with international standards;

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

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

#### Institutional set-up and legal alignment

The total number of police officers is approximately 16 000. There are 453 police officers per 100 000 inhabitants, compared to the EU average of 211 in 2015.

Specialised anti-terrorism, human trafficking, drugs, cybercrime and financial investigations units are broadly in place at state and entity level, though with insufficient capacity.

The legal framework to fight organised crime is only partially aligned with the EU *acquis* European standards. There is an urgent need to amend the provisions of Bosnia and Herzegovina criminal procedure code on special investigative measures in order to comply with Bosnia and Herzegovina Constitutional Court decision of June 2017. These amendments need to be in line with international standards on fighting serious crimes, in particular the UN Convention on Transnational Organised Crime, that Bosnia and Herzegovina has ratified. The legislation on the confiscation of criminal assets is partially aligned with the *acquis*. Provisions on minimum standards governing asset seizure have yet to be consistently incorporated into the legislation across the country. The absence of progress at the state level is of particular concern. All levels of government have launched procedures to harmonise laws on the civil possession of weapons on the basis of joint minimum standards agreed in 2015, with a view to aligning with EU legislation. So far, all levels of governance but two cantons have completed this task. Further alignment with deactivating standards is needed.

In October 2017, the Bosnia and Herzegovina Council of Ministers adopted the 2017-2020 Strategy for Combating Organised Crime. Relevant institutions are expected to draw their action plans for the implementation of the Strategy. The findings of the serious and organised crime threat assessment have not yet been translated into a coherent national security policy based on clear priorities.

Bosnia and Herzegovina lacks a strategic framework to address the issue of cybercrime and cyber security threats.

The action plan to address Bosnia and Herzegovina strategic deficiencies in the Anti-Money Laundering system in line with the recommendations of the Financial Action Task Force (FATF) has been implemented. The NGO database to ensure transparency of registration and financial reporting has become operational. Further to an FATF on-site visit that took place in January 2018, in February Bosnia and Herzegovina was removed from the FATF list of "high

risk third countries with structural deficiencies in anti-money laundering / counter-terrorist financing". The EU will assess the position of Bosnia and Herzegovina as a priority when reviewing the EU delegated act listing high risk third countries according to its new methodology.

#### Implementation and enforcement capacity

In 2017 in the fight against **organised crime** there were 53 investigations with 335 suspects, 17 indictments with 131 accused and 13 sentences with 44 convicted. Investigations in cybercrime, including on-line child sexual abuse, remain very rare.

The possibility to effectively dismantle criminal organisations is seriously hampered by a lack of harmonisation of criminal legislation in the country, exacerbated by weak institutional cooperation and coordination mechanism between entities. As a result there is a systemic lack of operational cooperation and a very limited exchange of intelligence, thus creating many opportunities for criminal organisations operating in the country and the region. Institutional capacity to effectively address various forms of organised crime needs substantial improvement.

There is no overall policy for carrying out **financial investigations** on a systematic basis and where those were conducted, results have so far been insignificant. The value of **assets' confiscations** in 2017 amounted to EUR 837 000. But the majority of confiscations target the instrumentalities and not the proceeds of the crime. Confiscation of criminal assets should become a strategic priority in the fight against organised crime, terrorism and high level corruption. Criminal groups engage in an increasingly wide range of profitable illegal activities, and reinvest substantial profits in the economy. The current tools for freezing, managing and confiscating criminal assets are not effective enough. Bosnia and Herzegovina should therefore develop and implement a more comprehensive and coherent legal framework for the confiscation of proceeds of crime. In line with the EU *acquis*, it should in particular focus on adopting implementing rules on the confiscation of assets. Such assets are not exclusively those directly linked to a specific crime, but which clearly result from similar criminal activities committed by the convicted person (extended confiscation). The same applies to adopting rules on confiscating criminal assets that were purposefully transferred by the suspect to a third party (third-party confiscation), as well as rules providing for the confiscation of criminal assets where a criminal conviction is not possible, in particular because the suspect is deceased, permanently ill or has fled (non-conviction based confiscation), ensure that competent authorities more systematically temporarily freeze assets that risk disappearing if no action is taken, subject to confirmation by a court as soon as possible (precautionary freezing). In addition, it is crucial that financial investigations on a person's assets are allowed to continue for years after a criminal conviction in order to fully execute a previously issued confiscation order (effective execution). As regards asset management, Bosnia and Herzegovina should urgently step up its capacity to manage frozen or confiscated assets so that they do not lose economic value (asset management).

As regards **money-laundering**, in 2017 there were 6 reports, 4 indictments confirmed, 6 convictions of imprisonment and 2 convictions of conditional sentences.

Proactive investigations that start with **intelligence-led policing** remain rare as compared to those launched on the basis of signals received. The police should act more on own-initiative. Arrangements for practical cooperation between prosecutors' offices and the police require structural improvements to guarantee a more effective judicial follow-up. There is a lack of

mutual access to databases and the exchange of information between law enforcement agencies and prosecutors' offices. There is no operational countrywide DNA database, and DNA profiling capacity remains limited. Swift exchange of forensic data with other countries does not take place. The automated fingerprint information system needs to be significantly upgraded.

The Agreement on operational and strategic cooperation with Europol entered into force in March 2017. The National Contact Point in line with provisions stipulated in the Operational Agreement has not yet been established. A political agreement reached on 11 April 2018 between the Minister of Security and the Entities' Ministers of Interior paves the way for the establishment of the Contact Point and should now be swiftly implemented. The current arrangement for exchange of data is administered through the Directorate for Police Coordination which also was the responsible authority for the exchange of data and requests with Europol on the basis of the Strategic Agreement in the past. Bosnia and Herzegovina also has not yet appointed its Liaison Officer to Europol.

Bosnia and Herzegovina is signatory to the Convention on Police Cooperation in Southeast Europe.

Activities to implement the country's 2016-2020 strategy for controlling small arms and light weapons (SALW) continued. In 2017 a total of 10 801 different pieces of small arms and light weapons were destroyed. Existing capacity to combat cybercrime (including addressing on-line child sexual abuse material) and to effectively respond to cyber security threats need to be strengthened.

