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**Bosnia and Herzegovina 2021 Report**

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## 1. INTRODUCTION

### 1.1. CONTEXT

Following its application for EU membership in February 2016, Bosnia and Herzegovina has to fulfil the 14 key priorities from the May 2019 Commission Opinion,<sup>1</sup> which covers the areas of democracy/functionality, the rule of law, fundamental rights, and public administration reform. This is required for the Commission to recommend the opening of EU accession negotiations with Bosnia and Herzegovina. On the basis of the December 2019 conclusions of the EU Council, the Commission focuses its annual reports on Bosnia and Herzegovina on the implementation of the Opinion's key priorities.<sup>2</sup>

Bosnia and Herzegovina continues to implement the Stabilisation and Association Agreement (SAA) and the joint bodies established under the agreement meet regularly. The SAA and its Interim Agreement, applied since 2008, have allowed progressive trade liberalisation and mutual duty-free access for most goods. In 2020, the EU remained Bosnia and Herzegovina's main trading partner, accounting for 65% of the country's total trade in goods, although with a 10.2% decrease due to the pandemic. In 2020, total trade was worth EUR 9.6 billion, while the country's trade deficit with the EU amounted to EUR 1.5 billion.

The public political commitment of the authorities at all levels of government to the strategic goal of European integration has not been turned into concrete action, as political leaders continued to engage in divisive rhetoric and unconstructive political disputes, which have hindered progress on the 14 key priorities so far. Still, some significant steps have been taken, amid the pandemic, to address the key priorities from the Opinion. In particular, municipal elections were held in Mostar in December 2020, for the first time since 2008, fulfilling part of key priority 1. The Stabilisation and Association Parliamentary Committee was held in June 2021, after a five-year stalemate, marking good progress on key priority 3. An inter-agency working group was established in May 2021, to discuss constitutional and electoral reforms required to address key priorities 1 and 4. All levels of government also adopted the action plan on public administration reform and strategies on public financial management, contributing to key priority 14. Bosnia and Herzegovina needs to move forward on all other key priorities.

The COVID-19 pandemic continued throughout the reporting period. By end September 2021, the country had recorded 227,579 cases and 10,606 deaths related to the pandemic. The Commission redirected EUR 80.5 million in grants for immediate needs and the socio-economic response to the pandemic. The Commission also secured macro-financial assistance of EUR 250 million in very favourable loans, which was ratified by Bosnia and Herzegovina in June 2021.

Bosnia and Herzegovina does not have a countrywide vaccine strategy, and the entities have proceeded with their own separate vaccine procurement. Together with the donation of medical equipment, the continued delivery of EU-funded vaccines is a sign of concrete EU solidarity. Bosnia and Herzegovina received 214,110 Pfizer/BioNTech doses from the EU between May and August 2021, facilitated by Austria and funded by the EU4Health grant. COVAX also delivered over 332,640 doses to Bosnia and Herzegovina by end August 2021. Overall, the EU and its Member States provided over 1.3 million vaccine doses by September 2021. By end September 2021, around 13% of the population had been fully vaccinated.

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

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

## 1.2. SUMMARY OF THE REPORT<sup>3 4</sup>

Regarding the **political criteria**, legislative and executive authorities had a low output due to political polarisation and the disruption caused by pandemic. The Federation entity government is still acting in a caretaker role. Bosnia and Herzegovina's Constitution remains in breach of the European Convention on Human Rights (ECHR), following the Sejdić-Finci and related cases. An inter-agency working group, tasked with discussing electoral and constitutional reforms, was established in May 2021. Municipal elections were held in Mostar in December 2020, for the first time since 2008. The Stabilisation and Association Parliamentary Committee met and adopted its rules of procedures in June 2021, following a five-year stalemate. No progress was made in improving the electoral framework in line with European standards and ensuring transparency of political party financing. Bosnia and Herzegovina has yet to address the recommendations by the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE/ODIHR), the Venice Commission and the Council of Europe's Group of States against Corruption (GRECO). The development of a national programme for the adoption of the EU acquis is still pending. Limited progress was made in ensuring an enabling environment for civil society.

Bosnia and Herzegovina is at an early stage of preparation with **public administration reform** (PAR); some progress was made by adopting the action plan on public administration reform as well as strategies on public financial management at all levels of government. The country needs to ensure a professional and depoliticised civil service and a coordinated countrywide approach to policy-making.

Bosnia and Herzegovina is at an early stage/has some level of preparation as regards its **judiciary**. No progress was made in this area over the reporting period. The authorities have taken limited action to address the findings of the Expert Report on Rule of Law issues ('Pribe report'). Integrity amendments are due to enter in parliamentary procedure; their adoption is key to establish a credible and rigorous system of verification of financial statements of judicial office holders. Persistent and evident signs of deterioration continue to require urgent measures to strengthen the integrity of and regain citizens' trust in the judiciary. Lack of commitment to judicial reform from political actors, and the poor functioning of the judicial system continued to undermine the citizens' enjoyment of rights and the fight against corruption and organised crime.

Bosnia and Herzegovina is at an early stage/has some level of preparation in the prevention and **fight against corruption and organised crime**. No progress was made in this area over the reporting period; urgent action is required to adopt the pending legislation on public procurement and conflict of interest. During the pandemic, the negative effects of widespread corruption and signs of political capture continued to manifest strongly during the pandemic, directly affecting the wellbeing of citizens. The selective and non-transparent prosecution and judicial follow-up of corruption cases is a cause of concern. There are systemic shortcomings

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<sup>3</sup> This report covers the period from June 2020 to June 2021. It is based on input from a variety of sources, including contributions from the government of Serbia, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. This also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

<sup>4</sup> For the state of play the report uses the following assessment scales: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. For progress made during the reporting period, the following scale has been used: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, also interim steps have been used.

in the operational cooperation among law enforcement agencies and a very limited exchange of intelligence. The police are vulnerable to political interference. Financial investigations and asset seizures are largely ineffective. Although some preparatory steps were taken, the contact point for cooperation with Europol is not yet operational. Bosnia and Herzegovina has not taken any steps to establish cooperation with Eurojust. The country needs to continue its efforts in the fight against terrorism and drug trafficking and increase its capacity to do so.

As regards **fundamental rights**, while the legislative and institutional framework is largely in place, Bosnia and Herzegovina has yet to adopt a comprehensive strategic framework. Significant reforms are needed to ensure that all citizens are able to exercise their political rights and to ensure non-discriminatory, inclusive and quality education for all, including by overcoming the practice of ‘two schools under one roof’. No progress was made on guaranteeing freedom of expression and of the media, on protecting journalists against threats and violence by ensuring an appropriate judicial follow-up, nor on ensuring the financial sustainability of the public broadcasting system. Challenges persist as regards the freedom of assembly, particularly in the *Republika Srpska* entity, where activists have been subjected to intimidation and judicial prosecution.

The failure of the authorities to establish a sustainable **migration** and asylum system led to a humanitarian crisis in December 2020. Following extensive EU engagement and support, a temporary tent camp was established in Lipa to provide shelter to all persons in need. A permanent multi-purpose reception centre is being built in Lipa in the course of 2021. Bosnia and Herzegovina has stepped up efforts to improve migration management; it needs to ensure effective coordination, at all levels, of border management and migration management capacity, as well as the functioning of the asylum system. This requires a fair distribution of responsibilities among all entities and cantons, including in the hosting of reception centres.

As regards the **economic criteria**, Bosnia and Herzegovina has made limited progress and is at an early stage of establishing a functioning market economy. The country took measures to counter the negative effects of the COVID-19 pandemic on the economy and the labour market. The Central Bank undertook significant measures to improve its analytical capacities. Some steps were taken to strengthen the financial sector’s shock resilience. However, there have been no significant measures to improve the functioning of the product markets. Cooperation and coordination among the country’s stakeholders has further deteriorated. Resistance from the *Republika Srpska* entity against EU *acquis*-related country-wide reforms has further slowed down the country’s compliance with the EU accession criteria. As a result, the country’s institutional set-up as well as its internal market remains fragmented. No improvement has been reached with respect to the rule of law and the functioning of country-wide supervisory and regulatory institutions. This continues to impede the country’s business environment. The quality of public spending has not improved, while the public sector has remained inefficient and oversized.

Bosnia and Herzegovina has made limited progress, and remains at an early stage in terms of capacity to cope with competitive pressure and market forces in the EU. The overall quality level of education has remained low, while measures to improve the transport and energy infrastructure have remained insufficient. The extent of structural adjustment has been limited.

Bosnia and Herzegovina is overall at an early stage/has some level of preparation regarding its level of preparedness and ability to take on the **obligations of EU membership** and needs to significantly step up the alignment with the EU *acquis* and implement and enforce the

relevant legislation. Limited to no progress was made on the different EU *acquis* chapters during the reporting period.

Bosnia and Herzegovina has been backsliding in the area of **public procurement**, where it applied preferential treatment for domestic bidders in awarding public contracts during most of the reporting period; amendments to the public procurement law are awaiting parliamentary adoption. Limited progress was made on **statistics**, as preparation for the next population and housing census has hardly progressed. Some progress was made on public internal **financial control**, with both entities adopting strategies.

Major steps are required to align the legislative framework with the EU *acquis* on the **internal market** (free movement of goods, services and capital, competition policy, and financial services). Bosnia and Herzegovina made some progress only on competition policy, further aligning the law on State aid with the EU *acquis*, and in financial services. This cluster is key for Bosnia and Herzegovina's preparations for the requirements of the EU's internal market and is highly relevant for early integration and the development of the Common Regional Market.

Bosnia and Herzegovina made limited or no progress in most areas of **competitiveness and inclusive growth** (information society and media, taxation, economic and monetary policy, enterprise and industrial policy, education and culture, and the customs union), where it is at an early stage or has some level of preparation. These areas have significant links to the country's Economic Reform Programme. Socio-economic reforms must be pursued to help address the existing structural weaknesses, low competitiveness, high unemployment, as well as the impact of the pandemic, which has further increased their urgency. Some progress was made with the adoption of policies on inclusive education, vocational education and training, and entrepreneurial learning.

Bosnia and Herzegovina made some or limited progress in most areas related to the **Green Agenda and sustainable connectivity**, (trans-European networks, energy, and environment and climate change), where it is at an early stage or has some level of preparation. The country needs to significantly step up its ambitions towards a green transition, and align its laws on gas and electricity with the EU *acquis*. The green transition and sustainable connectivity are key to economic integration within the region and with the EU, facilitating cross-border trade within the region and creating real benefits for businesses and citizens. This cluster and the reforms concerned have significant links to the Economic Reform Programme, the Economic and Investment Plan and the Green Agenda for the Western Balkans.

Bosnia and Herzegovina made no progress in the areas linked **to resources, agriculture and cohesion** (agriculture and rural development, food safety, veterinary and phytosanitary policy, fisheries, and financial and budgetary provisions), where preparation is mostly at an early stage.

Bosnia and Herzegovina has some level of preparation but made no progress as regards **external relations**. The country needs to intensify the efforts to finalise its accession to the World Trade Organization. Bosnia and Herzegovina is strongly encouraged to improve its alignment with the EU foreign policy statements and restrictive measures, which has significantly declined to reach 43% by August 2021, which is worrying. Bosnia and Herzegovina continued to actively participate in **regional cooperation** and maintain good neighbourly relations.

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

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

#### 2.1.1 Democracy

The political environment remained polarised in the reporting period, with repeated calls from the *Republika Srpska* entity leadership to roll back reforms and to block State-level institutions, the latest in July 2021 after the High Representative used its executive powers to criminalise denial of genocide and war crimes. The Federation entity remains with a caretaker government, three years after the October 2018 elections. Polarisation between the different levels of government also hampered the response to the COVID-19 pandemic, including in terms of procurement of vaccines. Bosnia and Herzegovina has taken some significant step on the 14 key priorities, but most substantive issues remain outstanding. Municipal elections were held in Mostar in December 2020, for the first time since 2008. An action plan on the key priorities remains pending with the Council of Ministers due to political disagreements on the distribution of competences. The State budget for 2021 is still awaiting adoption; State institutions are funded via three-monthly temporary financing decisions.

#### *Elections*

**Some progress** was made towards addressing part of the Opinion key priority 1 as municipal elections were held in Mostar on 20 December 2020, for the first time since 2008, in the context of the local elections which were held orderly in November across the country. Previous recommendations by OSCE/ODIHR, Venice Commission and GRECO remain unaddressed, including as regards transparency of political party financing. An inter-agency working group was established in May 2021 to discuss electoral and constitutional reforms. Political actors and institutions need to engage in a transparent and inclusive dialogue to address long-standing electoral shortcomings ahead of the next general elections in October 2022.

No legislative steps were taken to implement the comprehensive set of recommendations issued by OSCE/ODIHR and GRECO on the transparency and integrity of the electoral process and the implementation of election results. Bosnia and Herzegovina does not have an action plan for this.

Ethnic- and residence-based restrictions to the right to stand for election to the Presidency and the House of Peoples of Bosnia and Herzegovina remain in violation of the ECHR and its Protocols. In December 2020, in the *Pudarić* case, the European Court of Human Rights (ECtHR) found that the applicant, a Serb residing in the Federation entity, was discriminated for his inability to stand as a candidate for the Presidency. This is the fifth decision since 2009 in the *Sejdić-Finci* case law.

In May 2021, an inter-agency working group (IAWG) was established to discuss constitutional and electoral reforms to address key priorities 1 and 4 ahead of the October 2022 general elections. The working group, composed of members of parliament and of government of both ruling and opposition parties, is expected to prepare legislative amendments to bring the electoral framework in compliance with the case law of the ECtHR and with European standards. The IAWG has the mandate to consult expert from civil society, the Central Electoral Commission, and academic community.

Municipal elections were held orderly on 15 November 2020 across the country amid the pandemic and were marked by organisational difficulties and divisive campaigning. Voting took place in Mostar on 20 December 2020 for the first time since 2008, thanks to legislative

amendments adopted in July 2020, thus complying with the 2010 decision of the Constitutional Court and the 2019 ECtHR decision in the *Baraliija* case. A new Mostar city council and mayor took office by February 2021, thus fulfilling part of key priority 1. The electoral campaign was marked by divisive rhetoric, verbal attacks, and lack of substantial party programmes for municipalities and cities. Epidemiological regulations were unevenly enforced during the campaign, as pre-electoral events were not subject to restrictions. Epidemiological measures were broadly respected during the voting. Turnout reached 50%. The minor irregularities registered did not influence the outcome. Opposition candidates gained mayoral seats in Sarajevo, Banja Luka and Bijeljina. Elections were repeated in February 2021 in Dobož and Srebrenica, as well as in Travnik and Foča-Ustikolina in April 2021. Partial boycotts were reported in the Srebrenica and Travnik re-run elections. Municipal elections did not improve local political representation of women: only 5 out of 136 directly-elected mayors are women, as well as the indirectly-elected mayor of the City of Sarajevo. Of 2,417 municipal lists, 450 (19%) were headed by women. Four directly-elected mayors and the indirectly-elected Mayor of the City of Sarajevo come from the rank of the ‘Others’; there are no members of national minorities amongst the 143 mayors.

The Central Election Commission (CEC) demonstrated a professional, independent and proactive approach, despite political attacks by; a court ruling on the legality of the March and May 2020 appointments to the CEC is still pending.

### *Parliament*

The polarised political environment further slowed down legislative activities. The Parliamentary Assembly convened regularly, however the legislative output was minimal, including on key EU-related laws. The legislative assemblies in the country remain weak in relation to the executives, with little cooperation among them and weak capacities to ensure a harmonised alignment with the EU *acquis*. Legislation and practices on registration of political parties and on political party financing need to be improved. **Good progress** was made in addressing the Opinion key priority 3 on ensuring the proper functioning of the Stabilisation and Association Parliamentary Committee (SAPC).

The **Parliamentary Assembly** of Bosnia and Herzegovina met regularly, despite the pandemic. The Parliament had a minimal output, despite the outstanding legislative backlog. The very limited legislative initiative of the Council of Ministers resulted in the parliamentary adoption of only five sets of amendment to the existing laws by June 2021, all in regular procedure.

The Parliament’s oversight of the executive improved; the Council of Ministers survived a no-confidence vote in January 2021. An ad-hoc investigative committee on the situation in the judicial institutions held 32 sessions by June 2021. A uniform and effective system of monitoring the implementation of conclusions and recommendations adopted at oversight hearings or plenary sessions is yet to be developed. The Parliament’s oversight of the government’s response to the coronavirus pandemic was limited.

After five years of stalemate, in July 2020 the Parliament adopted the proposal of rules of procedure of the SAPC, which foresee two-thirds majority voting without ethnic quotas. The second meeting of the SAPC took place on 17 June 2021, marking good progress on key priority 3. Bosnia and Herzegovina still needs to fully ensure the proper functioning of the SAPC, notably with the adoption of recommendations by the joint body.

Parliamentary representation of women remains unchanged, at around 20%, despite a 40% gender quota for candidates; rules of procedure requiring gender balance are largely ignored.

**Entity parliaments** met regularly despite the pandemic, with online and physical sessions, making large use of urgent procedures. In 2020, the Parliament of the Federation entity adopted 7 laws in urgent and 7 in shortened procedure out of a total of 22 (64%). The entity government survived a no-confidence vote in June 2020. In the *Republika Srpska* entity, the National Assembly adopted in the reporting period 13 laws in fast-track procedures out of 26 (50%), including the budget; such procedures are in principle reserved only for exceptional cases. The Brčko District Assembly adopted 38 laws, 18 of which (47%) in urgent procedure.

There are no specific standing committees on oversight and control of the government in either entity, and the assemblies do not follow up on the work of administrative bodies. The new rules of procedure introduced in June 2020 in *Republika Srpska* entity significantly shortened the length of sessions but did not particularly improve the quality of parliamentary work. Due to splintering, the entity assembly has now 12 party groups, compared to 9 in 2018. After all its activities were suspended in 2020, the parliamentary forum on European integration held two sessions in 2021.

No steps were taken to harmonise the legislation on the registration of **political parties** across the country and to ensure appropriate follow-up to the outstanding GRECO and OSCE/ODIHR recommendations on political party financing, including on transparency of campaign costs and sanctions for breaches. The Central Election Commission needs to strengthen its audit capacity to monitor compliance on political party financing. Issues persist in relations to internal party democracy, which include a lack of democratic internal policies and structures. There are no women among the political party leaders, and few in other party leadership positions.

#### *Governance*

The State-level Council of Ministers had a low output in the reporting period. The appointment of new governments in the Federation entity and in one canton remain pending since the 2018 elections. The executives have little capacities for coordination and policy planning, including on EU matters. This requires effectively implementing the legislation on coordination of EU matters, including the coordination mechanism, and strengthening the Directorate for European Integration. **No progress** was made in addressing the Opinion key priority 2 on developing and adopting a national programme for the adoption of the EU *acquis* (NPAA), reflecting the role of all levels of government in aligning with the EU *acquis*.

The **Presidency** failed to meet regularly over the reporting period, and its members continued to express opposite stances on multiple issues. ‘Vital entity interest’ vetoes were raised against Presidency decisions in July and August 2020 and supported by the *Republika Srpska* entity assembly. Despite disagreements, the Presidency managed to respond consistently to the COVID-19 pandemic. The Presidency also ratified Additional Protocol 6 to the CEFTA Agreement, and supported Bosnia and Herzegovina’s participation in the Common Regional Market initiative and the Green Agenda for the Western Balkans. On the 25<sup>th</sup> anniversary of the Dayton Peace Agreement, the Presidency issued a statement but failed to hold a joint commemoration of all civilian victims of the war.