Bosnia and Herzegovina remains a country of origin, transit and destination for trafficking in human beings for labour exploitation, sexual exploitation, begging and forced marriages. Implementation of the 2016-2019 action plan on fighting trafficking in human beings is ongoing. However, a comprehensive, multidisciplinary and victim-oriented approach to trafficking in human beings still needs to be developed and identification and protection of victims needs to be improved. The number of potential victims of trafficking in human beings detected in 2017 was 55, compared to 47 potential victims detected in 2016. More than a half of the detected potential victims were minors, and almost three quarters of them were women. The trafficking was mainly aimed at forced begging, labour exploitation, forced marriages, and sexual exploitation.

The capacity of prosecutors and law enforcement officers need to be further improved. Evidentiary proceedings in court trials need to be strengthened. On the prevention side, greater efforts are needed to prevent child trafficking, including through a more proactive role of social services. Also the re-integration in their families requires careful monitoring, so as to prevent re-victimisation. The identification of victims, their adequate protection and subsequent reintegration are areas where further improvements are needed.

Fighting organised crime remains fundamental to countering criminal infiltration of the political, legal and economic system of the country.

### **Fight against terrorism**

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

Bosnia and Herzegovina's legal framework is largely in line with the *acquis* and international instruments on anti-terrorism. However, the actual implementation of legislation, as well as cooperation between relevant authorities require significant improvement.

The framework action plan accompanying the 2015-2020 strategy on the prevention and fight against terrorism is in place.

#### Implementation and enforcement capacity

According to official data, 181 men, 61 women, and 81 children with Bosnia and Herzegovina citizenship are believed to have travelled to Syria and Iraq from Bosnia and Herzegovina and from the diaspora between December 2012 and December 2015. Bosnia and Herzegovina authorities' efforts have contributed to stop departures of Bosnia and Herzegovina citizens to foreign battlefields since 2015. Cells of radicalisation have been identified in certain locations in the country, in particular in the Wahhabi communities.

The body to oversee the implementation of the strategy for the prevention of and fight against terrorism for the period 2015-2020 strategy is in place. It focuses on developing a referral mechanism for prevention of radicalisation and an assistance mechanism for re-socialisation and dis-engagement of foreign terrorist fighters. It also increasingly takes on different internal coordination tasks as well as the role as point of contact for external partners. A Counter Terrorism Task Force is in place. After a period of only partial attendance from the side of Bosnia and Herzegovina authorities, its operational group commenced to hold regular joint meetings again since the beginning of 2018. The counter-terrorism capacity of the Bosnia and Herzegovina's Prosecutor's Office is adequate. In total, 23 returned foreign terrorist fighters were indicted and subsequently convicted for terrorism-related offences. Sentences were however often lenient and frequently based on plea bargains.

An EU Senior Mission on counter terrorism and prevention of violent extremism took place in April 2017 and issued several recommendations, notably on the implementation of the strategic framework and internal coordination, in particular in the area of prevention of violent extremism, appropriate sentencing for foreign terrorist fighters and their subsequent social re-integration, arm trafficking, border control, terrorism financing, and regional and international cooperation, in particular with Eurojust and Europol. Bosnia Herzegovina has started addressing these recommendations, but more sustained efforts are needed.

#### **Legal and Irregular migration**

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

The 2015 Bosnia and Herzegovina law on foreigners is broadly in line with the *acquis* at the time of its adoption. Most of the implementing rules related to migration are in force and implemented. The legal framework need to be further aligned. The **strategy and its action plan on migration and asylum** for the 2016-2020 period are in place and implemented.

##### Implementation and enforcement capacity

The Immigration Department of the Bosnia and Herzegovina Ministry of Security has a limited administrative capacity of 19 staff which is insufficient. The staff receives regular training. The Immigration Centre has a capacity to accommodate 120 individuals. The capacity has been increased through cooperation with NGOs which particularly host vulnerable groups in safe houses. It is still adequate for the current influx of migrants, unless the recent trend of increasing migratory pressure in the country continues.

Staff are regularly trained on international regulations and standards as regards the treatment of migrants hosted in the centre. The centre has separate sections for vulnerable groups of migrants. Moreover, the capacity was increased through cooperation with NGOs over hosting



vulnerable groups in safe houses. The centres also have measures in place to prevent infiltration by migrant smugglers.

Current legislation and cooperation agreements with foreign donors enable effective voluntary and forced return of irregular migrants to countries of origin. Implementation remains to be fully ensured. Bosnia and Herzegovina needs to put in place a return mechanism for irregular migrants in line with EU standards and policies.

Bosnia and Herzegovina has concluded readmission agreements with the EU and with all Western Balkan countries, and with Turkey, as well as implementation protocols with 16 EU Member States. The implementation of these agreements is overall smooth. In 2016 EU Member States issued 5 000 return decisions to Bosnia and Herzegovina citizens; the return rate was 75 %. Cooperation needs to be improved on identification and return procedures. Regional cooperation on the return of extra-regional irregular migrants to their countries of origin should be further strengthened.

Mechanisms for collecting, sharing and analysing data on migration need to be improved. Statistics show an increasing trend of people coming to Bosnia and Herzegovina from the migration-prone countries of origin. In 2017 the number of people intercepted while illegally crossing the border was 767 compared to 218 in 2016.

The number of third-country nationals returned to Bosnia and Herzegovina in 2017 under various readmission agreements almost tripled compared to 2016. In parallel, the number of foreign nationals that were either deported or left Bosnia and Herzegovina on a voluntary basis greatly increased, also thanks to readmission agreements between Bosnia and Herzegovina and third countries (particularly Montenegro and Serbia). The Immigration Centre hosted 860 foreigners in 2017, compared to 311 in 2016.

## **Asylum**

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

The 2016 law on asylum is broadly in line with international standards and the EU law. Most of the implementation rules are in force and implemented.

### **Implementation and enforcement capacity**

The Asylum Department of the Bosnia and Herzegovina Ministry of Security handles the first instance decisions. Currently, the Asylum Department still has limited human resource capacities. This is not least due to an employment moratorium in the public sector. Interpretation services are mainly based on outsourcing agreements. The services of interpreters are used mainly through outsourcing with translation agencies. More training should be undertaken in order that international standards and procedural safeguards are respected. Training should focus on access to the procedure for international protection, including interviewing techniques to identify asylum seekers, respect for the principle of *non-refoulement* and non-penalisation of asylum seekers for illegal entry/stay, as well as ensuring all procedural safeguards – information on the right to seek asylum, interpretation services, free legal aid.

The implementation of asylum process needs to be improved, in particular to ensure the systematic respect of procedural guarantees for asylum-seekers. Identification of asylum applicants includes taking and storing biometric data in a database at the Asylum Department. No case of *refoulement* has been reported so far. 380 people applied for international protection in 2017, out of which 8 people were granted the status of subsidiary

protection, 15 applications by 15 individuals were rejected on merit, and 143 applications by 167 individuals were closed as the applicants left or attempted to leave the country or failed to show up for an interview. However, there have been no refugee status recognitions since 2014. The Asylum Centre has a capacity of 154 beds which can be expanded to 300 beds in the event of a sudden influx. The centre is managed by the Asylum Department of the Ministry of Security and its operations are mostly financed through the state budget. Currently, the accommodation capacity is used to the maximum extent and can become inadequate if the current inflow of asylum applicants continues. The authorities have developed legal and institutional means to manage possible sudden influxes, but the current resources remain below what is required to fulfil the task. Alternatives to detention for children should be further explored: both accompanied and unaccompanied children were detained in 2017. Unaccompanied children lacked adequate access to guardians, and the best-interest determination procedures were often delayed, if conducted at all. The country has no agreement with the European Asylum Support Office. The Strategy and action plan on Migrations and Asylum 2016-2020, adopted in March 2017, aims at strengthening reception capacities in the country and increasing regional and international cooperation.

### **Visa policy**

The list of third countries that Bosnia and Herzegovina maintains visa-free regimes is mostly in line with the EU list except for Azerbaijan, Bahrain, Kuwait, Oman, Qatar, Turkey, and Russia. Negotiations with China on visa-free regime for holders of regular passports are ongoing.

The visa-free regime with the EU continued to be implemented without major obstacles. To counter cases of abuse of the visa-free regime by the nationals of Bosnia and Herzegovina in EU Member States and Schengen associated countries, the country continued to take measures to address the phenomenon as per the Commission's recommendations. In 2017, a reduction was registered in the number of unfounded asylum applications filed by the citizens of Bosnia and Herzegovina in the EU Member States and Schengen associated countries. Obstacles to lasting return and to local integration of the country's nationals include: difficulties with economic reintegration; access to healthcare, social protection and pensions, and the employment of minority returnees. The authorities need to continue the effective implementation of the EU-Bosnia and Herzegovina Readmission Agreement, if necessary by concluding implementing protocols with remaining EU Member States; further attention needs to be given to respecting deadlines and improving identification processes. Border controls need to be strengthened in a manner that fully respects travellers' fundamental rights. The authorities need also to organise a high-profile information campaign on the rights and obligations of visa-free travel targeting areas particularly affected by irregular migration.

### **Schengen and external borders**

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

The legal framework for border control is largely harmonised with the EU *acquis* and is implemented smoothly. The Integrated border management (IBM) strategy, which is largely in line with the 2006 EU IBM concept, and the 2015-2018 framework action plan entered into force in January 2016. The IBM strategy should be further brought in line with the EU policy on IBM.

#### **Implementation and enforcement capacity**

The border police remained understaffed. In December 2017 there were 564 (21.3 %) vacant positions out of the 2,646 included in the organisation chart. Specialised training is regularly provided to improve the quality of border checks and other operations in the field.

**Implementation of the IBM strategy** is on a satisfactory level. The Joint Risk Analysis Centre has improved its limited human resources. Its coordination capacity needs additional improvement through an enhanced information exchange process with Local Risk Analysis Centres. Further improvements are needed on the training system on risk analysis as well as on infrastructure and equipment at border crossing points. Budget limitations have resulted in a lack of specialised equipment for more effective border controls.

**Inter-agency cooperation**, such as that between the border police and customs at the border crossing points, is satisfactory, but improvements are needed on information exchange. The **Central Investigation Office** of the border police has police executive powers applicable throughout the country. The Office's operational capacity is limited due to a lack of equipment and staff. It has adequate expertise for detecting forged documents and access to relevant databases.

On **international cooperation**, the country is a signatory to the Convention on Police Cooperation in Southeast Europe, the Operational and Strategic Agreement with Europol, and a number of agreements with neighbouring countries, including on joint patrols, joint cooperation centres and local border traffic. The Joint Centre for Police Cooperation in Trebinje functions, but with limited capacity. Local border traffic agreements are implemented with Croatia, Montenegro and Serbia. The projects on closing illegal border crossings with Croatia and Montenegro were finalised. The agreement with Serbia is in the final stage of implementation. The 2016 border agreement with Montenegro is smoothly implemented. The border police cooperate with the European Border and Coast Guard Agency and Interpol. Preparations for starting negotiations with the European Border and Coast Guard Agency on a status agreement are advancing.

As part of the fight against corruption, the border police implement its Rulebook on internal reporting, corruption and protection of whistle-blowers.

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

There has been no development in this area. Bosnia and Herzegovina has not yet acceded to several instruments developed within the framework of the Hague conference on private international law. A cooperation agreement with Eurojust has yet to be concluded but a contact point is in place. Seven Eurojust cases concerned Bosnia and Herzegovina in 2017 (8 in 2016).

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

### Cooperation in the fight against drugs

Bosnia and Herzegovina remained a country of drugs transit and storage. Domestic demand for drugs increased slightly, especially for polydrugs. In January 2018 a National Strategy on Supervision over Narcotic Drugs, Prevention and Suppression of the Abuse of Narcotic Drugs for the period 2018-2023 was adopted by Bosnia and Herzegovina Council of Ministers and needs to be endorsed by the Parliament. Legislation to prevent and suppress the abuse of narcotic drugs and establish a focal point for drug issues at the national level has yet to be adopted. The Bosnia and Herzegovina Commission for the Suppression of Abuse of Narcotic Drugs has starting functioning. The Commission for Drugs Destruction is in place but destruction of drugs has not taken place in the reporting period. The safe storage of seized drugs remains an issue.

Operational activities continued to be coordinated on a case-by-case basis. Cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) continued. Bosnia and Herzegovina authorities decided to use the EMCDDA standard data collection tool for drugs seizures, from 1 July 2017 onwards. In 2017 the number of reported crimes related to drug abuse amounted to 881 compared to 553 in 2016, indicted confirmed were 229 (445 in 2016), convictions of imprisonment were 228 (151 in 2016).