The **Council of Ministers** had a very low legislative output, adopting three draft laws and two sets of amendments. Two ministers are women (22%), in charge of foreign and civil affairs. The governments of the *Republika Srpska* entity and of most cantons worked regularly in the reporting period. The governments of the Federation entity and of the Herzegovina-Neretva Canton continued to act in a caretaker mandate, for the third year since the 2018 elections. In the Brčko District, the new ruling coalition includes ten political parties. The *participation of women* in the executives across the country remains at around 20%.

The President and Parliament of the Federation entity have not yet filled the vacancies at the Constitutional Court of the Federation entity, which since 2019 operates with only 5 judges out of 9; this seriously impairs its decision-making, which requires a quorum of five. Its panel on ‘vital national interest’ vetoes is not able to function with only 3 judges out of the 7 required. The members of the securities commission of the Federation entity were only appointed in September 2021, after over a year.

Despite the need to focus on fighting the pandemic, there was very limited coordination among executives at all levels, including on epidemiological and socio-economic response measures, whose timeline and scope were not harmonised. Epidemiological decisions taken by ‘crisis headquarters’ in the Federation entity have been quashed by the entity Constitutional Court in December 2020 due to lack of legal basis and proportionality, after which the Federation Government started to formally adopt the measures recommended by the ‘crisis headquarters’.

The entity and state governments adopted in October 2019 and January 2020 respectively a document outlining a socio-economic reform programme for 2019-2022. No steps were taken to develop and implement a common action plan of socio-economic reforms in line with the key recommendations of the European Commission and with the joint conclusions of the economic and financial dialogue. Formulating and enacting this package of socio-economic reforms requires good coordination among executives at all levels.

*Coordination on EU matters*, including in the development of countrywide sector strategies, is essential to ensure harmonised alignment with the EU *acquis* and to benefit from EU assistance and participation in EU programmes. This requires effectively implementing the legislation on coordination on EU matters, including the coordination mechanism, and strengthening the Council of Ministers’ Directorate for European Integration (DEI) to ensure a harmonised alignment with the EU *acquis*). Executives and legislatures across the country have little capacities for coordination and policy planning, including on EU matters.

As a key priority and outstanding obligation under the SAA, Bosnia and Herzegovina needs to develop a *national programme for the adoption of the acquis* (NPAA) / Programme for EU Integration (PI) that reflects the role different levels of government play in aligning with and enforcing the EU *acquis*, duly including SAA obligations and other EU requirements in the NPAA and in the corresponding annual work programmes of all levels of government. The Council of Ministers adopted in September 2020 a methodology for the NPAA, prepared by the DEI; Bosnia and Herzegovina needs to proceed to develop the NPAA and agree upon it with the Commission. The DEI also prepared an action plan on the 14 key priorities, which is still pending adoption by the Council of Ministers, due to obstruction by the *Republika Srpska* entity. (See *Public Administration reform*)

The *Republika Srpska* entity has a 2017-2021 strategy for **local self-government**, while there is no such strategy at the state level or in the Federation entity. Following the municipal election, *Republika Srpska* entity authorities announced reforms to curb the power of newly-elected opposition mayors in Banja Luka and Bijeljina; no measures have been introduced so far. Anti-corruption offices have been established in several cantons of the Federation entity.

#### *Civil society*

**Limited progress** was made in addressing the Opinion key priority 11 on ensuring an enabling environment for civil society, notably by adopting a new law on freedom of assembly in the Brčko District, broadly in line with EU standards. Freedom of assembly and of expression remain restricted in the *Republika Srpska* entity, where activists of the ‘Justice for David’ movement have been subject to intimidation and judicial prosecution, and where a

new crime of offence to the reputation of the *Republika Srpska* entity and its peoples was introduced in August 2021. Meaningful and systematic consultations with civil society remain to be ensured as part of an inclusive policy dialogue. The adoption of a framework for the transparent funding of civil society organisations remains outstanding.

The overall legal and regulatory framework for civil society in Bosnia and Herzegovina is broadly in line with the EU *acquis*. An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by public institutions.

The legislation on freedom of association is broadly in line with standards and generally upheld. Activists dealing with sensitive issues remain targets of threats, abuse and physical attacks. A framework for the transparent and impartial distribution of public funds to associations is needed across the country; only few municipalities adopted regulations on the issue.

The legislation on freedom of assembly needs to be harmonised across the country and aligned with European standards, in particular as regards grounds for restriction and the responsibility of organisers. The new law adopted in July 2020 in the Brčko District, broadly in line with EU standards, should be used as a model in all other jurisdictions. Freedom of assembly remains restricted in the *Republika Srpska* entity, where activists of the ‘Justice for David’ movement continue to be subject to intimidation, fines, and judicial prosecution. The crime of offence to the reputation of the *Republika Srpska* entity and its peoples, introduced by law in August 2021, risks further restricting the space for civil society.

The legislation on public consultations is uneven across the country and meaningful and systematic consultations remain to be ensured. The Council of Ministers needs to enact the 2017 charter on cooperation with civil society organisations. (*see also Public Administration Reform*)

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

The Parliamentary Assembly and its committees have a key role in the oversight of the country’s security forces. The joint committee on defence and security held 10 sessions in 2020 and 7 in 2021. The joint committee for the oversight of the Intelligence-Security Agency (OSA) only held two sessions since its constitution in January 2020 due to political disagreements on the appointment of the OSA Director and deputies; an investigation is ongoing on the qualifications of the OSA Director. The legislation on the OSA has not been amended yet to address a number of procedural shortcomings identified by the Constitutional Court in June 2017. The Military Commissioner, who oversees the protection of the human rights and freedoms of soldiers and personnel of the armed forces and the Ministry of Defence, opened 102 proceedings in 2020.

#### **2.1.2. Public Administration Reform**

Bosnia and Herzegovina is at an **early stage** with public administration reform. **Some progress** was made in addressing the Opinion Key priority 14 with the adoption of the action plan on public administration reform (PAR) and of the strategies on public financial management (PFM) at all levels of government. Bosnia and Herzegovina faces challenges to effectively implement the PAR Action Plan and to develop a comprehensive and countrywide PFM strategy. Ensuring political commitment and establishing an effective coordination structure on PAR remains a priority. Despite some progress in civil service trainings, performance appraisals, improved legal basis on strategic planning and impact assessments at some government levels, last year’s recommendations remain largely valid.

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

- adopt a countrywide strategic framework for public financial management 2021-2025 and continue the implementation of the action plan of public administration 2018-2022;
- establish a functioning coordination structure with a political decision-making body and improve the capacities of PAR Coordinators to steer coordination of public administration reforms across all government levels;
- develop and adopt amendments of civil service laws to ensure respect of the merit principle at all levels of government and strengthen the capacities of civil service agencies to improve human resource management and trainings.

### *Strategic framework for public administration reform*

In June 2020 the Government of the *Republika Srpska* entity adopted the countrywide **strategic framework on public administration reform** (PAR SF) 2018-2022, and, by the end of 2020, all levels of government adopted the related PAR Action Plan 2020-2022. The systematic implementation of the PAR Action Plan has faced delays and the timeframe of the strategy and action plan needs to be extended. A common performance-based monitoring system remains to be established. Insufficient **political support** still hinders the coordinated implementation of reforms by all levels of government. The country has yet to establish a political decision-making body to steer and coordinate reforms across all levels of government. The existing coordination structures at technical level also need to be strengthened. **Financial sustainability** is not ensured, and reforms are mostly donor-driven; this has even worsened with the pandemic.

### *Policy development and coordination*

The **policy-making system** in Bosnia and Herzegovina remains fragmented. The legislative framework on medium-term policy planning is unevenly developed. In January 2021, the Federation entity further extended the entry into force of a set of by-laws regulating the annual and medium-term work planning, monitoring and reporting until January 2022. The Council of Ministers still has to choose the best alternative solution for regulating sector strategic planning. The *Republika Srpska* entity adopted in June 2021 a law on strategic planning and development. There has been no progress in developing methodological guidance for countrywide sectoral strategic planning by harmonising central planning documents, framework budgets and countrywide sector strategies across levels of government. While the legal framework for monitoring and reporting is in place, the public availability of government reports is very limited. Bosnia and Herzegovina is still expected to develop its first **National Programme for the Adoption of Acquis (NPAA)**, i.e. Programme of EU Integration (PI). In September 2020 the Council of Ministers adopted a methodology for the development of the programme, but such methodology lacks requirements on costing the planned measures.

The legal framework for **inclusive and evidence-based policy development** needs to be consistently implemented across all levels of government. In September 2020, the Federation entity regulated the manner and procedure of regulatory impact assessment for legislation and clarified institutional responsibilities. The impact and quality of the analysis supporting policy proposals remains weak across all levels of government. Quality control function for consistent oversight on regulatory impact should be upgraded across all levels of government. Financial implications remain not systemically calculated, and the collection and use of administrative data for policymaking are not ensured. The legal framework on **public consultations** needs to be improved and consistently applied. The legislative framework does not fully establish standards for monitoring and reporting on key government planning

documents at each level of government, hampering **public scrutiny over government work**. Beyond legislative measures, more efforts are needed to raise awareness on various forms of consultation with the public, and to strengthen the technical capacities at all levels of government to regularly use them.

#### *Public financial management*

Bosnia and Herzegovina still needs to develop and adopt a countrywide strategy for the reform of **public financial management (PFM)** with a performance-based monitoring to establish common reform priorities. This is one of the eligibility criteria for sector budget support. All levels of government adopted their own PFM strategies for 2021-2025 in the reporting period.

Public institutions at all levels lack sufficient internal audit capacity and adequate internal control, especially for public procurement. Reform efforts need to target the substantial payment arrears of the public sector, in particular in the health sector, and publicly owned enterprises, in order to increase transparency, fiscal sustainability and efficiency in the sector. The management of public investments needs further upgrading. (*See also Chapter 5 and Chapter 32*).

Bosnia and Herzegovina has not yet achieved sufficient **budget transparency**, although during 2020, state institutions and entities published their respective citizens' budgets online. Annual budgets and reports on budget implementation are published by state institutions and two entities. The lack of harmonisation of the charts of accounts at state and entity level hampers access to consolidated data. In-year reporting still needs to improve at all levels of government. Available budgetary information remains incomplete, and assessing the overall budgetary and fiscal policy is difficult. In addition, budget calendars remain to be adopted. For most of the reporting period, Bosnia and Herzegovina had to rely on three-monthly temporary financing decisions. The 2020 budget was adopted only in late July 2020. The 2021 budget was adopted by the Presidency only on 24 June 2021 and is still pending adoption by the Parliament.

#### *Public service and human resources management*

**Merit-based recruitment, promotion and dismissal** of civil servants based on objective criteria is not fully ensured. The various civil service laws do not provide a clear and comparable vertical and horizontal scope of the civil service, nor do they clarify which institutions are included in the civil service, which positions belong to civil servants, as well as what are senior and middle management categories. Political influence in recruitment and promotion procedures persists systematically at all levels of government. Candidates are often selected without applying merit principles, and in certain recruitment procedures, particularly at cantonal level, final selection depends on ethnic background rather than merit. Constitutional provisions on the general representation of the population in the public administration should not be interpreted as to imply strict ethnic proportionality in civil service and the legislation should ensure that ethnic criteria do not prevail over merit-based recruitment. The criteria for dismissals and disciplinary procedures set by the legislation are still insufficiently applied, including as regards the possibility to appeal. Gender equality in public service is at an early stage and only a few top managers are women.

**Human resources management (HRM)** remains highly fragmented. Different working conditions stemming from the various civil service legislation as well as diverging practices across levels of government hamper the mobility of civil servants and the creation of an administrative space with equal standards. The Brčko District adopted the common policy framework on HRM development in August 2020 and *Republika Srpska* entity did so in

March 2021. There is no coordinated approach to HRM and civil service legislation across all levels of government. In particular, the Federation entity and cantons need to develop a coordinated legislative framework on civil service. Monitoring of human resource management is not done consistently across levels of government and civil service agencies do not make those data fully transparent to the public. The State level needs to adopt a legal basis to make the Human Resource Management Information systems (HRMIS) functional for civil service. In July 2020, the Federation entity regulated the manner of maintaining the civil service registers, and Brčko District adopted the legal basis to establish the public service registers, which was made public in August 2020.

The **remuneration** system for civil servants remains inconsistent across public institutions and continues to lack transparency, also due to differences across the country in salary legislation, job classification, and pay grades. The remuneration system is based on the job classification at each administrative levels and all basic salary elements are regulated by the law. The salary system at all levels of government still lacks appropriate level of transparency. No level of government publishes information on average salary levels for different job categories. Fairness in determining the basic salary is not fully ensured at any level of government. Although a new system of classification and job categorisation was established, the new job classification systems have not yet been fully applied in the legislative framework and practice.

Civil service agencies need more resources for training and **professional development**. Some progress was made in establishing the legislative and policy framework for trainings and performance appraisal, particularly at the Federation entity. A performance appraisal system is in place but not used properly and systematically to justify promotions. There was no progress in establishing a coherent system for fair performance appraisal, promotion and training as a right of a civil servant.

There is no systemic, consolidated data on the **integrity of civil servants**. The Federation of Bosnia and Herzegovina revised the 2014 code of ethics and partially amended the regulation on disciplinary proceedings and liability of civil service. While all levels of government have a code of ethics, the Brčko District still has to align its own with the civil service law. Public perception of corruption among public officials remains high. The Federation entity still needs to adopt legislation on whistle-blowers' protection, and the *Republika Srpska* entity on declaration of assets; such legislation should be aligned with international standards at all levels of government. Measures to promote integrity in public service are only partially in place and are not systematically applied.

#### *Accountability of administration*

No progress was made in specifying in the legislation the different functions of administrative bodies, or the conditions for establishing, merging or abolishing them at all levels of government. This leaves excessive discretion to restructure the administration without consideration of the rationale and cost-effectiveness of changes. Clear supervision and reporting lines between ministries and subordinated institutions are still lacking. The political level does not sufficiently delegate decision-making responsibility to senior civil servants or to middle management. The Federation entity issued guidelines for the development of managerial accountability in the public sector with the purpose of ensuring practical implementation of the concept of managerial accountability. (*see also Chapter 32*)

The recommendations of oversight mechanisms such as parliamentary scrutiny as well as of independent institutions such as the State Audit Institution and the Human Rights Ombudsman remain rarely implemented. Several institutions do not even respond to the

recommendations addressed to them, although they are legally obliged to do so. This compromises the **citizens' right to good administration**.

The enjoyment of the **right to access public information** remains uneven. Legal provisions on data protection and on access to information are still interpreted in a way that protects private rather than public interests. There is a lack of effective institutional mechanisms to supervise the implementation of laws or sanction violations. The legislative framework has to be aligned with international and European standards.

The varying efficiency of courts across the country render the **citizens' right to administrative justice** uneven. There are no effective remedies against the excessive length of judicial proceedings. (*see also Chapter 23*)

There is no systemic collection of data on the **citizens' right to seek compensation** for damage caused by unlawful actions or omissions of the public administration.

#### *Service delivery to citizens and businesses*

The legal framework for a **user-oriented administration** varies substantially across the country. A new law on electronic identification and trust services for electronic transactions in compliance with the EU *acquis* is still pending adoption. To foster a user-oriented administration, Bosnia and Herzegovina should simplify and harmonise business registration procedures and ensure full mutual recognition between entities, including on concessions and licensing. The Brčko District introduced in April 2021 an electronic system of business registers. One-stop-shops for citizens or businesses exist in the *Republika Srpska* entity and since April 2021 in the Brčko District. The overall perception of citizens about public services is very low.

## **2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS**

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

Bosnia and Herzegovina has **some level of preparation** to implement the EU *acquis* and European standards in the area of judiciary and fundamental rights. **No progress** was made during the reporting period. The authorities and the judiciary have taken limited action to address the findings of the Expert Report on Rule of Law issues,<sup>5</sup> and political commitment towards justice reform remains insufficient. The poor functioning of the judicial system continued to undermine the citizens' enjoyment of rights and the fight against corruption. Corruption indicators further deteriorated and all levels of government show signs of political capture directly affecting the daily life of citizens. Selective and non-transparent prosecution and judicial follow up of corruption cases continued, affecting public interest, but also business operators and investors. As regards fundamental rights, significant reforms are needed to ensure that all citizens are able to effectively exercise their political rights and thus bring the country's constitutional and legislative framework into line with the *Sejdić-Finci* case-law of the ECtHR.

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

Bosnia and Herzegovina is at an **early stage/has some level of preparation** in the area of the judiciary. **No progress** was made in addressing the Opinion key priority 6. Three out of four 2019 recommendations remain outstanding and one has been addressed to a limited extent. The authorities and the judiciary have taken limited action to address the findings of the Expert Report on Rule of Law Issues ('Priebe report'). Action was taken towards the

<sup>5</sup> <http://europa.ba/wp-content/uploads/2019/12/ExpertReportonRuleofLawissuesinBosniaandHerzegovina.pdf>

establishment of a system of verification of asset declarations of judicial office holders. To this aim, targeted amendments to the law on the High Judicial and Prosecutorial Council, have been adopted by the Council of Ministers, and are due to enter the parliamentary procedure. Persistent and evident signs of deterioration continue to require urgent measures to strengthen integrity and regain citizens' trust in the judiciary. Lack of commitment to judicial reform from political actors, and the poor functioning of the judicial system continued to undermine the citizens' enjoyment of rights and the fight against corruption and organised crime.

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

- urgently adopt the integrity-related targeted amendments to the HJPC Law establishing among other a credible and rigorous system of verification of asset declarations of judges and prosecutors, and members of the High Judicial and Prosecutorial Council;
- adopt the new law on the High Judicial and Prosecutorial Council and the new law on the Courts of Bosnia and Herzegovina, in line with European standards;
- apply consistently merit-based appointment practices, without prevalence of ethnic criteria, and ensure that quality criteria are applied in performance appraisal;
- effectively implement the revised National War Crimes Strategy, notably by appointing the supervisory body, and adopt a new Justice Sector Reform Strategy.

#### Strategic documents

Bosnia and Herzegovina needs to develop and adopt a new 2021-2027 Justice Sector Reform Strategy and action plan to replace the ones expired in 2018, notably by establishing a credible implementation timeline and ensuring adequate monitoring and funding.

#### Legal and institutional framework

The legal and institutional framework has significant shortcomings. No progress was made on the Opinion key priority 6, requiring the country to adopt the new Law on Courts of Bosnia and Herzegovina and the new Law on the High Judicial and Prosecutorial Council (HJPC) which indicates continued insufficient political commitment to pursue key rule of law reforms. The Law on Courts should achieve greater legal certainty, and clarify the courts' subject matter jurisdiction. It should also provide for a separate second instance appellate court. The new Law on the HJPC should strengthen the independence, professionalism and accountability of the judiciary. The Ministry of Justice should swiftly finalise the drafts of both laws, in line with European Commission recommendations, and submit them to the Venice Commission for an opinion, before adoption by the Council of Ministers and submission for parliamentary procedure.