### Customs cooperation

Customs legislation, adopted and published in 2015 but still not implemented, is to some extent aligned with the EU law. Bilateral agreements exist with four EU Member States. Concerning the implementation and enforcement capacity, risk analysis needs to be further developed. Interagency cooperation improved to a limited extent. Investigations of illicit trafficking and fraud and fight against customs-related corruption led to increased disciplinary measures.

## 3. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT & COMPETITIVENESS

Key economic figures	2015	2016	2017Q3
Gross domestic product per capita ( % of EU-28 in PPS)	31	32	n.a.
GDP growth ( %)	3.1	3.1	3.0*
Unemployment rate (female; male) ( %)	30.9; 25.9	30.2; 22.6	23.1; 18.9
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active ( %)	59.2	58.8	n.a.
Current account balance ( % of GDP)	-5.7	-5.1	-4.7*
Foreign direct investment (FDI) ( % of GDP)	1.7	1.6	2.2*

Source: Eurostat

\* End-September 2017, 4-quarter moving average

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

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

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

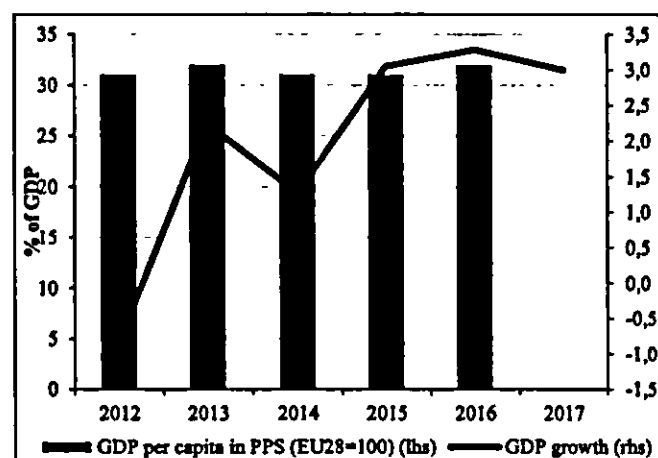
Bosnia and Herzegovina has made some progress, but is still at an early stage of establishing a functioning market economy. Some improvements of the business environment have been achieved and the financial sector has been strengthened. Key remaining issues are a weak rule of law, a still poor business environment, a fragmented and inefficient public administration and major labour market imbalances, related to a poor education system, weak institutional capacities, and an unsupportive investment climate.

In order to support long-term growth, Bosnia and Herzegovina should pay particular attention to:

- strengthen the political ownership of reforms and the cooperation and coordination among different levels of government;
- improve the quality of public finances by strengthening its growth-friendliness and improving the targeting of social spending;
- improve the provision and quality of timely and exhaustive statistics, increasingly applying European and international standards.

#### Economic governance

**Figure 1 Bosnia and Herzegovina GDP growth**



Source: Eurostat, national sources

The consensus on economic policy essentials has been impeded by frequent political stalemates and a lack of political ownership. Despite general acceptance of the main principles of a market-based economy, frequent short-term oriented political disputes have resulted in delays and interruptions of agreed and long overdue reform projects. 2017 has been particularly affected in this respect. Following progress up to early 2017, a major reform package, the Reform Agenda experienced a substantial slowdown during most of 2017. Also, the implementation of a 3-year arrangement agreed with the IMF in September 2016 faced significant delays during the year.

However, in late 2017 and early 2018 the country adopted measures, such as amendments to a set of excise laws, which allowed the completion of the first review of the IMF programme in early 2018. There was only limited implementation of the policy guidance jointly adopted in May 2017. The submission of the 2018 ERP was delayed and the document points to significant weaknesses in administrative coordination and cooperation and policy formulation.

#### Macroeconomic stability

**Economic growth remained stable, but below the country's potential.** Economic output growth remained resilient, expanding by some 2.5 % on average annually over the last 5 years. The main growth driver has been domestic demand, in particular private consumption, largely thanks to a stable inflow of workers remittances and low inflation, supporting real disposable income. In 2017, external demand provided an additional boost. Domestic and foreign investment have remained subdued, reflecting a poor business environment and high political uncertainties. *Per capita* GDP<sup>3</sup> stood at some 32 % of the EU-28 average in 2016, only slightly up from 31 % in 2012.

**External imbalances have declined further, benefiting from stronger external demand.** The current account deficit narrowed slightly from 5.1 % of GDP in 2016 and to 4.7 % in the four quarters to September 2017, benefiting from rapidly strengthening exports, lower import prices and stronger tourism. However, higher consumption-driven imports kept the trade deficit at 23.6 % of GDP in the four quarters to September 2017. The substantial trade deficit has still been largely financed by inflows of transfers, such as remittances. Net foreign direct investments increased slightly, reaching 2.2 % in the four quarters to September of 2017. Net foreign exchange reserves rose to about 32 % of GDP.

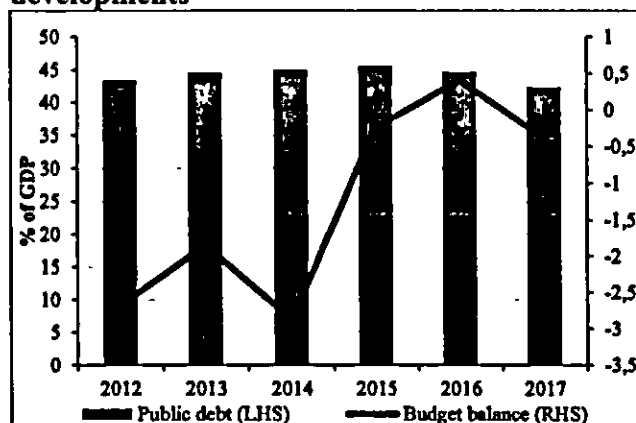
**The monetary policy regime has supported stability.** The currency board arrangement with the euro as the anchor currency was maintained. This approach has served the economy well so far. However, it also implies that the burden of adjustment to external shocks has to be accommodated by other policy areas, in particular responsible fiscal policy, necessitating the building-up of sufficient fiscal buffers and a stronger emphasis on medium-term stability, and structural reforms to improve the functioning of markets.

**The overall level of consumer price started to increase during 2017, increasing by 1.2 % on average for the full year.** In the two previous years, consumer prices had been slightly declining (-1.1 % and -1.0, respectively), mainly as a result of falling import prices and low domestic price pressures. The main driving factors behind the acceleration in headline inflation have been higher prices for food and non-alcoholic beverages.

---

<sup>3</sup> Expressed in purchasing power standards.

**Figure 2 Bosnia and Herzegovina fiscal developments**



Source: Eurostat, national sources

the overall quality of public sector governance remained very low, with substantial spending inefficiencies, particularly in the health sector, and a poor targeting of social transfers. Planned reforms to improve the quality of public spending have been frequently delayed. Public debt declined slightly in 2017, dropping to 38 % of GDP by end-June, partly reflecting difficulties in accessing foreign capital markets.

**Overall, the country's macroeconomic policy mix suffers from an insufficient speed in implementing overdue reforms and a lack of medium-term orientation. While macroeconomic stability has been preserved overall, the speed of reform implementation has been clearly too slow to achieve progress that is more noticeable to the country's citizen. The policy mix also lacks medium-term orientation.**

#### Functioning of product markets

##### *Business environment*

Market entry and exit regulation has slightly improved, while existing barriers to entering and leaving product markets remain high. Efforts continued to facilitate business registration. Some steps have been taken to strengthen the support for foreign investors. According to international rankings, the business environment has slightly improved, although the overall level is still very low. Compared with other countries, BiH's ranking has slightly deteriorated, reflecting the slow speed in implementing reforms. Overall, the required procedures for entering or leaving the product market are still numerous and lengthy, hampering the country's attractiveness for doing business.

**The rule of law and the functioning of the judiciary continue to be a crucial weakness. Improvements in this area have remained very limited. Among other things, there are still issues with contract enforcement, difficulties in settling commercial disputes, a substantial backlog in court cases, and issues with establishing property rights, for example illustrated by a low degree of real estate registration in some areas. The resource endowment and independence of numerous regulatory and supervisory institutions is still insufficient.**

**The informal economy is still significant, playing a major role in providing (unregistered) employment and income but also in distorting competition and eroding the base for taxation and social security contributions. Despite some limited progress in addressing the informal economy, such as improving the degree of registration in the labour market, the informal sector may still account for some 25 % of GDP. This high level of informal economy requires**

The general government accounts registered slight surpluses, while the quality of fiscal governance has remained low. During 2017, public finances benefited from solid recorded revenue growth, reflecting stable output growth but also measures to improve tax collection. At the same time, spending has remained contained, particularly in the area of public sector wages. The level of public investment remained very low, as planned external financing often could not be secured. Despite some progress on improving the financing of the pension system the

rates for taxes and social security contributions to be higher than would be otherwise necessary. This also adds to a significant fiscal burden on labour, which in turn impedes formal employment from being created and negatively affects BiH's international competitiveness.

#### *State influence on product markets*

**Direct state influence on the economy has remained high.** Despite efforts to reduce state influence, public spending still accounts for more than 40 % of GDP, generating about 22 % of the country's value added and employing about 26 % of the country's labour force. State-owned companies as well as state subsidies and guarantees, which lead to substantial contingent liabilities, are a heavy burden on public finances and thus the country's tax payers.

#### *Privatisation and restructuring*

**The privatisation process is still not complete.** Attempts to sell earmarked public companies have been largely unsuccessful. Some steps have been taken, such as the initiation of the due diligence procedures for two local telecommunication companies which could lead to privatisation later on. Strategic sectors such as transport, energy (and telecom in the Federation) are still dominated by poorly managed and often inefficient state-owned companies. Proceeding with privatisation could stimulate competition, improve the quality of the provided services and relieve public finances from a recurring burden.

#### Functioning of financial markets

##### *Financial stability*

**The financial sector's stability has slightly improved, but banking sector supervision is still hampered by fragmented competences.** Credit risk indicators for the banking system have improved slightly: the ratio of non-performing loans (NPLs) dropped from 11.8 % end-September 2016 to 10 % by end-September 2017, which, however, is still relatively high. The sector's overall capital adequacy ratio remained largely unchanged at 15.6 % by end-September 2017, well above the country's regulatory minimum of 12 %. However, there are still some banks with insufficient capital endowment. Newly adopted banking laws should simplify loan restructuring and thus have a positive effect on the financial sector's stability. Banking sector profitability has been low, but improved during 2017. However, the central bank's analytical capacities are still limited and financial sector supervision suffers from insufficient inter-entity cooperation.

##### *Access to finance*

**Bank lending to the private sector has gathered pace.** Credit growth accelerated from about 2 % year-on-year in 2016 to 5.3 % in 2017, reaching about 57 % of GDP. The number of banks is high in relation to the market size, although it has fallen to 23 after two small, local banks went bankrupt in 2017. Interest rate spreads have markedly declined for consumer loans, dropping from above 6 percentage points to around 4 percentage points. This probably reflects increased competition and efficiency in the consumer loan sector. However, spreads are still relatively high, suggesting either still high risk-premia and/or a lack of competition.

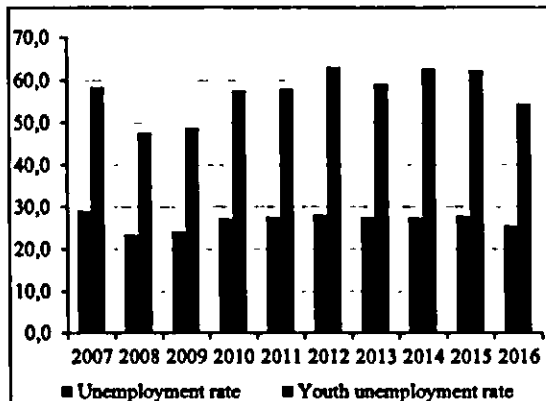
#### Functioning of the labour market

**The employment situation has slightly improved, although labour market participation is low in general.** During 2017, the labour market benefited from stable output growth, active labour market measures and steps to reduce the informal economy. Registered employment