#### Judicial self-governance body

In the reporting period, continued shortcomings in the independence, accountability and efficiency of the HJPC have further deteriorated trust in the judiciary. Additional corruption allegations against the HJPC President culminated with his resignation and appointment of a new HJPC president in February 2021. None of the corruption allegations have been properly investigated by the HJPC, which remains a matter of serious concern. In May 2021, the HJPC adopted a 2021-2023 HJPC Reform Program, including measures to strengthen the quality, integrity, efficiency of the judiciary and fight against organised crime and corruption. The HJPC must ensure its swift implementation and urgently enable reforms in the areas under its direct competence, notably those that do not require legislative changes.

#### Independence and impartiality

Limited action was taken in 2020 to improve the independence and impartiality of the judiciary, which need to be significantly strengthened in line with European standards, including through additional constitutional and legal safeguards.

The rules on the appointment, promotion, career advancement, conflict of interests and disciplinary responsibility of judges and prosecutors remain insufficient to safeguard their **independence**. The HJPC amended its internal rules on appointment procedures, disciplinary measures and integrity standards; however, their inconsistent and non-transparent implementation continued to hamper judicial independence and public trust. The HJPC needs to ensure that judicial appointment procedures are merit-based and transparent, and that appointment decisions are thoroughly reasoned.

Multiple ad-hoc appointment procedures make the system vulnerable. Access to the judicial and prosecutorial profession should be managed through a single annual examination. In addition, first access to the judicial or prosecutorial profession should be conditional on completing a specialised preparatory programme. Access to the profession and judicial promotions should be subject to thorough integrity and asset verifications. The new Law on the HJPC should address these shortcomings.

The regulatory safeguards on **impartiality** remain weak and are applied inconsistently, notably for conflict of interests and case allocation. There are no sufficient security features to prevent abuse of the random case allocation and the reassignment of cases without due justification. Manual case assignment is still observed, including at State level prosecutor's office. This is a cause of major concern and needs to be urgently remedied by the HJPC in cooperation with court presidents and chief prosecutors. Judges and prosecutors remain subject to internal and external pressure, including politically motivated intimidation. Such practices need to be forcefully addressed. There are no dedicated sanctions for undue influence of the judicial office holders or public comments that would undermine their independence. The HJPC needs to review its reporting mechanism, to ensure effective follow up and safeguard judicial independence. The citizens' and business perception of judicial independence remained low.

#### Accountability

Preliminary action was taken towards the establishment of a system of verification of **asset declarations** of judges and prosecutors and members of the HJPC, in line with the Commission's recommendations. The lack of the system seriously affects the integrity of the judiciary. Obstruction to integrity reforms from political actors and from within the judiciary needs to be addressed by legislative amendments. As a positive step, in June 2021 the Council of ministers adopted the targeted amendments to the HJPC law, which are now to be submitted for parliamentary procedure. Pending their adoption in Parliament, the HJPC and its secretariat must swiftly take all necessary preparatory action for the verification of asset declarations, in line with the Commission's recommendations and Venice Commission's Opinion, before staff and management of the unit are recruited. Moreover, in the meantime, voluntary publication of asset declarations by all HJPC members and by judicial management must be further encouraged.

All courts and prosecutors' offices have **integrity** plans, but their implementation is uneven. The HJPC has put in place an integrity unit in September 2020, as part of its secretariat, whose activity has had only limited impact. Implementation of integrity plans and code of ethics and their monitoring must be stepped up. The recruitment of judges and prosecutors does not include any thorough integrity and assets verification or any assessment of the candidates' ethical and moral standards.

**Disciplinary procedures** continue to be limited and have little dissuasive effect. In 2020 the office of the disciplinary prosecutor registered 31 complaints against 31 judicial office holders (50% less than in 2019) and filed 29 disciplinary charges, including in two high-level cases regarding the President of the Court of Bosnia and Herzegovina and the State-level Chief Prosecutor. These cases require a thorough, independent and transparent follow up. Pressure and intimidation against the office of the disciplinary prosecutor has continued and is a cause of concern; it needs to be forcefully addressed. Plans to provide the disciplinary prosecutor with greater autonomy and independence from the HJPC, in particular through sufficient separation of premises and infrastructure, must be urgently pursued by the HJPC. The HJPC disciplinary commissions completed 30 disciplinary proceedings. 26 cases resulted in disciplinary measures, including 12 cases of salary reduction. Two court presidents were removed from their management position on the account of disciplinary offence of nepotism and criminal offence. The disciplinary panels are almost exclusively composed of HJPC members without clear selection criteria, which constitutes a potential conflict of interest, in particular when members of the HJPC are concerned. There are no rules guaranteeing full independence and impartiality of the disciplinary panels or the right to judicial review of their decisions, except in cases of dismissals. The targeted amendments to the law on the HJPC should provide for disciplinary liability of all members of the HJPC, including the President. Promotions continued to be systematically granted in disregard of disciplinary record. This practice is worrisome. Disciplinary background should be duly taken into account in the performance, appraisal and promotion of judicial office holders to enhance a rule of law culture in the judiciary. Targeted amendments to the Law on the HJPC should provide for suspension of appointments and promotions subject to verification of asset declarations. Irregularities detected during verifications should be automatically referred to the office of the disciplinary prosecutor, and properly reflected in the appointment and promotion process.

#### Professionalism and competence

The **appointment** and career advancement of judges and prosecutors is not sufficiently based on merit and continued to rely extensively on ethnic criteria or other considerations, especially for presidents of courts and chief prosecutors. Merit criteria for access to the judicial profession and in particular for promotions remain insufficient. This is a source of serious concern.

Following the 2020 decision of the Court of Bosnia and Herzegovina, the criteria on **performance appraisal** for all judges and prosecutors have been annulled. In May 2021, the Court of Bosnia and Herzegovina rejected the appeal of the HJPC against its decision as inadmissible. This is a major setback for judicial reform which should be urgently remedied via the targeted amendments to the HJPC Law. A system of thorough and balanced performance appraisal based on quality criteria must continue to be in place and consistently applied to all judges and prosecutors, in line with the European standards.

#### Quality of justice

There was no meaningful progress in prosecution and judicial follow-up of cases of public resonance including cases of alleged electoral fraud, notably following elections in Mostar. The State-level Prosecutor's Office asserted jurisdiction over two entity-level organised crime cases, involving unresolved killings, on the basis of the extended jurisdiction clause relating to detrimental consequences for the country. These two investigations are ongoing. It is essential to ensure effective judicial protection and the right to fair trial in these cases.

The justice system continues to lack **transparency**. In January 2021, the online database of court decisions was opened to the public free of charge; however the database does not yet include all key court decisions and indictments, in particular in corruption cases. The

database, needs to be systematically populated to foster consistent case law across the country. The HJPC received 78 requests for access to information in 2020, all of which were processed. The HJPC has no **communication** strategy in place. The judiciary needs to significantly improve transparency in its interaction with legal professionals, justice users, the media and public at large. Dedicated case law departments should also be in operation in all the highest judicial instances. Comprehensive training on public communication and media relations for courts and prosecutors' offices is required to ensure transparency and public trust in the judiciary.

Case law lacks **consistency**. The legal status and effectiveness of the judicial panels for the harmonisation of case law in civil, criminal and administrative matters need to be significantly strengthened. Ultimately, Bosnia and Herzegovina needs to establish a judicial body to ensure the consistent interpretation of the law and harmonisation of case law across the country.

There are 1,024 judges and 358 prosecutors, including 77 court presidents and 18 chief prosecutors, for an average of 29 judges and 10 prosecutors per 100,000 inhabitants, against a European average of 21 and 12 respectively, according to the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ). 61% of the total number of judges and prosecutors and 49% of managers are women. The 2020 **budget** for the judiciary, including the HJPC is EUR 135.2 million (0.79% of GDP), which is less than in 2019 (EUR 137.3 million, 0.76% of GDP). In 2020, EUR 102.9 million was allocated to courts and EUR 29.7 million to prosecutors' offices (compared to EUR 104.8 million and EUR 29.6 million in 2019). The funds allocated remain insufficient to cover investment needs and to improve the judicial infrastructure, since over 85% of the budget is spent on salaries and compensations.

**Training** for judges and prosecutors remains insufficient. Significant improvements in the duration, quality and diversity of substance of mandatory training remain urgently needed. Its content should not be limited to legal issues, but also address values and professional skills. Court presidents and chief prosecutors need to be more involved in identifying the training needs of their staff and promote their participation in training. The HJPC needs to strengthen the supervision of all judicial training activities based on the annual reports received from entity-level training centres. The quality of training of state-level judiciary needs to be ensured. Comprehensive training on public communication and media relations for courts and prosecutors' offices is not in place. The coordination of donors' support should be significantly improved. The entity-level training centres are observers to the European Judicial Training Network (EJTN), however they should be more proactive in order to benefit more extensively from the expertise within the network.

A **case management system** allows monitoring the activities and checking the performance of judges and prosecutors on the basis of the annual workload. All courts and prosecutors' offices regularly produce statistical reports for the HJPC as well as an annual activity report. The HJPC needs to step up its oversight on the basis of reliable statistical data on the performance of the judicial system, including on case reallocations.

### Efficiency

The **length of court proceedings** in non-utility cases increased to 421 days in 2020, compared to 418 days in 2019. The clearance rate decreased to 96% (103% in 2019). The length of proceedings remains a major concern. Weak trial management and lenient enforcement of procedural discipline by judges further aggravate the situation. Managerial oversight of court presidents/chief prosecutors by the HJPC needs to be increased. The civil and criminal procedure codes at all levels must be urgently amended to address the excessive length of proceedings.

The overall **backlog** for pending court cases amounts to 2.1 million cases, out of which approximately 1.8 million are cases of unpaid utility bills. This seriously harms judicial efficiency. The backlog for non-utility cases slightly decreased by 5% compared to 2019, however the pandemic reduced the efficiency especially in first instance courts. The backlog of unpaid utility bill cases and small financial claims needs to be reduced significantly. Annual quotas to reduce the backlog in connection with qualitative performance appraisal criteria should continue to be used to reduce the backlog of cases, without hampering the quality of justice. The worsening of efficiency parameters due to the Covid-19 pandemic, and adoption of urgent remedial action should be pursued with priority. Initiatives to reduce the annual quotas should be resisted by the HJPC as they risk to negatively affect efficiency.

An effective remedy for excessive length of proceedings needs to set up with no delay at all levels of government. Though applicants may file a case with the Constitutional Court, this measure does not ensure acceleration of the pending proceedings, and remains a continuous violation of the individuals' rights, under the ECHR.

The use of court settlement and **alternative dispute resolution** methods is underdeveloped and the issue of increased backlog of cases is being addressed by the HJPC solely by appointment of additional judges, which remains inefficient. Efficiency reform measures need to better explore and promote the potential of **alternative dispute resolution** methods, notably conciliation and mediation, in line with European standards and best practices.

#### Domestic handling of war crime cases

Bosnia and Herzegovina's cooperation with the *International Criminal Tribunal for the former Yugoslavia* (ICTY) and its successor institution the International Residual Mechanism for Criminal Tribunals (IRMCT-Mechanism) is assessed as satisfactory. The Prosecutor's Office of Bosnia and Herzegovina continues to closely collaborate with the Office of the Prosecutor of the Mechanism, processing an increasing number of requests for assistance from all prosecutors' offices in Bosnia and Herzegovina to the Office of the Prosecutor. The Office of the Prosecutor of the Mechanism continues to assess positively the work of the Prosecutor's Office of Bosnia and Herzegovina, but noted that a lower number of indictments for war crimes were filed in 2020.

The implementation of the revised National War Crime Strategy has started. However, the supervisory body has not yet been established and sufficient funding must be provided to ensure attainment of its main target of completion of all war crimes cases by 2023. The Council of Ministers must establish the supervisory body and ensure sufficient funding with no further delay.

Regional judicial cooperation in processing war crime cases remains ineffective. The bilateral protocols on cooperation related to war crimes, crimes against humanity and genocide between the Prosecutor's Office of Bosnia and Herzegovina and its counterparts of Serbia, Croatia and Montenegro helped to reduce judicial impunity but have not been used systematically. Cooperation with Serbia has led to indictments being issued pursuant to cases transferred from Bosnia and Herzegovina, which are yet to lead to verdicts. Cooperation with Croatia continued to face a number of impediments and has not led to tangible results in terms of indictments. A protocol with the Montenegro prosecutor's office is in place but is not used.

Out of the 238 unresolved cases pending before the courts in Bosnia and Herzegovina by end 2020, 97 proceedings are pending due to the unavailability of the indicted persons. Holding multiple citizenships, these individuals are allegedly residing in neighbouring countries. This enables them to escape justice by taking advantage of the prohibition in the countries of the region to extradite their own nationals for the criminal offences of genocide, crimes against

humanity and war crimes. They are also benefiting from the lack of progress of other jurisdictions in addressing the crimes in question. The final sentence handed down in Bosnia and Herzegovina in 2014 against Novak Djukić was not enforced by Serbia, despite the applicable international judicial cooperation tools. In August 2021, war crime indictee Duško Kornjača, who faces charges for crimes against humanity, was revealed to be living freely in Novi Sad, Serbia. Tomislav Kovač, indicted in 2018 for genocide in Srebrenica, is also residing in Serbia.

*War crime cases* continued to be gradually reduced, however the processing of cases, in particular the most complex ones, is subject to serious delays, and was further impacted by the public health situation. The revised national war crimes strategy includes new timelines for the completion of all war crimes cases by 2023. With an estimated amount of 1,210 cases in July 2013, the total number of unresolved war crime cases had been reduced to 571 (-53%) by 31 December 2020; around 243 of these were complex cases. An estimated 178 cases (31.2%) are pending due to the unavailability of the suspects; they require reinforced regional cooperation. In 2020 the number of confirmed indictments and the conviction rates remained stable in the entities and the Brčko District, while decreasing at the state level. The Prosecutor's Office of Bosnia and Herzegovina should enhance its efforts to process the most complex cases and improve the quality of investigations and indictments.

### **Fight against corruption**

Bosnia and Herzegovina is at an **early stage/has some level of preparation** in the fight against corruption. **No progress** was made in addressing the Opinion key priority 7, the 2020 recommendations and the findings of the Expert Report on Rule of Law issues, which remain outstanding. Continued negative effects of widespread corruption and signs of political capture manifested strongly during the COVID-19 pandemic, directly affecting the wellbeing of citizens. Within their respective remits, both judicial office holders and political leaders have failed to tackle the generalised phenomenon of corruption and actively obstructed progress, leading to long-term stagnation, and a serious risk of backsliding in this field. Selective and non-transparent judicial follow-up in corruption cases of public resonance was observed, alongside pressures and intimidations, and is a cause of significant concern. No action was taken towards the adoption of new strategic documents at state and Federation entity levels. Lack of harmonisation of legislation across the country and weak institutional cooperation and coordination continued to hamper results. The track record on prevention and repression of high-level corruption remains insignificant, due to operational inefficiency and political interference. The Sarajevo canton authorities continued corruption prevention activities, however efficient follow-up from prosecution and judiciary remains to be ensured. The continued lack of progress at all levels shows the country's lack of advancement in the area and increases the risk of backsliding. The political leaders and criminal justice system institutions need to urgently remedy the situation.

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

- adopt the law on the prevention of conflict of interest at state level, and further harmonise the legislation at entity and Brčko District levels with international standards and best European practices; complete the legal framework and step up implementation on the protection of whistle-blowers;
- demonstrate progress towards establishing a track record on the repression and prevention of high level corruption, and ensure an effective and independent judicial process in the COVID-related corruption cases;

→ amend criminal legislation to address lack of harmonisation and competence conflicts, excessive length of proceedings and weak institutional cooperation in corruption cases across the country; adopt a new state-level anticorruption strategy and action plan, and ensure the effective functioning and coordination of corruption prevention bodies at all levels of government.

### Track record

Efforts remain insufficient to establish a track record of proactive investigations, prosecutions and final convictions for corruption. In particular, progress in high-level cases remains insignificant and needs to be seriously stepped up.

In **high-level corruption cases**, in 2020, there were 14 ordered investigations, 7 filed indictments and 1 conviction with suspended sentence in the case of the former mayor of Bihać. This trend shows that there is alarmingly low number of final convictions in high-profile cases.

In 2020, 51 **investigations** were initiated by the State Investigation Protection Agency (SIPA) into cases of corruption, of which 13 were finalised. 13 reports against 76 persons (68 natural and 8 legal entities) were sent to the competent prosecutors' offices. The trend at state level shows that only few investigations have been finalised.

There were 91 indictments countrywide, with a decrease of 50% compared with 2019 (181), 124 indictments were confirmed, including indictments from the previous period, while the number of convictions was 110, a majority of which were suspended sentences. The HJPC has adopted criteria for the identification of high-level corruption cases. Nevertheless, data on final convictions may not be automatically retrieved from the Case Management System. This has to be remedied with urgency. Sanctions are not sufficiently effective, dissuasive and proportionate. Plea bargain agreements are frequent and sanctions are lenient because of the excessive application of mitigating circumstances, with prison sentences often suspended or even converted into fines with little dissuasive effect. Most of the convictions were pronounced for abuse of office or authority.

In the area of **conflict of interests**, a state-level commission has been established in July 2020. It took no decisions in 2020. In the period of January-June 2021, this commission initiated 11 proceedings and adopted sanctions in 3 cases, including in the case of the head of a ruling political party. The lenient sanctions imposed are not proportionate and have little dissuasive effect. As regards **asset declarations**, about 600 public officials of state-level institutions are required to submit their financial reports for verification, out of whom only 231 submitted their financial reports in 2020 and 193 in 2021. Despite the state-level commission being established, no reports were checked and no sanctions were imposed. In the *Republika Srpska* entity around 4,500 office holders are obliged to submit financial reports, out of whom only 5 financial reports were submitted in 2020. A positive trend continued in the Sarajevo Canton, where 1,163 asset declarations were submitted for about 900 public positions by office holders. 227 office holders who failed to submit declarations were sanctioned with misdemeanour fines during the reporting period, of which 46 orders were appealed before minor offences courts. In all cases, the final sentences pronounced on merits imposed lower sanctions than the minimum provided by law. Such judicial practice must be further scrutinised in the light of the principle of dissuasiveness and efficiency of sanctions. The data reported in the asset declarations were verified in 2015 cases, and 5 cases of discrepancy were referred to prosecution for further investigation. Rules on conflict of interests are not enforced in the Federation entity or in the Brčko District. Asset declarations of elected officials are made available to the public through the website of the Central

Election Commission, which has no obligation to check their accuracy. In the Sarajevo Canton, asset declarations of office holders are published on the website of the cantonal anti-corruption office.

The Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) granted administrative protection to **whistle-blowers** in zero cases out of four requests in 2020, compared with one case in 2019. In the *Republika Srpska* entity, one request for protection to whistle-blowers was filed and partially upheld in 2020, compared with one request filed but dismissed by courts in 2019. There is no legislation on whistle-blower protection in the Federation entity and the 2018 legislation adopted by Brčko District is not implemented. Legislation at all levels of government needs to be aligned with the EU *acquis*.

### Institutional framework

#### *Corruption Prevention*

The functioning and coordination of corruption prevention bodies among themselves and with the APIK continued to be ineffective. APIK should play a much more proactive role in implementing GRECO recommendations and aligning with international standards.