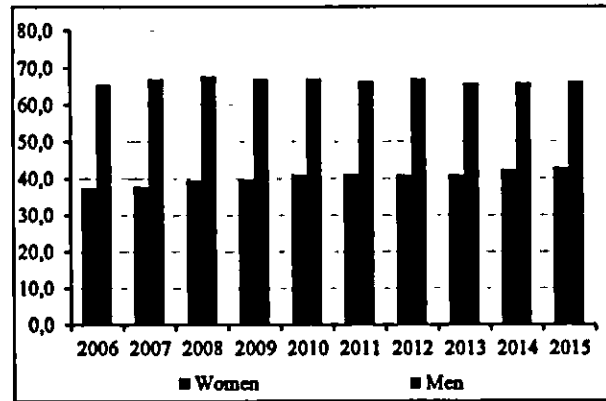


was on average 3.1 % higher in 2017 than a year before, compared to an increase by 2.1 % in 2016. The number of registered unemployed has dropped by 6.9 %, compared to a decline by 3.9 % the year before. This implies a decline in the labour force, but also a reduction in the registered unemployment rate to 38.7 %. Significant differences between registered and survey-based figures signal substantial weaknesses in labour market statistics. Furthermore, available data points to demographic issues, as well as weaknesses in the allocation mechanism, alongside shortcomings in education and training.

**Figure 2 Unemployment in Bosnia and Herzegovina (% of Active population)**



**Figure 3 Participation rates in Bosnia and Herzegovina (% of Labour Force)**



Source: Eurostat, national sources

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

Bosnia and Herzegovina has made some progress but remained at an early stage in achieving the capacity to cope with competitive pressure and market forces within the Union. The overall level of education and spending on R&D has remained low. The quality of the physical capital suffers from underinvestment. Transport and energy infrastructure is insufficiently developed. The speed of structural adjustment has been slow, although there has been some diversification in the country's regional trade structure.

In order to support long-term growth, Bosnia and Herzegovina should pay particular attention to:

- improve the quality of education and training;
- create a single economic space in view of fostering investment;
- increase the size and efficiency of public investment, especially in infrastructure.

#### Education and innovation

The overall quality of education remained low, as is spending on education and R&D. The country's education system is very complex and highly fragmented. This results in a lack of common standards for various levels of education, as well as in teacher training and performance evaluation. Teaching curricula are outdated and not aligned with the country's needs leading to wide skills mismatches, a major impediment preventing graduates from entering the labour market. Public sector spending on education appears to stand at some

3.5% of GDP. However, the resulting output is one of the weakest in the region. For example, the country's illiteracy rate of about 2.8 % is one of the highest in the region.

#### Physical capital and quality of infrastructure

The country's physical capital stock suffers from decades of underinvestment. Public and private spending on improving the country's capital stock remained very low in recent years. Despite political commitments to raise investment, public investment has suffered from a prioritisation of consumption and transfer payments while private investment is impeded by slow progress in improving the business environment. This hinders improving the growth potential and labour productivity, impeding efforts to improve income levels and living standards. The country's digitalisation is still at a very low level.

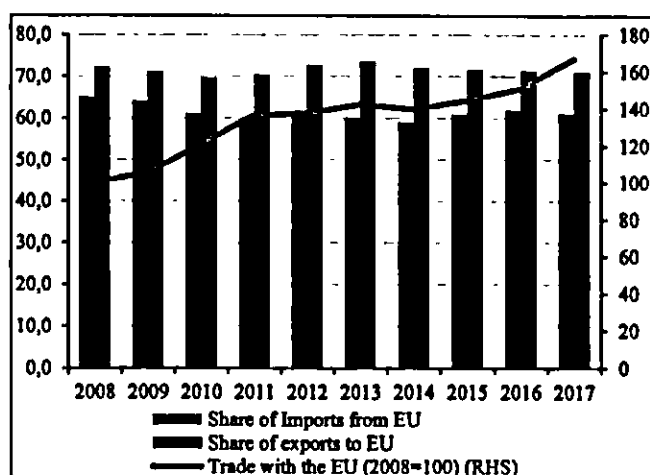
Transport and energy infrastructure remains insufficiently developed. Necessary investment is delayed by a lack of coordination and cooperation between government levels, by financial constraints due to delays in securing agreed external financing and by the absence of a single or harmonised legal and regulatory framework. The markets for electricity and gas remain fragmented and dominated by key incumbent companies. The natural gas sector is regulated at entity level which impedes the development of adequate regulation and a common market.

#### Sectoral and enterprise structures

The country's economic structure has changed very little. During the last five years, there seems to have been remarkably little change in the sectoral structure of the economy. However, lack of information on the informal sector might mask important changes. The company structure is dominated by small and micro businesses, with companies of less than 50 employees accounting for 93 % of all companies. Their access to bank lending remains difficult. Support schemes are in place for small and medium-sized enterprises, but they are very cumbersome to implement.

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

**Figure 5 Bosnia and Herzegovina trade integration with the EU**



Source: Eurostat, national sources

Trade with neighbouring countries increased markedly, while trade integration with the EU remained high. The trading structure has become more diverse, with an increasing share of trade with neighbouring countries, such as Croatia and Slovenia and Serbia as well as with Turkey. Exports to the EU-28 accounted for 71.8 % of total exports in 2017. The country's openness to trade is relatively low for the country's limited economic size, with exports and imports accounting for some 90 % of GDP. The range of export commodities is not very sophisticated. While limited progress has been achieved in addressing non-

tariff barriers to trade with the EU, such as required sanitary standards, overall compliance with these requirements remains a problem.

Nearly 63 % of the country's stock in FDI is originating from EU countries. Annual FDI inflows largely show a similar pattern.

The development of a Regional Economic Area based on EU rules and standards, to which all Western Balkan economies have committed, has the potential to generate untapped growth.

#### 4. BILATERAL RELATIONS WITH NEIGHBOURING COUNTRIES

Relations with *Albania* remained friendly. An honorary consulate was opened in Sarajevo during the official visit of the Albanian Foreign Minister in October 2016. The Prime Minister of the Federation of BiH visited Tirana in March 2017. During the reporting period, a set of agreements was signed on movement of citizens with ID cards and on maritime commercial transport.

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

Concerning *the former Yugoslav Republic of Macedonia*, relations remain good and several bilateral agreements were signed, including the Agreement on mutual recognition and replacement of driving license and on cooperation in the EU accession process. The Presidency approved the conclusion of the protocol on cooperation in the field of education in November 2017. In July and November 2017, Prime Minister Zoran Zaev paid official visits to Bosnia and Herzegovina.