The independence of corruption prevention bodies set up at the cantonal level needs to be significantly strengthened, as do human and material resources. The anticorruption office of the Sarajevo Canton continued to make good progress and remains an isolated good example. In 2020, the office processed 518 reports of corruption, of which 106 were sent on to the competent authorities for further investigation and action. 53 reports were referred to the Prosecutor's Office of Sarajevo Canton, with no meaningful judicial follow-up. The corruption prevention body of the Sarajevo Canton continued the good practice of mapping corruption risks and implementation of the methodology on public procurement monitoring in COVID-19 pandemic-related measures. In May 2021 the Tuzla Canton adopted legislation to establish an anticorruption office, on the model of the Sarajevo Canton.

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

The audit department of the Central Election Commission needs stronger capacities to monitor compliance with political party financing regulations.

#### *Law enforcement*

The criminal justice policy throughout the country is largely ineffective in the fight against corruption. This is in part due to inadequate law enforcement and penalties that do not ensure sufficient deterrence. Deep legal fragmentation and frequent conflicts of jurisdiction leading to transfers of cases slow down proceedings and reduce efficiency. The police are not proactive in launching investigations. Systemic shortcomings in the operational cooperation of law enforcement agencies and a very limited exchange of intelligence remains a persistent challenge. In the few high-level corruption cases reported, selective judicial follow-up and legal mistakes, negligence, abuse of procedures, political pressure, questionable court decisions and verbal attacks on the prosecution continued to be observed, including at state level.

In the reporting period, limited cooperation of law enforcement agencies with the prosecutor's offices and lack of effective control by the prosecutors over the work of police continued to seriously hamper the effectiveness of investigations. The selective unwillingness of the police, including at the state level, to cooperate with prosecutor's offices, notably in high

level corruption cases of public relevance, is a cause of serious concern over their independence and professionalism.

Special anti-corruption departments within prosecution offices were established at the state level and in the *Republika Srpska* entity. However, their effectiveness in fighting corruption remains very weak. These specialised departments must start to deal effectively with high-level corruption cases and their independence must be significantly strengthened. Specialised departments at the Federation entity prosecutor's office and Supreme Court have not yet been set up. Pressure and interference, especially in high level cases, has continued and is a source of major concern.

The state level prosecutor's office started two additional investigations related to the 2020 case of alleged public procurement fraud of COVID-19 medical equipment. These cases were largely reported in the media and have a high public resonance. The two investigations are still ongoing. One indictment has been confirmed by Court of Bosnia and Herzegovina against the Prime Minister and the Minister of Finance of the Federation entity, the suspended head of Civil Protection of Federation entity and a private entity (case *Novalic et al.*). It is essential to ensure an independent, effective and impartial judicial follow-up in these cases by state level prosecutor's office and the Court of Bosnia and Herzegovina, which have high public resonance and elicited concern over the state of corruption in the country.

#### Legal framework

The lack of harmonisation of legislation across the country continued to hamper the fight against corruption. The country made no progress in adopting a state-level law on prevention of conflict of interest, in line with international standards and best European practices. The Federation entity needs to adopt legislation on conflict of interest as well as on the effective protection of whistle-blowers. In March 2021 the Brčko District adopted a new law on prevention of conflict of interest, which needs to be effectively implemented and further aligned with best European practices. The *Republika Srpska* entity needs to align its conflict of interest legislation with international standards.

Lack of transparency seriously hinders the fight against corruption. The legislation on political party financing needs to be urgently aligned with international standards, particularly with pending GRECO recommendations. Legislation on freedom of access to information at state and entity level needs to be aligned with international and European standards. Data protection laws continued to be interpreted in a way that protects private rather than public interests. There is no legislation to effectively prevent and address corruption in the private sector and no regulation of lobbying.

None of the GRECO recommendations have been implemented in their entirety. The authorities need to ensure appropriate legislative and institutional follow-up to fulfil the outstanding recommendations, notably on political party financing and conflict of interest.

#### Strategic framework

The anti-corruption strategies and action plans continued to be outdated, except in the *Republika Srpska* entity, and effective implementation continued to be lacking at all levels, further hampering a harmonised strategic approach across the country. New strategic documents need to be adopted with no delay and their implementation should start with no delay. Anti-corruption strategies need to be harmonised across the country; adequate funding should be provided and strong monitoring mechanisms established to ensure their implementation.

## Fundamental rights

The legislative and institutional framework on fundamental rights is largely in place. Limited efforts were made over the reporting period to address the Opinion key priorities 5 and 9-13 on fundamental rights. Freedom of assembly remains restricted in the *Republika Srpska* entity, where activists of the ‘Justice for David’ movement have been subject to intimidation and judicial prosecution, and where a crime of offence to the reputation of the *Republika Srpska* entity and its peoples was introduced in August 2021. Significant reforms are needed to ensure that all citizens are able to effectively exercise their political rights and thus bring the country’s constitutional and legislative framework into line with the *Sejdić-Finci* case-law of the ECtHR. Divided education needs to end in order to ensure non-discriminatory, inclusive and quality education for all, including by overcoming the practice of ‘two schools under one roof’. Gender-based violence, ill-treatment of detainees and the protection of minorities, including the Roma,<sup>6</sup> are also issues of concern. The country needs to develop a comprehensive strategic framework on human rights and on the protection of minorities, including on transitional justice. Previous years’ recommendations remain outstanding.

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

- implement court rulings to put an end to divided education;
- designate by law the Human Rights Ombudsman as preventive mechanism against torture and ill-treatment;
- ensure full respect, protection and promotion of freedom of assembly and expression, and refrain from further actions that adversely impact the exercise of these rights.

Bosnia and Herzegovina has ratified all major European and **international human rights instruments**, most of which are included in its Constitution. There was no systematic follow-up to the 204 accepted recommendations from the November 2019 Universal Periodic Review. Despite not having observer status to the EU Agency for Fundamental Rights (FRA), Bosnia and Herzegovina is encouraged to replicate the agency’s methodology for data collection.

The **European Court of Human Rights** (ECtHR) delivered 8 judgments concerning 19 applications in 2020 (down from 21 in 2019 and 6 in 2018) finding that Bosnia and Herzegovina had violated rights guaranteed by the European Convention on Human Rights (ECHR) in one case. The Court dealt with 2,059 applications concerning Bosnia and Herzegovina during 2020, bringing the total number of applications pending before the court to 530. There are three groups of cases under standard and enhanced supervisory procedure, concerning electoral rights, repossession of properties, and detention conditions for vulnerable persons. The *Sejdić-Finci*, *Zornić*, *Šlaku*, *Pilav* and *Pudarić* rulings require constitutional amendments to ensure the equality of political rights among all citizens; they have still not been implemented.

Bosnia and Herzegovina has not taken any steps towards adoption of a comprehensive policy framework on the **promotion and enforcement of human rights**, including countrywide strategies on human rights, on non-discrimination, and on the protection of minorities. Consequently, the protection of human rights continues to be uneven across the country.

Bosnia and Herzegovina still needs to amend the Law on the Human Rights Ombudsman in order to improve the independence and effectiveness of this body and designate it as national

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

preventive mechanism against torture and ill-treatment – an international obligation of the country. The tripartite composition and consensual decision-making of the Ombudsman institution also still needs to be revised in the mid-term to ensure its effective functioning. In 2020, 2,716 complaints were registered by the Ombudsman (down from 3,218 in 2019). 270 recommendations were issued in 312 cases, down from 304 in 174 cases in 2019, partly due to the pandemic. The Ombudsman has not made use of its prerogative to open minor offence proceedings for non-compliance with its recommendations in the past 5 years nor has it initiated or intervened in administrative or judicial proceedings.

As regards **torture and ill-treatment**, the Ombudsman received 92 complaints in 2020, down from 129 in 2019, and 144 in 2018, partly due to the pandemic, despite the option of online submission. Reports of ill-treatment of suspects and prisoners in police stations and detention facilities continued to be processed at a slow rate and only a few officers are punished.

There is no countrywide strategy on the **prison system**, and no steps were taken to improve detention conditions, starting by harmonising the legislation across the country and bringing it in line with with European and international standards. The Federation entity still needs to adopt legislation on the execution of criminal sanctions to allow the inter-entity transfer of prisoners, staff professionalisation and a parole system. The State prison in East Sarajevo was opened in July 2020, three years after completion, and it is fully operational since December. Visits to inmates were suspended during the pandemic, save for defence lawyers. Digitalisation, reintegration programmes, and coordination with healthcare and social services require improvements. The country should further expand the use of alternatives to detention, in particular in the *Republika Srpska* entity.

No steps were taken to adopt a state-level framework law clearly defining countrywide criteria on the rights of civilian victims of war-time torture in order to fulfil its pending obligations under the Convention against Torture. The country took preparatory steps to address the August 2019 decision of the UN Committee against Torture (UNCAT) related to provision of all forms of redress to victims of wartime torture via an effective reparation scheme. However, significant additional efforts are needed to ensure its implementation. In the meantime, entity governments should consider waiving court fees for victims of wartime torture to which statutes of limitations were applied in the past. Bosnia and Herzegovina still lacks a countrywide a policy framework for dealing with the legacies of the past, including a countrywide strategy on transitional justice, and no concrete steps were taken to promote an environment conducive to **reconciliation** in order to overcome the legacies of the war. Political leaders continued to engage in historical revisionism, including genocide denial and glorification of war criminals, also contesting established facts and the independence or impartiality of international and domestic tribunals. In April and June 2021, historical commissions financed by the *Republika Srpska* entity government issued their final reports, which open the door to revisionism and minimisation of the siege of Sarajevo and of the Srebrenica genocide. A plaque honoring Radovan Karadžić was removed from a student dormitory in Pale in December 2020. The Presidency also adopted a constructive joint declaration to mark the 25<sup>th</sup> anniversary of the Dayton Peace Agreement in December 2020, although they did not hold a joint commemoration of civilian victims of the war. In July 2021, outgoing High Representative Inzko used its executive powers to introduce a crime of denial of genocide and war crimes. Bosnia and Herzegovina leaders are expected to act in a sovereign manner to promote an environment conducive to reconciliation in order to overcome the legacies of the war.

The continued unresolved issue of *missing persons* is a matter of concern. 6,377 people are still missing as a result of the conflict, of which 55 were identified in 2020, and 8 more by

May 2021. Further efforts are needed on a regional scale to solve the issue. There was no progress in establishing a support fund for the families of missing persons, as provided for by the law, and improving the work of the Missing Persons Institute.

No progress was made in aligning the legislation with the EU *acquis* on **data protection**. Bosnia and Herzegovina has signed Protocol 223 amending the Council of Europe Convention for the protection of individuals with regard to the automatic processing of personal data; ratification is pending. The Personal Data Protection Agency needs to be fully independent and have adequate human and financial resources; it should better balance the protection of privacy with objectives of general public interest, notably media freedom, electoral integrity, and the fight against corruption. The Agency conducted 101 procedures *ex officio* in 2020 (up from 66 in 2019). It received 168 complaints, conducted 36 inspections and issued 10 minor offence orders (compared to 131, 36 and 25 in 2019). 17 administrative proceedings against decisions of the Agency were pending before the Court of Bosnia and Herzegovina, compared to 21 in 2019. While the State Parliament has to consult the Agency on legislative proposals, other legislative assemblies are not required to do so.

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## Freedom of expression

There is **some level of preparation** on freedom of expression. The country made **no progress** on addressing the Opinion key priority 12 on guaranteeing freedom of expression and of the media and the protection of journalists by ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers, and ensuring the financial sustainability of the public broadcasting system. Last year's recommendations remain valid. The legislative framework needs to be aligned with European and international standards and fully enforced. Political influence over public broadcasters persists, and their financial sustainability has not been secured. The law on the public broadcasting system remains unimplemented and entity-level legislation is still not harmonised with this Law. Political pressure, intimidation and harassment towards journalists, including physical and verbal attacks continued during the reporting period, without appropriate institutional follow-up.

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

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

### Intimidation of journalists

Serious concerns continue to persist over political pressure, intimidation and threats against journalists. High-level politicians have resorted to public attacks and disparaging remarks against journalists, analysts and media workers, particularly women. The authorities continue to downplay the issue and there is no data collection by public institutions on threats and attacks against journalists and media workers. The *BH Novinari* association recorded 69 cases of violation of journalists' rights in 2020, up from 56 in 2019. The Ombudsman received 11 complaints, compared to 18 in 2019 and 9 in 2018. Authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against the media, including by ensuring effective police investigations and judicial prosecution leading to final convictions of perpetrators.

### Legislative environment

Despite the decriminalisation of defamation since 2002, politicians continue to use civil suits to intimidate journalists. Courts should step up their efforts to ensure an expedient processing of defamation cases and consistency of case law on damage awards, to prevent any chilling effect that would force journalists into self-censorship. The legislation on freedom of access to information and on hate speech remains fragmented and not in line with international and European standards. The legal provisions on data protection and on access to information are still interpreted in a way that protects private rather than public interests.

### Implementation of legislation/institutions

The Communications Regulatory Agency (CRA) still lacks full political and financial independence. The procedure to appoint the CRA management needs to be revised to improve its public perception as a neutral and independent body. The former head of the *Republika Srpska's* public television, RTRS, was appointed as new CRA director in July 2020; the CRA had sanctioned RTRS multiple times during his mandate for non-respect of editorial standards, including for historical revisionist statements as regards the May 1995 massacre in Tuzla.

### Public service broadcaster

The 2003 law on the public broadcasting system continues to be only partially enforced, and entity laws on broadcasting are still not aligned with it. Therefore, the three public broadcasting services continue to be exposed to political influence, in particular through politically controlled steering boards, with a worrying trend of self-censorship. The country continues not to have an appropriate model for collecting fees, as provided for by the law. The substantial unpaid debts of entity broadcasters towards the state-level broadcaster are subject to lengthy litigation. Such issues continue to pose a threat to the financial independence and sustainability of the public broadcasting system. Bosnia and Herzegovina also needs to proceed with the digital switchover, which is now overdue. With analogue transmission licenses expiring by end 2021, several local private and public stations risks seeing their broadcasts restricted, affecting access to information for the poorest residents in rural areas. (*Also see Chapter 10 – Information society and media*)

### Economic factors

No steps were taken to adopt legislation on media ownership transparency, to ensure transparency and prevent hidden media concentration, nor legislation on advertising or criteria for the distribution of subsidies. The advertising practices of publicly owned enterprises, such as telecom companies, and advertising agencies linked to political parties continue to harm media integrity. Local broadcasters which receive funds from local authorities remain subject to political pressure and influence.

### Internet

Self-regulation of online media is of limited effect, and online platforms continue to be used to spread hate speech and disinformation. Criminal prosecution is limited to the offence of inciting religious and ethnic hatred through the internet or social networks.

### Professional organisations and working conditions

Journalism in Bosnia and Herzegovina remains a precarious profession, with low wages and little job security, further deteriorating even more during the pandemic. Labour rights are hardly respected, unionisation is low, and there are no branch collective agreements for media workers. The Press Council's media code remains the basis of self-regulation, but compliance

is uneven.

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**Freedom of thought, conscience and religion** continue to be generally upheld. Cases of discrimination, hate speech and hate crimes on religious grounds continue to occur, as do incidents targeting religious sites, particularly in minority areas.

**Freedom of assembly** laws still need to be harmonised across the country and brought in line with European standards, in particular on grounds for restriction and responsibility of organisers, as highlighted by the organisation of Pride Marches in Sarajevo. The Brčko District adopted in July 2020 a law on freedom of assembly, largely in line with European standards, which should be used as a model in other jurisdictions. Epidemiological measures restricting public gatherings have been unevenly enforced, as pre-electoral events ahead of the October 2020 municipal elections were not subject to limitations. The exercise of freedom of assembly remains restricted in the *Republika Srpska* entity, where human rights defenders and members of ‘Justice for David’ movement have been subject to intimidation and judicial prosecution, including for some of the most serious criminal offences (incitement to violent change of the constitutional order), before being acquitted in court. Environmental protests in Mostar saw the police use force to remove demonstrators, who were subsequently fined and prosecuted. The third Sarajevo Pride march took place peacefully in August 2021; for the first time, the cantonal authorities agreed to cover all additional security costs.

**Freedom of association** continues to be generally upheld. However, human rights defenders dealing with sensitive issues (women’s rights, LGBTIQ, migrants, environment) continue to be subject to threats, harassment, verbal abuse and physical attacks. The authorities have failed so far to promptly and systematically condemn and adequately investigate such attacks. As a key priority, the authorities need to promote a conducive and enabling environment for civil society, and ensure effective consultation on legislative developments on freedom of association.

*Issues of labour and trade union rights are covered in Chapter 19 – Social policy and employment.*

Regarding **property rights**, no steps were taken to update and interconnect the entity-level cadastre and land registry databases and no solution was found to pending repossession cases. The Commission for real property claims of displaced persons and refugees has still not resumed operations. The October 2019 ECtHR *Orlović* ruling was enforced in June 2021.

Concerning **non-discrimination policies**, there was no progress towards adoption of countrywide human rights and anti-discrimination strategies. The 2009 law on the prohibition of discrimination, which aims at full alignment with the EU *acquis*, is still not applied effectively, and there is no reliable data collection. Discrimination continues to be under-reported, particularly at the workplace, and judicial practice has shown a lack of uniform application of burden of proof, excessive length and non-enforcement of final decisions. The Ombudsman registered 288 cases in 2020, in a continued upward trend from 206 in 2019, 196 in 2018 and 174 in 2017. The ECtHR *Sejdić-Finci* case law has still not been implemented. Disputes over education continue, whilst systemic solutions for ensuring inclusive and non-discriminatory education are not in place. The common core curriculum has not yet been completed or applied throughout the country, and the availability of teaching in the national groups of subjects remains limited. No progress was achieved in eliminating the practice of ‘two schools under one roof’, which is in breach of a 2014 ruling by the Federation entity Supreme Court. In July 2021 the Constitutional Court established discrimination also concerning the ‘two schools under one roof’ practice in the Central Bosnia canton. Online

education also was implemented via separate platforms, furthering divisions. The name of the Bosnian language is not recognised in schools in the *Republika Srpska* entity, leading to recurrent school boycotts; the related Constitutional Court decisions are yet to be implemented.

Legislation on **hate crimes** is harmonised across the four criminal codes in the country. Entity-level legislation criminalises **hate speech** only when causing national, racial and religious hatred and it still needs to be aligned with the EU *acquis*. In July 2021 the High Representative enacted amendments to the criminal code expanding the scope of such criminal offence. Failure to identify acts as hate crimes and the high burden of proof still makes it difficult to establish intent, leading to few indictments and convictions. 119 ethnic-related hate incidents were recorded and 3 convictions were handed down in 2020, compared to 131 and 1 in 2019 and 121 and 2 in 2018. 8 trials are ongoing. The case law on hate crimes is not consistent. The authorities need to take concrete measures to counter hate speech, particularly in official discourse. The prohibition of hate speech in online media is not monitored nor enforced. The implementation of the Council of Europe Convention on cybercrime and its additional protocol remains only partial.

Legislation on **gender equality** remains to be harmonised across the country and effectively enforced. The country has a 2018-2022 gender action plan, as well as an action plan on women, peace and security. The *Republika Srpska* entity adopted a 2020-2024 strategy for combating domestic violence. Women are under-represented in politics and public life. Gender impact assessments are not carried out as required by law. Women are estimated to earn on average 78% to 85% of a man's salary for the same position. The treatment of maternity, paternity and family leave differs between entities and among cantons. The institutional response to gender-based violence needs to be improved, including on protective measures, victim support, legal aid and safe accommodation. Bosnia and Herzegovina needs to accelerate the prosecution of crimes of sexual violence, provide reparation to women victims of war crimes, and secure witness protection. Data collection needs to be improved to enable the development of sound policies targeting key gender gaps, and provide relevant data on gender-based violence. The pandemic had the most negative effects on the economic wellbeing of women and girls. The electoral campaign brought stereotypical portrayal of women in the public and media sphere. (*Also see Chapter 19; on women victims of trafficking in human beings, see Chapter 24*)

As regards the **rights of the child**, Bosnia and Herzegovina still needs to develop and adopt a new action plan on child protection. In 2020, the Ombudsman received 185 complaints on children's rights (198 in 2019, 216 in 2018). There are around 1,623 children without parental care in the country (2019 data). Transition towards community-based care is progressing slowly. Measures are required to prevent family separation and provide foster care and alternative solutions, as well as support to children leaving care institutions at the age of 18. Child exploitation and child begging remain of concern. Only a small number of cases of violence against children are reported. Not all children are covered by compulsory health insurance, and marginalised groups, such as the Roma, face multiple forms of discrimination. The authorities need to collect precise and consistent data on child poverty rates and violence against all children. Unaccompanied migrant children face specific challenges, such as accessing safe accommodation and asylum procedures. 351 unaccompanied migrant children were identified in 2020 (533 in 2019, 324 in 2018). 987 were appointed a legal guardian, as provided for by law (304 in 2019, 29 in 2018). Alternatives must be found to the detention of irregular migrant families with children, and the registration of births of children of undocumented migrants must be ensured. Public institutions have been weakened by the pandemic, while lower income affected families and children in terms of nutrition, domestic

violence and mental health. The closure of schools and the transfer to online education further contributed to inequality and placed a greater burden on both working parents and teachers.

Entity-level laws on **juvenile justice** have not been fully implemented or harmonised with each other. The absence of separate units for juveniles during pre-trial detention and in police stations is in breach of international standards. Alternative measures need to be used more, as detention should only be the last resort. Only limited reintegration measures are available to juveniles upon release from detention. By September 2021, there were 22 minors in prisons.

**Persons with disabilities** remain among the most vulnerable groups and there was no progress in addressing the concerns previously identified, including as regards deprivation of legal capacities, status-based discrimination, accessibility. Both entities adopted strategic frameworks for persons with disabilities. The law continues to allow persons with disabilities to be deprived of legal capacity through a judicial process, which is in violation of international conventions. No steps were taken to move from a status-based approach (with war veterans and civilian victims of war enjoying priority) to one based on needs, with a uniform definition of disability, and harmonized eligibility criteria, rights and standards of social protection across the country. Persons with disabilities continue to face hurdles to access education, healthcare and social assistance. Very few public buildings are made accessible. The Council for Persons with Disabilities needs to be further engaged in all relevant processes. The authorities also need to improve data collection, including gender-disaggregated data.

Children with disabilities are one of the most marginalised and excluded groups, facing stigma and discrimination, and inadequate services, especially in health and education. Many are placed in residential institutions, in violation of international conventions. Institutionalisation of children negatively impacts their development and participation in society and exposes them to mistreatment and abuse. There is still no strategy on deinstitutionalisation that would enable multisectoral support to children and adults including the capacity building and strengthening of human resources of public services. (*see also Chapter 28 – Consumer and Health Protection*)

An action plan on the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons** was developed and is pending adoption by the Council of Ministers. The four criminal codes are harmonised to include hate crimes on grounds of sexual orientation and gender identity; the prosecution of hate crimes and hate speech against LGBTIQ persons remains insufficient. The legal system fails to recognise the social and economic rights of same-sex couples, including the right to family life; a report identifying the necessary legislative amendments is pending adoption by the Federation entity government since April 2021. The social inclusion of intersex and transgender persons, who are particularly marginalised, has yet to improve. The third Sarajevo Pride march took place peacefully in August 2021; for the first time, all additional security costs for the assembly were covered by the authorities. The Sarajevo Open Centre documented 13 hate incidents against LGBTIQ persons, including cases of domestic violence.

The **procedural rights** of suspects, accused persons, witnesses and victims are generally upheld, although access remains uneven across the country. The four criminal procedure codes are yet to be further harmonised, and their enforcement is uneven. Bosnia and Herzegovina needs to ensure the right to immediate access to a lawyer while in police detention. In order to address systemic violations of the right to a fair trial within a reasonable time and the right to an effective remedy, as identified by the Constitutional Court, in October 2020 the *Republika Srpska* entity and in February 2021 the Brčko District adopted laws to protect the right to trial within a reasonable time; similar laws are pending adoption at the

State level and in the Federation entity. Without comprehensive coverage and clear minimum common standards, the right to legal aid continues to be upheld unevenly, to the detriment of the most vulnerable. The legal framework needs to be completed by adopting laws in the Federation entity and the Central Bosnia Canton. A needs assessment is required to identify and address the main gaps and ensure effective equal access to justice for all, irrespective of the place of residence.

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

The participation in political and public life of members of national **minorities** remains low. No progress was made towards adopting a countrywide strategy on national minorities; the *Republika Srpska* entity adopted a 2020-2024 strategy in October 2020. The Brčko District adopted a law on the rights of national minorities in October 2020; a national minorities' council in the district is yet to be established. In February 2021, the Parliamentary Assembly improved the manner and procedure of electing the members of the State-level national minority council and prescribing the duration of their mandate. State- and entity-level national minorities' councils should become more active in developing practical, political and legislative initiatives. In 2020, the Ombudsman received three complaints concerning minority rights (compared to seven in 2019 and four in 2018) and issued one recommendation.

The **Roma** (estimated at 58,000) are the most vulnerable and disadvantaged minority. Prejudices and anti-gypsyism still hinder their social inclusion. Roma women in particular face multiple forms of discrimination. The action plans implementing the 2005 Roma strategy require appropriate funding from all levels of government and constant monitoring, including by the Roma Advisory Board (Roma Committee). The government should adopt a comprehensive Roma action plan (encompassing housing, employment, education, healthcare, and cross-cutting issues). The legalisation of informal settlements is ongoing but uneven. Discrimination in employment is rampant, with very high unemployment rates. Compulsory education enrolment rates have increased, but the number of school drop-outs remains very high. While classes or schools are not segregated, there is no teaching in and of the Romani language, and the awareness of Roma culture among the rest of the population is very limited. Around two thirds of Roma have access to healthcare; children outside education and elderly Roma face the biggest hurdles. The process of civil registration is well advanced. No step was taken to remove outstanding administrative obstacles, including residence requirements for birth registration and for access to healthcare and education, and to recognise documents for children born abroad. The authorities acted during the pandemic to support the most vulnerable, however the grants allocated to support the social inclusion of the Roma were cut by half.

Bosnia and Herzegovina hosts around 100,000 **refugees and internally displaced persons**, following the conflict in the 1990s, of which 5,792 still live in collective centres and alternative accommodation. Minority returnees are among the most common targets of ethnically driven hate speech and hate crimes. The 2010 revised strategy for the implementation of Annex VII to the Dayton Peace Agreements has not yet been fully implemented. To complete the process of return and fulfil its obligations to allow closure of Annex VII, Bosnia and Herzegovina should ensure full cooperation among all levels of government in order to ensure the enjoyment of the rights of returnees and harmonise their access to services and resources. The country also needs to provide adequate humanitarian assistance and protection (including shelter, food and medical assistance) and effective access to the asylum procedure to the asylum seekers and migrants present on its territory since 2018. Arbitrary limitations to the human rights of foreigners, including restrictions of

movement introduced during the pandemic, should be removed, and the respect of the *non-refoulement* principle should be ensured. (See also Chapter 24)

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

*The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. EU Member States also cooperate with Bosnia and Herzegovina in the fight against organised crime and terrorism, and in judicial, police and custom matters and are supported by the EU Justice and Home Affairs Agencies.*

Bosnia and Herzegovina has **some level of preparation** to implement the EU *acquis* in this area. **Very limited progress** was made in this chapter, in particular as regards the Opinion key priority 8 on the management of migration and asylum. Last year's recommendations remain outstanding. The country has several strategies in place, and legislation in some areas is broadly aligned with the EU *acquis*. However, legislation is not harmonised across the country, and institutional cooperation and coordination are weak. As a result, implementation is often uneven and unsatisfactory.

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

- adopt a strategy for preventing and combating terrorism and improve capacities by enhancing the exchange of criminal intelligence and establishing programmes to prevent radicalisation and facilitate disengagement from violent extremism;
- significantly improve the management of migration and asylum system, and ensure effective coordination; ensure sufficient and suitable accommodation facilities, fairly distributed among all entities and cantons; ensure access to asylum procedures; increase border surveillance, including human resources and equipment; improve the legal framework and capacities for voluntary and forced returns;
- adopt the action plan on drugs.

#### **Fight against organised crime**

Bosnia and Herzegovina **is at an early stage/has some level of preparation** on the fight against organised crime. **No progress** was made in addressing the Opinion key priority 7 on the fight against organised crime and last year's recommendations, which remain valid. The country has several strategies in place, notably on trafficking in human beings and integrated border management. However, the legal framework is not harmonised across the country. There are systemic shortcomings in the operational cooperation of law enforcement agencies, due to non-harmonised criminal legislation, weak institutional coordination, and a very limited exchange of intelligence. Criminal organisations operating in the country take advantage of legal and administrative loopholes. The police are vulnerable to political interference. Financial investigations and asset seizures are largely ineffective. A proactive approach remains fundamental to countering criminal infiltration of the political, legal and economic systems. While the authorities have taken some preparatory steps, cooperation with Europol is still not operational. The country also needs to establish cooperation with Eurojust.

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

- develop and adopt a strategy and action plan for the fighting against organised crime, based on a new serious and organized crime threat assessment (SOCTA) in line with the Europol methodology involving competent authorities from all levels of government;
- strengthen cooperation among law enforcement agencies, notably by establishing

specialised multi-agency investigation teams for complex cases; improving mutual access to databases and the secure exchange of information; strengthening financial investigations; and adopting standard operating procedures to run financial investigations;

→ finalise the establishment of a fully-functional national contact point for cooperation with Europol, sign an agreement on operational cooperation with Eurojust, and establish a firearms focal point.

### Institutional set-up and legal alignment

There are multiple law enforcement agencies in the country, out of which 15 have investigative powers. There are 481 police officers per 100,000 inhabitants, compared with the EU average of 326 in 2017, according to Eurostat.

There was no progress in harmonising **police legislation** at all levels, which hampers effective police cooperation, in line with European standards. Failure to adhere to rule of law and democratic principles, including political influence remain a source of major concern. The professionalism and accountability of law enforcement agencies needs to be significantly improved. No progress was achieved in ensuring appointments and promotions based on merit, including for independent board members.

The legal framework on the **fight against organised crime** is only partially aligned with the EU *acquis*. The absence of progress in establishing asset management capacity at the state level is of particular concern. Extended and third-party confiscations are possible, but they are rarely used (no case in 2020). The country should establish or designate an asset recovery office in charge of the identification and tracing of criminal assets in order to enhance effectiveness and facilitate operational cooperation with EU Member States. The country should step up the fight against transnational organised crime networks.

The legislation on **trafficking in human beings** needs to be further aligned with the EU *acquis*, notably for sanctions. The country needs to further align its legislation on **cybercrime** with the *acquis*.

Legislation on the **civil possession of weapons** needs to be further aligned with the *acquis*. In May 2021 the Una-Sana canton adopted a new law on weapons, broadly in line with the EU *acquis*, which should be used as a model law by other cantons and entities. The legislative framework on explosives for civil use and the transport of dangerous goods need to be completed and aligned with the EU *acquis* across the country, including on marking and deactivation standards, as in some cases regulations from former Yugoslavia still apply

Legislation on **anti-money laundering** and **counter terrorism financing** need to be aligned with the 4<sup>th</sup> and 5<sup>th</sup> EU directives on anti-money laundering and countering financing of terrorism (AML/CFT). An updated risk assessment needs to be prepared, followed by an action plan.

The strategy for preventing and combating terrorism expired in December 2020. Its absence hampers the country's capacity to combat terrorism and prevent violent extremism. Bosnia and Herzegovina should systematically monitor and assess the impact of existing strategies before adopting new ones. Concrete results-based indicators should be in place. The country should prepare a new **serious and organised crime threat assessment** (SOCTA), in line with Europol methodology, followed by strategic and operational action plans. Bosnia and Herzegovina contributed to the preparation of the EU SOCTA, providing data on 12 crime areas and 29 organised crime groups. In January 2020, Bosnia and Herzegovina adopted a 2020-2023 **strategy to counter trafficking in human beings**. The country still lacks a strategic framework to address **cybercrime**; a strategy is only in place in the *Republika*

*Srpska* entity. In February 2021, Bosnia and Herzegovina adopted a 2021-2024 strategy and action plan for the control of **small arms and light weapons**, in line with the objectives and indicators of the roadmap for a sustainable solution to arms control in the Western Balkans (WB SALW Control Roadmap).

#### Implementation and enforcement capacity

In 2020, there were 52 investigations into **organised crime** with 359 suspects, 22 indictments with 103 accused, 7 convictions with 54 convicted, and 23 acquittals (compared to 55 investigations against 417 suspects, 25 indictments with 134 accused and 26 sentences with 91 convicted in 2019). In 4 cases, plea bargain agreements were concluded with 27 individuals. As regards cybercrime, in 2020 there were 125 orders to conduct investigations, including for online child sexual abuse, against 129 individuals, with 41 indictments against 45 individuals. The number of convictions in 2020 is still very low (26 convictions for 31 individuals) with more than 50% being suspended sentences (14 convictions for 18 individuals).

The capacity to effectively dismantle criminal organisations is seriously hampered by to the lack of harmonisation of criminal legislation in the country, which is exacerbated by weak institutional coordination. As a result, there is a systemic lack of operational cooperation and a very limited exchange of intelligence, creating many opportunities for criminal organisations.

There is no overall policy for carrying out **financial investigations** on a timely and systematic basis and, where those were conducted, results have been insignificant. The guidelines on the mandatory use of financial investigations for corruption, organised and economic crime of the state-level Prosecutor's Office have lead to some results. There was an increase of the use of financial investigations ordered/led by the Prosecutor's Office in 2020 (13 investigations against 45 persons), compared to 2019 (8 investigations against 28 persons). Authorities need to adopt and implement standard operating procedures on the conduct of financial investigations. In one case of high level corruption with public resonance, SIPA refused to perform financial investigation as ordered by Prosecution Office, claiming that there were no basis to believe that money laundering was committed even after an indictment with such qualification was confirmed by the Court.

The Financial Investigation Unit within SIPA needs to become more efficient in fulfilling its legal responsibilities. In 2020, 10 reports against 26 natural persons and 10 legal entities, and 5 additions to the reports against 13 persons, were sent by SIPA to the competent prosecutors' offices on the suspicion of committing money laundering in the amount of EUR 6,587,977. Cooperation and exchange of crime-related data between domestic law enforcement agencies and with other countries of the region need to be improved. In 2020, there was an overall increase in the number of investigations and confirmed indictments of money laundering, with 134 investigations of money laundering (53 in 2019) involving 144 individuals, 121 confirmed indictments (37 in 2019) against 125 suspects, and 120 convictions against 123 defendants. It is however concerning that only 5 prison sentences were rendered, while having 1 conditional sentence and 114 fine sentences.

The tools for **freezing, managing and confiscating criminal assets** are not sufficiently effective. The confiscation of criminal assets needs to become a strategic priority in the fight against organised crime, terrorism and high-level corruption. The freezing of assets needs to be used more systematically and the management of frozen assets needs to be improved. Data collection and analysis on asset seizure and confiscation needs to be further developed and used as a tool to improve the effectiveness of management. The value of asset confiscations in 2020 amounted to over EUR 11.5 million for 87 cases in first instance and 14 final

convictions, compared to EUR 11.8 million in 2019.

Proactive investigations that start with **intelligence-led policing** remain rare, compared with those launched on the basis of reports received. The insufficient cooperation between law enforcement agencies seriously affects the quality of investigations.

Arrangements for practical **cooperation between prosecutors' offices and the police** are in place, but require structural improvements to guarantee a more effective judicial follow-up, prevent procedural delays, and replicate good practices. Weaknesses in cooperation have been notably exposed in the investigation on alleged fraud related to the procurement of COVID-19 medical equipment (ventilators). The poor cooperation between SIPA and the State-level prosecutor's office is a cause of major concern given its serious impact on investigations, especially in cases of high-level corruption. Leaks of information on ongoing investigations have also been reported.

The system of electronic exchange of data from the records of police authorities and prosecutor's offices needs to be fully functional and ready for use by all signatories of the 2009 agreement. Forensic capacity is fragmented. There is no operational countrywide DNA database and the DNA profiling capacity is limited. There is no swift exchange of forensic data with other countries. The establishment of a new automated fingerprint information system (AFIS) is long overdue. While required by law, there is no effective, coordinated and consistent countrywide approach on using undercover investigators.

The March 2017 agreement on operational and strategic cooperation with **Europol** remains unimplemented. In January 2021 the Ministry of Security issued an instruction on the establishment of a contact point for Europol. A coordinator was appointed in July 2021. A venue in the Ministry of Security has been allocated and needs to be equipped. The deployment of the liaison officer to the Hague is also delayed. Exchange of information with Europol is still taking place through a unit within the Directorate for Police Cooperation, whose mandate has expired, and with which the *Republika Srpska* entity has suspended operational cooperation. Putting into full operation the Europol contact point will allow to resuming direct cooperation between Europol and all police bodies in the country. The number of messages exchanged through the SIENA system decreased during 2020, compared to 2019; the roll-out of SIENA connections across the country should continue. Bosnia and Herzegovina has no access to the SIENA database on counter-terrorism. In 2020, the number of new cases opened bases of cooperation with Europol decreased by 13% compared to 2019. Bosnia and Herzegovina's participation in Europol's analysis projects has been put on hold and the use of Europol products and services has been very limited.