As regards *Montenegro*, an agreement on cooperation in the process of accession to the EU was ratified in August 2017. In March, President Filip Vujanovic paid an official visit to Bosnia and Herzegovina. An agreement on shared location of diplomatic and consular representations was signed in July.

Relations with *Turkey* continued to remain good and several bilateral ministerial level visits took place throughout 2017. In January 2018, a trilateral meeting took place in Istanbul between a Bosnia and Herzegovina Presidency member, the Serbian President and the President of Turkey to discuss economic cooperation between the three countries, regional relations and infrastructure projects.

Bilateral relations with *Serbia* remained relatively stable, despite internal tensions triggered by the initiative, in early 2017, by a member of the Presidency and SDA leader to appeal the 2007 International Court of Justice genocide case against Serbia. The Serbian President visited Bosnia and Herzegovina in September 2017 with the declared intent to resolve open bilateral issues including the common border, encourage regional development, and convey a clear message in support of the country's territorial integrity. In December 2017, the

---

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

Presidency paid an official visit to Serbia. A bilateral Protocol on removal of non-tariff barriers in trade was signed. In January 2018, an Agreement on cooperation in the EU accession process was also signed. An agreement on outstanding border demarcation issues between the two countries remains to be reached.

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

The EU continued to provide guidance to the country's authorities on reform priorities on the country's EU membership path. Political and economic dialogue took place between the EU and Bosnia and Herzegovina in the framework of the SAA structures which continued to operate smoothly: Stabilisation and Association Council, SAA Committee and various sectoral sub-committees. At the same time, while the Stabilisation and Association Parliamentary Committee (SAPC) was established in November 2015 as part of the Stabilisation and Association Agreement bodies, it failed to adopt its Rules of Procedure due to insistence of some delegates from Bosnia and Herzegovina on the inclusion of a voting mechanism provision which would not comply with European standards. The European Parliament adopted a Resolution on the Commission report on Bosnia and Herzegovina in April 2017. A Reform Agenda, adopted by the country authorities in July 2015 and aimed at tackling the difficult socio-economic situation, advancing the judicial and public administration reforms, as well as further advancing the country on its EU membership path continued to be implemented at a slower pace in 2017.

The EU continued to deploy considerable resources in Bosnia and Herzegovina under the common foreign and security policy and the common security and defence policy. The enhanced presence of the combined Office of the EU Special Representative and the EU Delegation in Bosnia and Herzegovina has continued to be instrumental in communicating EU priorities to citizens and in implementing the objectives of the EU agenda in key areas. The EUFOR *Althea* military operation remained deployed in the country, assisting on capacity building and training of the armed forces of Bosnia and Herzegovina in line with the strategic intent expressed by the defence leadership to develop operational capabilities of dual use in support of civil authorities for removing physical remnants of war or disaster relief and deployment in peace support operations overseas. At the same time, EUFOR retained deterrence capacity to support a safe and secure environment. The UN Security Council extended EUFOR's mandate until November 2018.

Bosnia and Herzegovina aligned itself, when invited, with 39 out of 64 relevant EU declarations and Council decisions (61 % alignment) during the reporting period. Bosnia and Herzegovina did not align itself with Council decisions introducing EU restrictive measures in the context of Russia's illegal annexation of Crimea and events in eastern Ukraine. A Framework Agreement on the participation of Bosnia and Herzegovina in EU crisis management operations is in place since September 2015.

The EU Delegation to Bosnia and Herzegovina is responsible for implementing financial assistance as well as ensuring coordination of assistance with the Member States. The indirect management of EU funds through beneficiary country's authorities is not applied yet. Implementation of IPA I and IPA II programmes continued. The Indicative Strategy Paper (ISP) for Bosnia and Herzegovina 2014-2017 was revised in 2017 to include the transport sector. The mid-term review of the ISP is under way in view of extending it until 2020. Sector strategies for environment and for rural development were adopted in May 2017 and February 2018, respectively, thus enabling IPA support in those sectors. The draft strategy for the energy sector has not been adopted. The adoption of countrywide strategies such as public financial management and on employment remains a key requirement for Bosnia and Herzegovina to benefit fully from IPA funding in the period 2018-2020.

**Bosnia and Herzegovina participates in the following EU programmes: Horizon 2020, Creative Europe, Fiscalis 2020, Customs 2020, Europe for Citizens, Erasmus +, Third Programme for the Union's action in the field of health and the COSME programme.**



**ANNEX II – STATISTICAL ANNEX**

**STATISTICAL DATA (as of  
16.02.2018)**

**Bosnia and Herzegovina**

**Basic data**

Population (thousand)							
Total area of the country (km <sup>2</sup> )							

**National accounts**

Gross domestic product (GDP) (million national currency)							
Gross domestic product (GDP) (million euro)							
GDP (euro per capita)							
GDP per capita (in purchasing power standards (PPS))							

GDP per capita (in PPS), relative to the EU average (EU-28 = 100)							
Real GDP growth rate: change on previous year of GDP volume (%)							
Employment growth (national accounts data), relative to the previous year (%)							
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)							
Unit labour cost growth, relative to the previous year (%)							
**3 year change (T/T-3) in the nominal unit labour cost growth index (2010 = 100)							
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-28 = 100)							
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)							
Industry (%)							
Construction (%)							
Services (%)							
Final consumption expenditure, as a share of GDP (%)							
Gross fixed capital formation, as a share of GDP (%)							



Changes in inventories, as a share of GDP (%)							
Exports of goods and services, relative to GDP (%)							
Imports of goods and services, relative to GDP (%)							
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)							

**Business**

Industrial production volume index (2010 = 100)							
Number of active enterprises (number)							
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)							
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)							
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)							
Value added by SMEs (in the non-financial business economy) (EUR million)							

Total value added (in the non-financial business economy) (EUR million)							

**Inflation rate and house prices**

Consumer price index (CPI), change relative to the previous year (%)							
**Annual change in the deflated house price index (2010 = 100)							

**Balance of payments**

Balance of payments: current account total (million euro)							
Balance of payments current account: trade balance (million euro)							
Balance of payments current account: net services (million euro)							
Balance of payments current account: net balance for primary income (million euro)							
Balance of payments current account: net balance for secondary income (million euro)							