In 2020, Bosnia and Herzegovina participated in the Joint Action Days under the **EMPACT** (European Multidisciplinary Platform against Criminal Threats) against cybercrime, illegal arms trafficking, migrant smuggling and drug trafficking; participation intensified in the beginning of 2021. The country should establish an EMPACT coordinator and strengthen cooperation with EU Member States and neighbouring countries to dismantle organised smuggling networks. The law enforcement authorities should make use of regional initiatives, such as the Joint Operational Office in Vienna, which serves as a regional operational platform for international investigations into migrant-smuggling organised crime groups. Bosnia and Herzegovina has not yet signed the agreement between the parties to the police cooperation convention for Southeast Europe on the automated exchange of DNA data, dactyloscopic data and vehicle registration data and its implementing agreement. In 2020, Bosnia and Herzegovina participated in 2 cases at Eurojust related to organised crime, one of which involved participation in a joint investigation team (JIT). The country also participated in a JIT related to trafficking in human beings and money laundering.

he legislation on **trafficking in human beings** needs to be further aligned with the EU *acquis*, notably for sanctions. In 2020, 70 potential victims of **trafficking in human beings** were detected, and 34 perpetrators convicted (61 and 30 in 2019). 38 investigation orders were issued against 43 individuals. Bosnia and Herzegovina still lacks a referral mechanism for victims of trafficking in human beings. To strengthen inter-institutional cooperation, regional monitoring teams and a network of specialized prosecutors and investigators were established, with limited participation of representatives of the *Republika Srpska* entity. The authorities should improve detection and identification of both victims and perpetrators by using appropriate risk analysis and vulnerability assessment methods. The country still needs an appropriate compensation scheme for victims and mechanisms for confiscation of illegally gained assets of perpetrators. The **witness protection programme** requires improvements, notably in out-of-process protection. The authorities' capacity to effectively tackle **cybercrime**, including online child sexual abuse, and to respond to cyber security threats remains inadequate.

Bosnia and Herzegovina does not have a comprehensive legislative nor strategic framework on **cybersecurity** (a law on information security is in place only in the *Republika Srpska* entity). The country lacks an institutional set-up for cybersecurity. A Computer Security Incident Response Team (CSIRT) is operational only in the *Republika Srpska* entity.

As regards arms control, a total of 1,316 pieces of weapons, 20,343 pieces of ammunition, 18 pieces of mine-explosive materials, and 13,75 kg of explosives were seized in 2020, while **1,864 pieces of weapons and weapons parts were destroyed** (compared to 3,479 weapon pieces destroyed in 2019, 2,500 in 2018, and 10,800 in 2017). In 2020, there were 285 orders to conduct investigations into **weapons-related criminal offences** (illegal production, illegal possession, illegal trafficking) with 315 suspects, 225 indictments with 245 accused and 248 convictions (21 prison sentences, 37 fine sentences and 190 suspended sentences) with 270 convicted. Bosnia and Herzegovina still needs to establish a firearms focal point. The criminal codes are not yet harmonized with the UN Firearms Protocol. Bosnia and Herzegovina stands out for the relatively high number of voluntarily surrendered firearms.

Cooperation between Bosnia and Herzegovina and the EU Agency for Law Enforcement Training (CEPOL) is well established and based on a working arrangement. A dedicated contact point is in place. Bosnia and Herzegovina has full access to the CEPOL Exchange Programme as well as to the free of charge electronic learning system of CEPOL.

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

### Institutional set-up and legal alignment

The legal framework is only partly in line with the EU *acquis*, notably on minimum rules on drug-related criminal offences and sanctions. The legislation provides for the entire quantity of drug seized to be preserved as material evidence for court proceedings, rather than just a sample. The country should designate by law a correspondent for cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). An operational national drug observatory (NDO) remains to be established to provide factual, objective, reliable and comparable information concerning drugs and drug addiction and their consequences. Preparatory steps were taken to establish an early warning system to liaise with the EMCDDA on new psychoactive substances and new trends, but this is not fully operational yet. Coordination among competent agencies needs to be improved. Bosnia and Herzegovina should establish a focal point for drug issues for the entire country and introduce an early warning system and a rulebook on the use of cannabis for medical purposes.

Bosnia and Herzegovina has a 2018-2023 strategy on supervision over narcotic drugs,

prevention and suppression of the abuse of narcotic drugs, but there is no action plan to implement it. The *Republika Srpska* entity has its own strategy and action plan on drugs. In September 2020, the Council of Ministers re-activated a Commission for suppression of the abuse of narcotic drugs, composed of members of all entities at political level.

#### Implementation and enforcement capacity

In 2020 there were 2613 reported crimes related to drug abuse, 2166 orders to conduct an investigation, 5 judgments rejecting charges, 1245 filed indictments, 19 indictments with plea agreement, 730 indictments with sentencing warrant, 30 acquittals, 103 fine convictions, 15 convictions with reprimand, 1,208 convictions with suspended sentence and 453 convictions with prison sentence.

Bosnia and Herzegovina remains a country of transit and a final destination for drugs. The Council of Ministers has not updated the list of criminalised psychoactive substances, in line with the recommendations of the Commission for the suppression of abuse of narcotic drugs since 2011, with the consequence that a number of psychoactive substances may circulate freely. A more flexible mechanism is needed to regularly update this list. Professional capacity and cooperation with civil society needs to be improved. More funds are needed for harm reduction programmes and the social reintegration of addicted persons. Bosnia and Herzegovina cooperates with the EMCDDA. Overall, the data collection, analysis and reporting on drugs remains slow and the quality uneven. The necessary funding to maintain the ongoing data collection for all drug related indicators needs to be secured. The fact that most monitoring systems are not coordinated nationally but remain separate for each entity remains an obstacle to data collection. A Commission for drugs destruction is in place but the destruction of drugs takes place very rarely. The lack of secure storage prior to destruction is a matter of concern.

### **Fight against terrorism**

#### Institutional set-up and legal alignment

Anti-terrorism legislation is largely aligned with the EU *acquis* and relevant international law. Criminal legislation needs to be amended to ensure stricter sanctions for the offence of training and travelling abroad for terrorist purposes as well as for online terrorist content. A new law on anti-money laundering and terrorism financing in line with the EU *acquis* (4<sup>th</sup> and 5<sup>th</sup> AML/CTF directives) needs to be adopted. Laws on the protection of critical infrastructure (only present so far in the *Republika Srpska* entity) should be developed and adopted at all levels of government.

The strategy and a framework action plan for the prevention of and fight against terrorism have expired. A follow-up strategy should be adopted in line with EU policy, especially on preventing and countering violent extremism, covering all forms of radicalisation and violent extremism (political, ethno-nationalist and religious) and addressing them also in field activities on preventing/countering violent extremism (P/CVE).

The capacities and effectiveness of the counter terrorism task force and the counter-terrorism section of the State-level prosecutor's office need significant strengthening. The policy dialogue on counter-terrorism between the EU and Bosnia and Herzegovina takes place regularly. In February 2021 the country submitted its second report on the implementation of the 2019 arrangement to the 2018 joint action plan on counter-terrorism for the Western Balkans. The report shows a number of shortcomings and limited progress. The Ministry of Security needs to appoint a contact point for the implementation of this arrangement, which needs to continue.

### Implementation and enforcement capacity

Shortcomings still exist regarding the implementation of counter-terrorism laws as well as the structured and efficient cooperation between security agencies at all levels of government. The high-security State prison is operational since December 2020, and is now nearing full capacity. Very limited assistance is available, in prison or upon release, for disengagement from violent extremism. Significant further efforts are needed to prepare inmates for release, including former foreign terrorist fighters. Since 2015, there have been no reports of citizens of Bosnia and Herzegovina departing for conflict zones. Around 140 citizens of Bosnia and Herzegovina, including women and children, are deemed to remain in Syria and Iraq. In the reporting period, Bosnia and Herzegovina has not repatriated any of them. A reintegration programme for former foreign fighters and their family members continues to be implemented. Comprehensive approaches are required to address challenges including disengagement, rehabilitation and reintegration, both in prison and outside of prison. Lenient sentences combined with the absence of a probation service and systematic disengagement assistance may still represent a security risk. A multi-disciplinary mobile team of experts is supporting local authorities to handle challenges posed by citizens who have returned from foreign conflict zones and by ongoing radicalisation tendencies. It will be important to ensure the continuity of its work.

The country's capacity to investigate and prosecute the financing of terrorism and to counter terrorist content online needs to be further developed. An asset recovery office and a beneficial ownership register on legal persons are yet to be established. Coordination, cooperation and intelligence sharing between security agencies need to be improved, e.g. on the identification of a firearms focal point, or in the collaboration with the EU internet referral unit (IRU) at Europol to deal with terrorist content online. The agreement with Europol needs to be put into practice with the long-overdue establishment of an operational contact point.

Institutions responsible for labour, social welfare, education, youth and health at various levels of government need to be more effectively included in preventive efforts, as does civil society. Bosnia and Herzegovina is participating in the implementation of the Western Balkan Counter Terrorism Initiative (WBCTi) as part of the umbrella of the Integrative Internal Security Governance (IISG).

### **Legal and irregular migration**

#### Institutional set-up and legal alignment

The Law on Foreigners needs to be further aligned with the EU *acquis*, notably as regards access to rights for vulnerable migrants. Amendments adopted in May 2021 risk weakening the protection from *refoulement*. A new **strategy and action plan** on migration and asylum 2021-2025, which is under development, needs to be adopted urgently.

Bosnia and Herzegovina has concluded **readmission agreements** with the EU and Schengen associated countries, all the Western Balkan countries, Turkey, Russia, Moldova and Pakistan, as well as implementation protocols with 16 EU Member States. Their implementation is overall satisfactory. The readmission agreement with Pakistan, signed in November 2020, entered into force in July 2021. Bosnia and Herzegovina has proposed to initiate negotiations on readmission agreements with Bangladesh, Afghanistan, Morocco and Egypt.

#### Implementation and enforcement capacity

In 2020, the numbers of persons irregularly entering Bosnia and Herzegovina significantly decreased. In 2020, the authorities detected 16,183 arrivals, compared to 29,302 in 2019, a

decrease primarily due to the impact of the pandemic on global mobility. Overall, the top three declared countries of origin were Afghanistan, Pakistan and Bangladesh. In June 2021, approximately 6,000 migrants and asylum seekers were present in the country. Some 3,000 of them were sheltered in 5 EU-funded **temporary reception centres** and one emergency tent camp in the Una-Sana and Sarajevo cantons. However, facilities remain insufficient to ensure shelter and protection to those in need. The authorities are not hosting evacuees from Afghanistan.

The Ministry of Security has stepped up efforts to improve migration management. However, its competent agencies (Sector for Immigration and Readmission; Service for Foreigners' Affairs) remain significantly understaffed and partly under-equipped. Despite constant EU advocacy, the authorities at all levels of government have failed to coordinate their efforts, allocate suitable premises for reception centres and share the responsibility in hosting asylum seekers and migrants across the entire country. On 30 September 2020, the Una-Sana cantonal government unlawfully closed the EU-funded Bira temporary reception centre in Bihać, further stretching the already limited reception capacities. The December 2020 decisions of the Council of Ministers to reopen the centre were not implemented.

In April 2020, an emergency tent camp in Lipa, near Bihać, was opened as a preventive measure to provide essential hygiene and health services and reduce vulnerability to COVID-19 for around 1,000 persons staying outside accommodation centres in the Una-Sana Canton. Due to the failure of the authorities to put in place the necessary infrastructure to winterise the Lipa facility, the site had to close. The camp was subsequently damaged by fire. As a result, over 900 refugees and migrants, including minors, were left without access to shelter and basic services in winter conditions. Alternative available locations as well as the expansion of remaining accommodation centres were repeatedly vetoed by local authorities. The failure to act directly contributed to a humanitarian and security crisis. Following extensive EU engagement and support, an emergency tent camp was established in Lipa and living conditions gradually improved, although they remained below standards. The authorities subsequently decided to establish a permanent multi-purpose reception centre at Lipa for 1,500 asylum seekers, with EU funding and the support of IOM and other partners. The centre, which is managed by the Service for Foreigners' Affairs, should provide adequate living conditions and access to rights for asylum seekers and migrants, until a final decision is taken on asylum, other protection status or return. Bosnia and Herzegovina must reinforce capacity and take all necessary measures to effectively manage the centre, fully respecting fundamental rights, domestic legislation and international standards, including for screening and registration, the protection of vulnerable persons and detention.

Arbitrary restrictions on the maximum number of migrants in the canton imposed by the government of Una-Sana canton in 2019 remain in place. Cantonal authorities repeatedly attempted to prevent the arrival of migrants and refugees and imposed discriminatory and disproportionate restrictions of movement, leading to significant protection risks, in particular for the most vulnerable ones. The *Republika Srpska* entity authorities also continued to refuse access to migrants and to transport them to the inter-entity boundary line. Restrictions also affected the work of humanitarian partners and hindered their crucial access to vulnerable persons. The Ministry of Security has taken steps to improve access coordination.

Crisis response during the COVID-19 outbreak was overall satisfactory, preventing a larger spread and more severe consequences for the migrant population. Humanitarian partners continued to provide key assistance and to monitor that international standards are respected.

There has been some progress in the provision of essential services, in cooperation with humanitarian partners, to refugees and migrants. In 2020, authorities demonstrated limited

progress in providing vulnerable persons, especially minors, with protection and access to rights. Bosnia and Herzegovina must step up efforts to improve the protection of their human rights. The most vulnerable persons, such as unaccompanied and separated children, pregnant women, single parents, persons with disabilities, sick persons and victims of violence, need to be identified and referred for adequate assistance in line with international standards. Only the authorities of the Una-Sana and Sarajevo cantons are providing access to legal guardianship and facilitating access to education to unaccompanied children. The authorities opened an additional shelter for unaccompanied minors in Duje with adequate accommodation, protection and living conditions, but capacities do not suffice to address all the needs. Assigning legal guardianship and access to education for all unaccompanied minors in the entire country remains a challenge. In 2020, the authorities registered 351 unaccompanied minors in the country.

Migration and asylum management remains inadequate and shows significant institutional and coordination weaknesses. Most of the responsibilities have fallen upon the Una-Sana and Sarajevo cantons. The lack of political responsibility and negative rhetoric on the migration situation negatively affect the authorities' ability to provide necessary assistance. Bosnia and Herzegovina should take over full responsibility for the management of reception centres and adopt contingency plans to cope with possible increases. There should be fairer burden sharing among all entities and cantons and with the full ownership of State authorities in migration management. The growing resentment towards the presence of migrants requires active measures to address concerns of local communities. The Ministry of Security has increased efforts to improve coordination among the State and local level and take over responsibility in managing migration, which should be supported by all levels of government.

On **voluntary and forced return**, the return procedure for persons who are not in need of international protection requires improvements, also as it is mostly based on donors' assistance. Both the legal framework and its implementation require improvements. There was an improvement in the mechanisms for collecting, sharing and analysing **statistics** on migration in the Information System for Migration. However, biometric data collection requires further improvements. Violent collective expulsion (pushbacks) of migrants and asylum seekers back into Bosnia and Herzegovina continued to be reported in 2020 and 2021.

Cooperation needs to be improved on identification and return procedures. Bosnia and Herzegovina should increase efforts to establish readmission agreements with countries of origin and further improve the mechanisms for assisted voluntary return and reintegration. Ensuring return and readmission remains challenging, as neighbouring countries suspended accelerated readmission procedures due to the pandemic. In 2020, 195 foreigners were returned to neighbouring countries following readmission agreements (139 to Serbia, 53 to Montenegro and 3 to Croatia), compared to 329 in 2019. The number of third-country nationals returned to Bosnia and Herzegovina in 2020 under various readmission agreements amounted to 686, compared to 783 in 2019 and 652 in 2018. In 2020, 232 foreigners returned to their countries of origin via assisted voluntary return with support from the EU and IOM, compared to 837 in 2019. In 2020, authorities did not carry out any forced returns and did not repatriate any potential victims of human trafficking.

Bosnia and Herzegovina has one **immigration detention centre** in East Sarajevo (Lukavica) for persons awaiting expulsion from the country, with a maximum capacity of 120 persons. In 2020, the immigration centre held a total of 515 persons, including 17 accompanied minors.

## **Asylum**

### Institutional set-up and legal alignment

The legislation on asylum is broadly in line with international standards and the EU *acquis*. Further alignment is needed in particular in relation to procedural safeguards to ensure standardised procedures for the examination of applications for international protection and systematic access to procedural guarantees, on interview techniques, evidence assessment, guarantees for vulnerable groups and unaccompanied minors, access to rights and legal aid, as well as on the definition of asylum-seekers and refugees. Inter-agency cooperation and coordination needs to be further improved, in particular in the exchange of biometric data.

#### Implementation and enforcement capacity

Serious obstacles remain to ensure an effective access to asylum procedures. The Service for Foreigners' Affairs and the Border Police have insufficient capacity, in terms of staff and facilities, to register asylum intents expressed upon entry in the country. This has been an issue since 2018.

The Sector for Asylum of the Ministry of Security has very limited **human resources** and operational capacity, with only 5 employees working on the registration and assessment of asylum claims for the entire country, which is highly insufficient to ensure access to the asylum procedure. The number of interviewers and registration sites is insufficient. Increasing human capacity, including interpreters and cultural mediators, is needed in order not to rely only on external international support.

The asylum legislation needs to be better implemented, in particular to ensure the systematic respect of procedural guarantees for asylum seekers. Their rights as asylum seekers are not guaranteed evenly across the country, as their access to services varies depending on the reception centres' location. The access to asylum procedures and mechanisms should be strengthened to ensure faster processing of their claims and ensure that persons in need of international protection may receive it. As the authorities have not yet fully taken over the legal responsibility for all reception centres in the Una-Sana Canton, these centres are not recognised as valid residential addresses for asylum applications; applicants thus fall in a legal limbo, with protection risks. The authorities should ensure access to information, which is so far largely provided by international organisations and NGOs. The system for collecting and storing biometric identifiers requires additional improvements, especially for inter-agency information exchange. In 2020, out of 15,162 persons expressing intention to claim asylum in Bosnia and Herzegovina, 244 persons managed to apply for international protection, while 625 asylum requests were pending from 2019. Of them, one person was granted refugee status, 31 persons were granted subsidiary protection, 54 individual applications were rejected on merit, and applications of 546 persons were closed as the applicants left or attempted to leave the country or failed to show up for an interview. By end August 2021, 91 persons managed to complete asylum application in Bosnia and Herzegovina in the new year, compared to 182 in the same period in 2019, over a total of 10,279 persons expressing intention to claim asylum.

The **Asylum Centre** in Delijaš near Sarajevo has a capacity of 154 beds (which can be expanded to 300) but is only partially used, mainly due to its remote location and poor access to basic services. In June 2021, there were on average 12 asylum seekers in the centre.

In December 2020, Bosnia and Herzegovina adopted a 2020-2021 roadmap for cooperation with EASO on strengthening the asylum and reception systems in line with the Common European Asylum System (CEAS) and EU standards. Cooperation with EASO should be further strengthened, including via implementation of the joint roadmap.

#### **Visa policy**

Legislation on visa is broadly aligned with the EU *acquis*. Bosnia and Herzegovina maintains

visa-free regimes with Azerbaijan, Bahrain, Kuwait, Oman, Qatar, Turkey, Russia and China. Bosnia and Herzegovina implements a 'zero' visa-issuing policy on the state border. In order to ensure a well-managed migration and security environment, the country needs to fully align with the EU visa policy.

The security features of visas and travel documents are broadly aligned with EU standards. The control over passport procurement and issuing processes requires additional improvement. The IT infrastructure of the consular network abroad requires improvement, as Bosnia and Herzegovina has no technical capacities for gathering biometric data from visa applicants.

The **visa-free regime** with the EU continued to be smoothly implemented. 8,145 citizens of Bosnia and Herzegovina were refused entry in the Schengen+ area in 2020 (up from 4,270 in 2019), while 3,670 nationals of Bosnia and Herzegovina were found irregularly in the EU (4,290 in 2019). First time asylum applications also further decreased to 1,040 in 2020 (1,570 in 2019); 485 were lodged in the first five months of 2021, 52% more than in the same period of 2020. The asylum recognition rate in the EU further decreased to 2.6% (5.1% in 2019), excluding for humanitarian protection. Bosnia and Herzegovina continued good cooperation on readmission of its own and third country nationals on the basis of the readmission agreement with the EU and implementing protocols. 935 citizens of the country returned from EU Member States in 2020, out of 2,710 who received an order to leave (a return rate of 34%, compared to 40% in 2019). Attention should continue for the successful reintegration of returnees. The Commission's fourth report under the visa suspension mechanism of August 2021 concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks.<sup>7</sup>

## Schengen and external borders

### Institutional set-up and legal alignment

The state-level **Border Police** are responsible for managing the state border. The **legal framework** for border control is partly aligned with the EU/Schengen *acquis* and is implemented smoothly. Recently adopted legislation on border crossing control had limited impact, in particular in the border surveillance segment and is under revision.

The **integrated border management** (IBM) strategy and its action plan for 2019-2023, are broadly aligned with the EU *acquis*. Bosnia and Herzegovina has yet to establish a national coordination centre (NCC) in line with the EU/Schengen *acquis* and best practices for information sharing and coordination between all relevant law enforcement agencies. Risk analysis was improved in the process of exchanging data.

The training process was improved for further alignment with the common core curriculum of the European Border and Coast Guard (EBCG). The Border Police, despite its limited capacity and with support of other law enforcement agencies, demonstrated adequate operational flexibility in border management operations.

### Implementation and enforcement capacity

Following the increased influx of refugees and migrants since 2018, the authorities have redeployed available border guards. However, the response remains inadequate despite inter-agency redeployments in staff and support. The Border Police remains understaffed.

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<sup>7</sup> COM(2021)602 final and SWD(2021)206 final

Specialised training is regularly provided to improve the quality of border checks and other operations in the field but further improvements are needed.

The new **IBM strategy** for 2019-2023 is in place. Its implementation should be further improved, in particular in the area of border surveillance, inter-agency cooperation and capacity management. Activities on establishing the Advanced Passenger Information / Passenger Name Record (API/PNR) systems are in early stages.

The Border Police and the Service for Foreigners' Affairs further improved their risk analysis capacity through certification of trainers using Frontex risk analysis methodologies. The Joint Risk Analysis Centre based their analytical documents on the most recent Common Integrated Risk Analysis Model (CIRAM) II. It demonstrated satisfactory risk analysis capabilities. Data exchange with neighbouring countries improved, as well as data exchange between JRAC participating agencies. Overall risk analysis capacities require adequate training of additional specialized officers in the field. Further improvements on **infrastructure and equipment** are needed at border crossing points. **Border surveillance** resources remain limited and require additional improvements. The supervision of the green borders (outside the border crossing points) is not effective. The number of border patrols is insufficient, given the length of the border. Risk analysis-led border surveillance requires further improvement.

**Inter-agency cooperation** at border crossing points requires further improvement, especially in the fight against human smuggling and trafficking, migration response, and migration contingency planning. The **central investigation office** of the Border Police has executive powers across the country. Investigation capacities improved. The combined efforts of the Border Police with other agencies in fighting human smuggling resulted in higher detection rates. In 2020, the Border Police detected 7 cases of human smuggling and raised 6 charges against 12 suspected perpetrators. Cooperation with the Europol's European Migrant Smuggling Centre is limited in data exchange and participation of agencies of Bosnia and Herzegovina.

On **international cooperation**, the country is a signatory to a number of agreements with neighbouring countries. The Border Police cooperates with the European Border and Coast Guard Agency (Frontex) and Interpol at a satisfactory level. Bosnia and Herzegovina needs to sign and ratify the **status agreement** with the EU, initialled in January 2019, that would allow Frontex to deploy its standing corps at the country's border with the EU, to carry out operational activities together with the Border Police. Bosnia and Herzegovina participates in the Western Balkan Risk Analysis Network (WB-RAN) led by Frontex. The country should sign border agreements with Croatia and Serbia and demarcate the border with Montenegro. The joint police cooperation centre in Trebinje improved information exchange, despite limited capacity. The local border traffic agreements with neighbouring countries are satisfactorily implemented. Joint patrols with neighbouring countries are suspended due to the pandemic, with limited activities at joint locations.

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

The legislative framework for mutual legal assistance in civil and criminal matters is not always applied effectively. There has been an overall decrease in the number of request for judicial cooperation in 2020 due to the pandemic. In 2020, the Ministry of Justice recorded a total of 2,698 requests for judicial cooperation in civil matters, 70% of them originating from EU Member States (primarily Croatia, Slovenia, Austria, Germany and Italy). In 2020, there were 2,090 requests for judicial cooperation in criminal matters, 38% originating from EU Members States (primarily Croatia, Slovenia, Austria, Germany and Italy). The statistics on enforcement of foreign judgments in criminal matters (transfer of convicted persons and take-over of enforcement of criminal sentences) have remained stable, with 61 requests in 2020 out

of which 57 were granted, compared to 52 in 2019. 17 requests were originating from EU Member States and the average completion rate remains six months.

The country needs to accede to certain instruments developed within the framework of the Hague conference on private international law such as the Convention of 19 October 1996 on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, and the Protocol of 23 November 2007 on the law applicable to maintenance obligations.

Bosnia and Herzegovina does not have a cooperation agreement with Eurojust; it appointed four contact points for relations with Eurojust. In 2020, the country was involved in 14 cases at Eurojust, a significant increase compared to 6 in 2019. With the new Eurojust regulation becoming applicable in December 2019, Bosnia and Herzegovina needs to relaunch negotiations with the Commission for an international agreement on cooperation with Eurojust. As a prerequisite, Bosnia and Herzegovina needs to adopt a new law on personal data protection in line with the EU *acquis* and strengthen the operational capacity of the Personal Data Protection Agency. Moreover, the Prosecutor's Office needs to adopt by-laws, notably to better define how the parties to a case can access their personal data via the Prosecutor's Office website. Bosnia and Herzegovina also needs to establish cooperation with the European Public Prosecutor's Office (EPPO), which started its activities in June 2021.

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

### 2.3. ECONOMIC CRITERIA

	2012-17 average	2018	2019	2020
<b>Bosnia and Herzegovina - Key economic figures</b>				
<b>GDP per capita (% of EU-27 in PPS)<sup>1)</sup></b>	31	32	32	33
<b>Real GDP growth</b>	2.2	3.1	2.9	-4.6
<b>Economic activity rate of the population aged 15-64 (%), total</b>	54.2	54.2	55.5	58.2
<i>female</i>	42.0	41.8	44.4	46.1
<i>male</i>	66.2	66.4	66.4	70.4
<b>Unemployment rate of the population aged 15-64 (%), total</b>	26.6	18.9	16.4	16.2
<i>female</i>	29.8	21.0	19.7	19.0
<i>male</i>	24.7	17.6	14.2	14.4
<b>Employment, total (annual growth %)</b>	2.5	2.9	1.6	-2.0
<b>Nominal wages (annual growth %)</b>	0.7	3.1	4.3	3.8
<b>Consumer price index (annual growth %)</b>	0.0	1.4	0.6	-1.1
<b>Exchange rate against EUR</b>	1.96	1.96	1.96	1.96
<b>Current account balance (% of GDP)</b>	-5.7	-3.3	-3.0	-3.0
<b>Net foreign direct investment, FDI (% of GDP)</b>	1.9	2.9	1.9	1.8
<b>General government balance (% of GDP)<sup>2)</sup></b>	-0.3	2.1	1.9	-5.1
<b>General government debt (% of GDP)<sup>2)</sup></b>	38.0	32.7	31.7	35.2

*Notes:*

1) Eurostat

2) 2020 data based on IMF, 2021 Art.IV Consultation

Source: national sources

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

*Economic governance has become even more central in the enlargement process in recent years. The Commission's monitoring takes place in two processes: the Economic Reform Programme exercise and the below assessment of compliance with the economic criteria for accession. 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 and the Western Balkans and Turkey at ministerial level in May each year.'*

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

Bosnia and Herzegovina has made **limited progress** and is at an **early stage** of establishing a functioning market economy. The country took measures to counter the negative effects of the COVID-19 pandemic on the economy and the labour market. The Central Bank undertook significant measures to improve its analytical capacities. Some steps were taken to strengthen the financial sector's shock resilience. However, there have been no significant measures to improve the functioning of the product markets. Cooperation and coordination among the country's stakeholders has further deteriorated. Resistance from the *Republika Srpska* entity against EU *acquis*-related country-wide reforms has further slowed down the country's compliance with the EU accession criteria. As a result, the country's institutional set-up as well as its internal market remains fragmented. No improvement has been reached with respect to the rule of law and the functioning of country-wide supervisory and regulatory institutions. This continues to impede the country's business environment. The quality of public spending has not improved, while the public sector has remained inefficient and oversized. The implementation of last year's country report recommendations for improving compliance with the functioning market criteria has been limited.

In order to improve the functioning of the market economy, Bosnia and Herzegovina should in particular:

- Improve the business environment by streamlining, simplifying business registration and licencing procedures and strengthen the country's internal market by harmonising and mutually recognising licences and certificates between entities;
- In order to improve the efficiency of tax collection, ensure an effective exchange of taxpayer information between the country's tax authorities, and in particular create in line with the EU *acquis* a central (i.e. country-wide) registry of bank accounts of private individuals;
- Strengthen country-wide regulatory and supervisory institutions, reinforce country-wide analytical and policy-formulating capacities and publish complete and consistent country-wide data in a timely manner, in particular in the area of public finances;
- Increase the transparency and efficiency of the public sector, in particular by establishing an adequate institutional and regulatory framework for a better, de-politicised governance, and by improving the efficiency and governance of publicly owned enterprises to reduce their burden on tax-payers;
- Support formal employment by reducing the tax wedge, especially for low-income

earners.

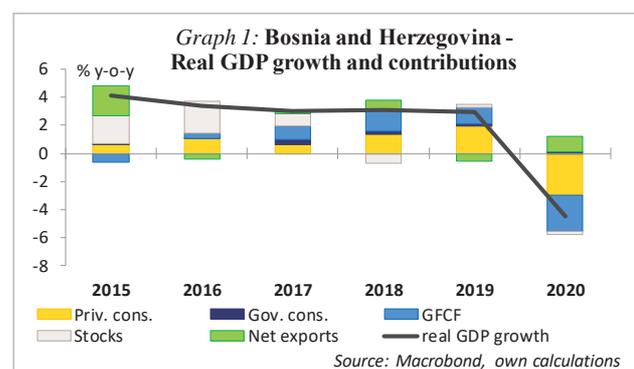
### Economic governance

**Economic policy suffered from a further deteriorating cooperation at entity level and disagreements on implementing country-wide reforms in line EU-accession requirements.** In order to mitigate the negative effects of the COVID-19 pandemic, the authorities supported the health sector, enterprises and households, by financing medical equipment, providing loan guarantees and co-financing social security contributions and wages. Furthermore, the country's two banking agencies have adopted and extended loan repayment moratoria for restructuring credit arrangements for individuals and legal entities that were severely affected by the COVID-19 pandemic. However, allocated funds (about 2.5% of GDP for financial assistance and another 0.5% of GDP for loan guarantees) and the efficiency of spending have been relatively low. Coordination of the authorities as well as consultations with the social partners in the context of COVID-19 were limited. Furthermore, the implementation of adopted measures has been inadequate, in particular in view of protecting the most vulnerable parts of the population.

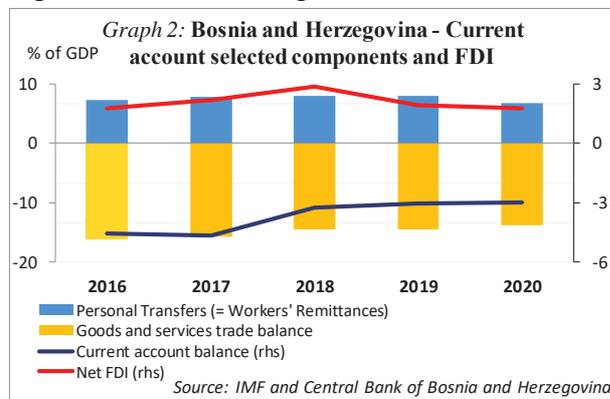
Political disagreements have further aggravated, leading to a further deterioration of cooperation between the various levels of government and institutions. The country's IMF arrangement from 2016 expired (the country withdrew less than a third of the total amount available) and after lengthy negotiations the authorities failed to reach an agreement with the IMF on a new loan arrangement. Implementation of the policy guidance jointly adopted at the Economic and Financial Dialogue with the EU in May 2020 has been partial, with financial sector-related measures having the highest degree of implementation. The Economic Reform Programme (ERP) continued to demonstrate significant weaknesses in cooperation and country-wide policy formulation as well in data availability and quality.

### Macroeconomic stability

**The COVID-19 pandemic led to a marked drop in economic activity in 2020.** While during 2015-2019 a relatively favourable external environment helped to achieve average economic growth of 3.5%, economic output dropped by about 4.5% in 2020. On a quarter-to-quarter base, the seasonally-adjusted output dropped by 10.4% in the second quarter, but recovered by 3.9% and 2.9% in the third and fourth quarters. In the first quarter of 2021, a moderate year-on-year recovery of 1.5% set in, largely benefitting from a strong export performance. The downturn in 2020 predominantly reflected the impact of travel restrictions and lockdown measures on private consumption and exports, in particular of tourism services. Investment also dropped markedly as a result of the pandemic from an already relatively low level, which reflected a poor business environment and high political uncertainties. The drop in domestic demand triggered a severe contraction of merchandise imports, which turned the contribution of net exports to growth into positive territory. Per capita GDP stood at some 33% of the EU-27 average in 2020, only slightly higher than in previous years.



**The current account deficit remained stable in 2020, as weaker exports were largely compensated by lower imports due to weak domestic demand.** After a slight drop in the current account deficit to 4.1% of GDP on average during the last five pre-pandemic years, the deficit remained at a similar level (3.2% of GDP) in 2020 as in the year before, and improved in the first quarter of 2021 to a deficit of 1.4% of GDP, mainly benefitting from



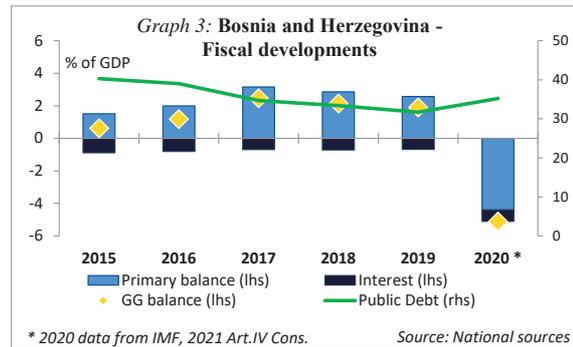
stronger exports. The trade deficit continued to be largely financed by inflows of transfers, such as remittances. Net foreign direct investment remained remarkably stable at a low level, accounting for 1.9% of GDP in 2020 and increasing to 2.9% of GDP in the first quarter of 2021, mainly consisting of reinvested earnings. Official net foreign exchange reserves rose on the back of foreign currency inflows in the form of emergency assistance as well as due to declining imports, reflecting weak domestic

demand. As a result, reserves reached a comfortable level of about 10 months of imports at the end of 2020, compared to 7.8 months a year before. Short-term debt accounts for only 0.1% of foreign exchange reserves. The coverage of imports of goods and services through exports improved during 2015-2019, reaching 73% in 2019, largely thanks to a favourable export performance in this period. In 2020, the coverage dropped back to 70%, as the reduction in exports was more significant than the drop in imports.

**The monetary policy regime has supported stability.** The currency board arrangement (CBA) with the euro as the anchor currency was maintained. This approach has served the economy well so far. The fact that the CBA remained stable and did not get under stress even during the pandemic demonstrates the public confidence and trust it enjoys and thereby this is an important pillar of macroeconomic stability. However, it also implies that the burden of adjustment to external shocks has to be accommodated by other policy areas, in particular fiscal policy, necessitating the build-up of sufficient fiscal buffers and a stronger emphasis on medium-term stability, and structural reforms to improve the functioning of markets. The credibility of the Central Bank's independence has been threatened during last year by the highly politicised appointment by the Presidency of three member of its board in 2020, as well as by the failure of the Presidency to appoint a new governing board ahead of the expiration of its mandate in August 2021, due the boycott of State-level institutions by politicians from the *Republika Srpska* entity. As a result, the governing board is operating with a caretaker mandate only.

**Consumer price inflation turned negative in 2020, due to low import prices and low domestic price pressures.** Average consumer prices dropped by 1.1% in 2020, compared to an increase by 0.6% the year before. In the first seven months of 2021, average consumer prices were 0.4% higher than a year before, although from May onwards, inflation registered a marked year-on-year increase towards nearly 2%. Besides low prices for imported energy, price declines for clothing and footwear contributed to the low overall inflation rate in the first half of the year. Prices for transport, accounting for nearly 13% of the basket, also contributed negatively to overall consumer price inflation in the first three months of 2021, but were a key contributor to the overall price increase since then. However, the inflation measure still suffers from an outdated consumer basket and insufficient cooperation among key data providers.

**The general government accounts deteriorated markedly in 2020, as a result of a decline in revenues, while COVID-19 related spending rose sharply.** Due to the poor quality of country-wide fiscal data, the country's overall fiscal position is still difficult to assess. During the last five pre-pandemic years, public finances have registered frequent surpluses of up to 2% of GDP, largely due to politically induced delays in implementing investment projects. In 2020, the pandemic resulted in a sharp drop in revenue, while spending increased, transforming the surplus of 2.2% of GDP in 2019 into a deficit of more than 5% of GDP in 2020. Overall, the authorities adopted additional spending measures, amounting to about 2.5% of GDP for health related spending and general support measures, such as providing support to troubled companies and subsidising wages and social security contributions. Furthermore, up to 0.5% of GDP has been reserved for providing pandemic-related loan guarantees. These figures largely reflect funds, which the country received as emergency assistance, in particular from the IMF and the World Bank. This relatively limited approach probably mirrors the country's financing constraints, administrative bottlenecks and in particular political stalemates, delaying the decision process and the implementation of spending decisions. The required financing of the deficit, coupled with the fall in nominal GDP, increased the country's debt ratio from 31.7% of GDP in 2019 to 35.2% in 2020. In terms of quality of public finances, policy decisions are primarily focused on short-term issues, while the spending structure is still plagued by a strong emphasis on current spending for wages and transfers, while investment continued to be neglected.



**Overall, the country's macroeconomic policy mix still suffers from an insufficient medium-term orientation and a missing focus on growth-enhancing policy measures.** While macroeconomic stability has been preserved during the pandemic, fiscal planning for the post-pandemic years is still insufficiently geared towards growth enhancing measures. Given that the country's currency board regime limits the room for monetary policy, fiscal policy is one of the country's key macroeconomic policy tools. However, due to the strong focus of policy makers to maintain the status quo, this tool is not adequately used to steer the country towards stronger growth and a faster catching-up with EU income levels. An insufficient degree of cooperation among the various fiscal policy stakeholders, the limited role of the country's fiscal council and the lack of conflict resolution mechanism contribute to the limited effectiveness of fiscal policy with respect to enhancing the country's growth potential.