Net balance for primary and secondary income: of which government transfers (million euro)							
**3 year backward moving average of the current account balance relative to GDP (%)							
**Five year change in share of world exports of goods and services (%)							
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)							
Foreign direct investment (FDI) abroad (million euro)							
of which FDI of the reporting economy in the EU-28 countries (million euro)							
Foreign direct investment (FDI) in the reporting economy (million euro)							
of which FDI of the EU-28 countries in the reporting economy (million euro)							
**Net international investment position, relative to GDP (%)							
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)							

**Public finance**

--	--	--	--	--	--	--	--

***General government deficit / surplus, relative to GDP (%)							
***General government gross debt relative to GDP (%)							
Total government revenues, as a percentage of GDP (%)							
Total government expenditure, as a percentage of GDP (%)							

**Financial indicators**

Gross external debt of the whole economy, relative to GDP (%)							
Gross external debt of the whole economy, relative to total exports (%)							
Money supply: M1 (banknotes, coins, overnight deposits, million euro)							
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)							
Money supply: M3 (M2 plus marketable instruments, million euro)							
Total credit by monetary financial institutions to residents (consolidated)							

(million euro)							
**Annual change in financial sector liabilities (%)							
**Private credit flow, consolidated, relative to GDP (%)							
**Private debt, consolidated, relative to GDP (%)							
Interest rates: day-to-day money rate, per annum (%)							
Lending interest rate (one year), per annum (%)							
Deposit interest rate (one year), per annum (%)							
Euro exchange rates: average of period (1 euro = ... national currency)							
Trade-weighted effective exchange rate index, 42 countries (2005 = 100)							
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100)							
Value of reserve assets (including gold) (million euro)							

**External trade in goods**

--	--	--	--	--	--	--	--

Value of imports: all goods, all partners (million euro)							
Value of exports: all goods, all partners (million euro)							
Trade balance: all goods, all partners (million euro)							
Terms of trade (export price index / import price index * 100) (number)							
Share of exports to EU-28 countries in value of total exports (%)							
Share of imports from EU-28 countries in value of total imports (%)							

**Demography**

Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)							
Infant mortality rate deaths of children under one year of age (per thousand live births)							
Life expectancy at birth: male (years)							
Life expectancy at birth: female (years)							

**Labour market**

Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)							
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)							
Male employment rate for persons aged 20–64 (%)							
Female employment rate for persons aged 20–64 (%)							
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)							
Employment by main sectors							
Agriculture, forestry and fisheries (%)							
Industry (%)							
Construction (%)							
Services (%)							
People employed in the public sector as a share of total employment, persons aged 20–64 (%)							

People employed in the private sector as a share of total employment, persons aged 20–64 (%)							
Unemployment rate: proportion of the labour force that is unemployed (%)							
Male unemployment rate (%)							
Female unemployment rate (%)							
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)							
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)							
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)							
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)							

**Social cohesion**

Average nominal monthly wages and salaries (national currency)							
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100)							



GINI coefficient							
Poverty gap							
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)							

**Standard of living**

Number of passenger cars relative to population size (number per thousand population)							
Number of mobile phone subscriptions relative to population size (number per thousand population)							
Mobile broadband penetration (per 100 inhabitants)							
Fixed broadband penetration (per 100 inhabitants)							

**Infrastructure**

Density of railway network (lines in operation per thousand km <sup>2</sup> )							
Length of motorways (kilometres)							

**Innovation and research**

Public expenditure on education relative to GDP (%)							
*Gross domestic expenditure on R&D relative to GDP (%)							
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)							
Percentage of households who have internet access at home (%)							

**Environment**

*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)							
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)							
Electricity generated from renewable sources relative to gross electricity consumption (%)							
Road share of inland freight transport (based on tonne-km) (%)							

**Energy**

Primary production of all energy products (thousand TOE)							

Primary production of crude oil (thousand TOE)							
Primary production of solid fuels (thousand TOE)							
Primary production of gas (thousand TOE)							
Net imports of all energy products (thousand TOE)							
Gross inland energy consumption (thousand TOE)							
Gross electricity generation (GWh)							

**Agriculture**

Agricultural production volume index of goods and services (at producer prices) (2010 = 100)							
Utilised agricultural area (thousand hectares)							
Livestock numbers: live bovine animals (thousand heads, end of period)							

Livestock numbers: live swine (thousand heads, end of period)							
Livestock numbers: live sheep and live goats (thousand heads, end of period)							
Raw milk available on farms (thousand tonnes)							
Harvested crop production: cereals (including rice) (thousand tonnes)							
Harvested crop production: sugar beet (thousand tonnes)							
Harvested crop production: vegetables (thousand tonnes)							

: = not available

b = break in series

e = estimate

p = provisional

\* = Europe 2020 indicator

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

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

#### Footnotes

- 1) Inland waters estimated at 210 km<sup>2</sup>.
- 2) 2012 and 2013: excluding natural persons (entrepreneurs).
- 3) 2005: based on IMF balance of payments manual edition 5 (BPM5).
- 4) M1 money supply comprises cash outside banks and transferable deposit in domestic currency of all domestic sectors (except central government deposits).
- 5) Based on IMF monetary and financial statistics manual, 2000.

- 6) 2012-2016: data for Monetary Financial Institutions.
- 7) Data for Monetary Financial Institutions.
- 8) 2005: private sector debt excludes external debt of private sector.
- 9) Short-term lending rates in national currency to non-financial corporations (weighted average).
- 10) Demand deposit rates in national currency of households (weighted average).
- 11) Calculation of effective exchange rate indices is against a group of 21 most important trading partners.
- 12) 2005: excluding gold.
- 13) Based on Paasche export and import unit value indices in BAM.
- 14) The analysis of employment between public and private sector does not sum to 100% as some types of ownership are excluded.
- 15) 2005: not calculated using the ILO methodology; taken from the Bureau for Employment.
- 16) Net earnings.
- 17) Total household consumption expenditure is used for the calculation, instead of Income.
- 18) The utilised agricultural area consists of arable land, kitchen garden, permanent crops and permanent grassland as cadastral data (not as UAA).
- 19) 2005: excluding triticale and buckwheat.
- 20) 2005: including dried pulses.