### Functioning of product markets

#### *Business environment*

**Barriers to market entry and exit have remained high and barriers within the country's internal market persist.** On entity level, some efforts were made to proceed with the implementation of electronic registrations of businesses and to facilitate foreign investment. However, no progress has been achieved in removing the barriers to the country's internal market. In order to be able to operate in the whole country, multiple registrations are still required, increasing costs of establishing a company and protecting incumbent companies from competition. So far, no data for 2020 is available concerning the number of registered companies. The country's ranking in the World Bank's doing business report in terms of business environment has been on a declining trend in recent years. The country's position

dropped among 190 countries from the 79<sup>th</sup> in 2015 to the 90<sup>th</sup> place in 2019, largely reflecting a lack of reforms in Bosnia and Herzegovina, as political uncertainty is impeding the functioning of markets and institutions. Contract enforcement, in particular settling commercial disputes, remains problematic, together with a substantial backlog in court cases, problems with establishing property rights in some areas, such as real estate registration. Cooperation and coordination among the various stakeholders has further deteriorated and is a major impediment to the rule of law and a proper functioning of the judiciary, impeding the establishment of a level playing field on a country-wide level, with wide-ranging negative effects on the country's business environment. Overall, the country's business environment is still hampered by numerous and lengthy procedures, political interference, corruption and diverging rules in different parts of the country, complicating the operation of companies and creating additional costs.

**The institutional and regulatory environment for the functioning of the country's internal market remains a crucial weakness.** During the last year, no significant progress has been achieved in this area. The resource endowment and independence of numerous regulatory and supervisory institutions continue to be insufficient.

**The informal economy has remained significant during the pandemic.** Despite some progress in improving the degree of registration in the labour market by increasing labour market controls, the informal sector may still account for up to one third of GDP. Thus, informality still provides substantial (unregistered) employment and income, but also distorts competition and erodes the base for taxation and social security contributions. The resulting narrow tax base requires rates for taxes and social security contributions to be higher than would otherwise be necessary. This also adds to a significant fiscal burden on labour, which in turn impedes formal employment and negatively affects Bosnia and Herzegovina's international competitiveness.

#### *State influence on product markets*

**Government policy and legislation still leads to significant distortions in the economy.** The still oversized public administration as well as poorly performing publicly owned enterprises (SOEs) are negatively affecting the economy. Transparency on COVID-19 related spending has remained limited so far. Anecdotal evidence points to bureaucratic procedures and a poor targeting of support measures, leading to overall limited effectiveness of COVID-19 related public spending. The amount of contingent liabilities has increased as a result of governmental anti-crisis measures, such as providing loan guarantees. Many public companies rely on state support or delay due payments to the social security systems or to private suppliers, in order to remain in operation. This creates substantial liquidity imbalances in other areas of the economy. Public procurement, which represents a significant share of public spending and thus plays an important role for the private economy, continues to be managed on the base of overly complex procedures, which facilitate corruption and still contain a preference for domestic suppliers, which is incompatible with the EU *acquis* (see also chapter 5 – public procurement). There is still a wide range of administrated prices and during the pandemic, prices of certain products, such as hygiene products, have been regulated.

**The level of officially recorded state aid has still been relatively low (about 1.3% of GDP in 2019). However, in view of significant indirect state support, the level playing field nevertheless is impeded.** In 2020, as part of the COVID-19 crisis support package, many companies benefitted from discretionary state assistance. Unfortunately, so far available data on provided assistance is incomplete. Nevertheless, in combination with the accumulation of payment arrears of taxes and, in particular social security contributions, the level of de-facto

state aid appears to have been significant in 2020. The monitoring of state aid control is still hindered by the only partial legal alignment with European standards and the lack of consistent enforcement of state aid rules throughout the country. The competences of the State Aid Council continue to be limited. This leaves room for unfair distortions of competition in the country.

#### *Privatisation and restructuring*

**No significant progress was achieved in proceeding with the privatisation process.** Due to the COVID-19 crisis, measures to restructure or to dissolve public enterprises remained very limited. Strategic sectors such as transport and energy are still dominated by poorly managed and often inefficient state-owned companies. The share of the private sector, in the country's value added, has remained rather stable over the last 5 years at around 80%, and it generates a similar share of the country's employment.

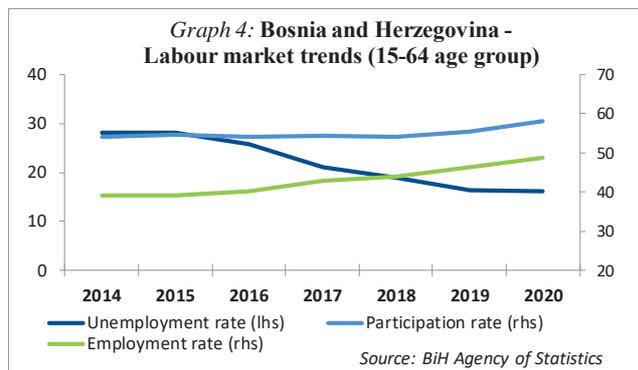
#### Functioning of the financial market

##### *Financial stability*

**The fragmentation of the institutional and regulatory set-up continues to impede banking supervision.** The institutional and regulatory environment for the functioning of the financial market is largely in place, although key elements are decentralised and the Central Bank's role is limited to coordinate the local regulatory and supervisory agencies. Furthermore, the *Republika Srpska* entity contests the Central Bank's competence in regulating and monitoring certain aspects of the country's financial markets, such as the registration of bank accounts of natural persons. The functioning of the Federation's Security Commission had been impeded for more than one and a half years, due to politically driven difficulties in agreeing on filling top-level vacancies. Among others, this delayed the increase of capital endowment of some banks through the capital market. The new Deposit Insurance Law contributed to the confidence in the sector's stability. However, the bank resolution framework is not completed yet and the absence of a country-wide Financial Stability Fund increases the risk that financial sector tensions could spill over into the real sector and increase fiscal costs. The monitoring of macroprudential indicators has been a positive development, although there are still obstacles to a country-wide, uniform macro-prudential framework.

**The banking sector's stability has been maintained during the COVID-19 pandemic, although credit growth decelerated and the sector's profitability declined in 2020.** Annual loan growth decelerated to 1.1% in 2020 and turned negative in the first quarter of 2021. This was mainly driven by weak corporate lending. Household lending, accounting for some 29% of total credits, largely stagnated. However, loans to public enterprises, accounting for some 3% of total loans, rose markedly. Bank deposit growth remained relatively strong, at 5.6% in 2020 and some 5% in the first quarter of 2021. The share of non-performing loans (NPLs) in total loans declined during 2020 and reached 6% in the first quarter of 2021 as the implementation of stricter accounting standards at the beginning of 2020 accelerated NPL write-offs but also affected credit growth. Banking sector profitability deteriorated during 2020, but recovered markedly in the first quarter of 2021, with the return-on-equity ratio rising from 6% at the end of 2020 to 10.8% at the end of Q1, and the return-on-assets ratio recovering from a low of 0.8% at the end of 2020 to 1.4% at the end of the first quarter of 2021. The banking system's overall capital adequacy ratio improved during 2020, reaching 19.2% at the end of 2020, and 18.9% in the first quarter of 2021. The main reasons for these improving indicators are (i) the entering into force of stricter rules before the outbreak of the pandemic, requiring among others higher capital endowments, (ii) the sector's efforts to improve shock resilience by increasing the banks' capitalisation, largely using undisbursed

2019 profits and (iii) aligning risk assessment rules with EU standards. However, there are big differences among the country's 23 banks, with some pockets of vulnerability remaining, in particular in the case of some smaller local banks. Furthermore, there is a notable difference



between foreign and domestic banks in terms of soundness indicators, with the former being more successful in reducing NPLs or improving loan provisioning. The central bank has significantly improved its analytical capacities by strengthening its forecasting and risk assessment activities.

The banking agencies introduced measures to enable recovery from negative economic consequences of

COVID-19, including debt repayment moratoria, as well as the suspension of dividend payments and stricter rules on the remuneration of board members. Furthermore, the governments of the two entities supported lending by providing temporary guarantees to private sector loans. The volume of those guarantees amounts up to about 0.5% of GDP.

#### *Access to finance*

**Lending continued to increase during 2020, but small firms' access to finance remained particularly constrained.** The loan-to-GDP ratio increased slightly during the last five years from 56% in 2015 to close to 58% in 2020. The improvement in 2020 is to a large extent due to the drop in nominal GDP by 2.2%, while lending increased by 1.1%. Interest rate spreads for consumer loans have declined, dropping during the last 5 years from above 6 percentage points to around 4 percentage points. However, this level is still relatively high, suggesting elevated risks and/or a lack of competition. The five largest banks account for about 80% of the sector's assets. Private sector debt accounted for some 54.5% of total debt at the end of 2020, which is higher than at the beginning of the year, and also markedly above the country's 5-year average before the pandemic. Financial literacy is limited in particular among small enterprises. The size of the non-bank alternative financing sector and of the capital markets has remained small, with a market capitalisation of the country's stock markets of about 26.5% of GDP at the end of 2020. The use of venture capital has continued to be very limited. The governments' loan guarantees had a positive impact on the private sector's access to finance. However, for many micro and small companies gaining access to those guarantees appears to have been difficult.

#### Functioning of the labour market

**The immediate effects of COVID-19 on the labour market have remained limited, due to governmental support measures.** In the first half of 2021, the number of registered employed was some 0.8% (7 thousand persons) lower than a year before, while the number of unemployed was 1.8% lower. (7.5 thousand persons). This resulted in a further decline in the labour force by about 1.2%, or 14 000 persons. During the last year, the largest job losses took place in trade and tourism, while some limited employment increases were registered in the health and IT sectors. Due to the high share of informal employment, in particular in the trade and tourism industry, administrative data might underestimate job losses. According to Labour Force Survey (LFS)-based data, the unemployment rate in the age group 15-74 increased to 19.1% in the first quarter of 2021, compared to 16.7% in the first quarter of 2020. Youth unemployment (15-24 years) stood at 40.4% in the first quarter of 2021, compared to 36% in the first quarter of 2020. Key factors for the persistently high unemployment are a

lack of adequate employment possibilities in the economy, a mismatch of education curricula with labour market needs, and the high tax wedge, in particular for low-wage earners. The labour market participation of women and the youth is still low, while unemployment rates of those two groups are significantly higher than for men in core working age cohorts. Long-term unemployment has remained high, with about 75% of the unemployed looking for a job for more than one year. During the last year, the authorities have continued to implement active labour market measures, although the efficiency of the measures is not sufficiently rigorously evaluated. These active measures support the employment of vulnerable or disadvantaged groups. The still substantial discrepancy between unemployment data according to administrative and according to survey based data points to the need to further improve the country's labour market statistics.

**The labour market suffers from a lack of qualified labour.** Labour mobility within the country is low. The shortage of qualified labour, partly due to emigration, has supported relatively high increases of nominal wages in some sectors (+3.8% in 2020 for the country as a whole, and +4.6% in the construction sector). In combination with a negative overall consumer price inflation, those wage increases translated in real increases of nearly 5%. Public sector wages are also relatively high, in particular when taking into account the sector's productivity, which to some extent crowds out qualified labour supply from the private sector.

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

Bosnia and Herzegovina has made **limited progress**, and remains at an **early stage** in terms of capacity to cope with competitive pressure and market forces in the EU. The overall quality level of education has remained low, while measures to improve the transport and energy infrastructure have remained insufficient. The extent of structural adjustment has been limited. The implementation of last year's recommendations to support long-term growth was largely limited to some education-related measures.

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

- Improve the quality of education and training, in particular, accelerate the modernisation of curricula with a view to better alignment with labour market needs;
- Increase the share of government capital spending in GDP, in particular by focusing on transport and energy infrastructure and on improving environmental standards by measures to improve public investment management and through an accelerated implementation of those investment projects that have been subject to a clear positive cost-benefit assessment.
- Support further trade integration with the EU and CEFTA, among others by supporting alignment with European safety and quality standards, such as those envisaged in the context of the implementation of the Common Regional Market Action Plan.

#### Education and innovation

**Investment in education remains inadequate.** Public spending on education accounted for some 4% of GDP in 2019. When adding private spending and foreign donors, the overall amount stands at nearly 5% of GDP. Despite this significant spending, in particular when taking into account the number of students, it fails to provide the country's labour force with the skills and knowledge necessary for a smooth integration in the labour market. This is one factor for a particularly high youth unemployment rate (40.4% at the end of the first quarter of 2021 according to LFS), twice the country's overall unemployment rate.

**The education system is highly fragmented and poorly coordinated, leading to varied standards within the country.** There has been some progress by adopting a Common Core Curriculum Framework which should provide common learning standards for pre-university education. However, overall the lack of common standards for various levels of education is still substantial, as well as in differences in the quality of teachers' training and performance evaluation. Teaching curricula still continue to be outdated and are still not sufficiently aligned with the country's needs. The country participated for the first time in the 2018 PISA study. Results indicate that the students' performance ranks well below the OECD average, in particular with respect to the minimum skills, which is a clear impediment for the country's competitiveness and growth potential. The country's illiteracy rate continues to be around 3%, largely as a result of a relatively high illiteracy rate among women.

**Research and innovation policy is impeded by the large number of stakeholders involved and the low degree of cooperation and coordination,** leading to a low efficiency of the overall system. The absence of an efficient funding system is another factor, preventing the country's innovation policy from achieving better results for the funds spent. The country's research capacities remain very limited, while the trend of a brain drain continues, most notably in the health, medical, and IT sectors with no systematic measures having been introduced so far to address the issue.

### **Physical capital and quality of infrastructure**

**In addition to the COVID-19 related uncertainty, investment in the country's capital stock remained impeded by continued political tensions and uncertainties and administrative weaknesses.** In the context of the COVID-19 crisis, gross capital formation dropped by nearly 13% in 2020, after an increase by 6.2% the year before. During the five years before COVID-19, average gross fixed capital formation amounted to some 18.4% of GDP. Public investment remained low, reflecting a focus on COVID-19 related current spending. Inflows of foreign direct investment (FDI) remained at 1.8% of GDP in 2020, which is only slightly lower than the 2.1% average during the five years before COVID-19. A large share of those FDI inflows are actually re-invested earnings of foreign investors in the financial sector as well as in tourism. As in the case of gross fixed investment, the low level of inflow of foreign investment is impeding the country's ability to achieve a higher growth trajectory. Environmental standards have remained low and are often neglected, leading to high levels of pollution, impeding the health (and thus productivity) of the country's labour force and constituting an additional factor supporting the brain drain. Overall, the insufficient momentum in investment and negligence of environmental standards continues to hamper improvements in the country's growth potential and labour productivity.

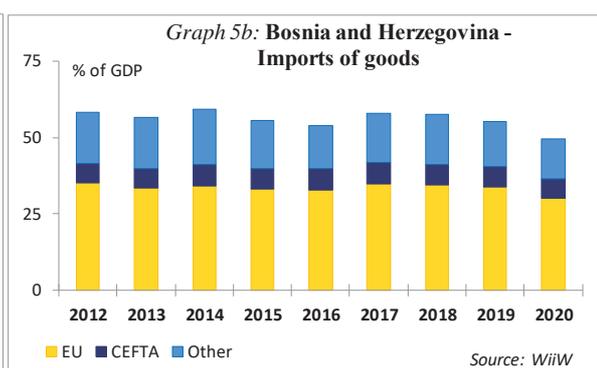
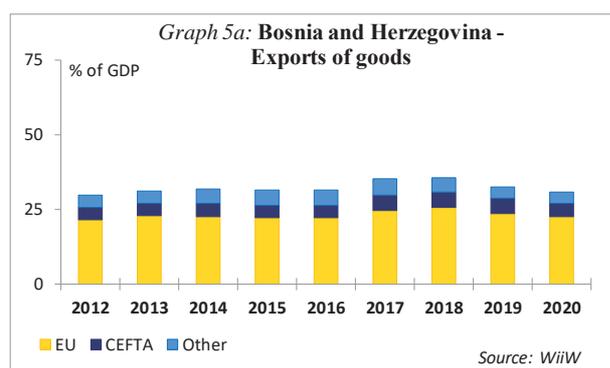
**COVID-19, as well as delays in the implementation of investment projects due to political disputes, also had a negative impact on investment in transport and energy infrastructure.** After some positive developments with the connection of new renewable energy projects to the grid in 2018 and 2019, as well as efforts to diversify natural gas imports, the need to focus on the crisis response as well as continued delays in government formation in the Federation had a negative impact on public infrastructure investment. Furthermore, necessary steps for updating the regulation of the energy and transport markets were further delayed. As a result, the markets for electricity and gas remain fragmented and dominated by key incumbent companies. Infrastructure connections with neighbouring countries as well as the country's level of digitalisation remain on an inadequate level.

### **Sectoral and enterprise structure**

As a result of COVID-19, the recently observed trend of structural change from the public sector to trade and manufacturing has been put on hold. At the end of 2020, the share value-added of trade and manufacturing was some 2.5 percentage points of GDP lower than a year before, while the share of public administration and agriculture had increased, by some 0.9 pps and 0.8 pps, respectively. In the five years before the pandemic, the company structure registered some increase in the share of medium-sized companies, employing between 50-249 employees. However, the majority of new companies were micro companies (0-9 employees), which are often trading companies with lower value added, and which are disproportionately affected by the COVID-19 crisis. Some 95% of all companies are in the group of small and micro businesses, i.e. with less than 50 employees.

### Economic integration with the EU and price competitiveness

**Trade and investment integration with the EU remained largely unchanged in 2020, despite the COVID-19 shock.** The country's international trade shrank by 11.6% in 2020, mainly due to a 13.4% decrease in commodity imports, while exports dropped by 8.5%. More than two thirds of this decline is due to lower exports to neighbouring countries, including Italy as well. However, during five years before the pandemic, trade slightly shifted towards the neighbouring region, reflecting stronger export increases with countries such as Serbia, but also Croatia. Exports to the EU-27 accounted for 72.4% of total exports in 2020, compared to 73% in 2019. Exports to CEFTA countries dropped slightly during 2020, to 16% of total exports. The country's openness to trade (exports and imports as a percent of GDP) dropped sharply in 2020, from nearly 95% in 2019 to 83.4% in 2020, which is a level last seen in 2013. Even before the pandemic, the country's openness to trade was relatively low, in particular in view of its relatively small economic size. The export structure relies mainly on manufactured goods, machinery and transport equipment, chemicals and related products, food and live animals, furniture, textiles and basic metals. While some further progress has been achieved in addressing non-tariff barriers to trade with the EU, such as required phytosanitary and sanitary standards, overall compliance with these requirements remains weak. The integration of the country's financial and capital markets with the EU is still rather low, although a large part of the banking sector is owned by European banks. About two thirds of the country's stock in FDI is originating from the EU countries. Annual FDI inflows largely show a similar pattern.



**The country's overall price competitiveness still appears intact, despite a relatively high wage growth.** During the last five years, the real effective exchange has supported Bosnia and Herzegovina's international price competitiveness by registering a slight depreciation by some 3% during 2015-2020, benefitting from the country's low inflation rate, in particular when using the CPI as indicator for inflation. However, in nominal effective terms, the currency appreciated by nearly 6%, mainly reflecting the exchange rate movements of the US

dollar, the Turkish lira and the Russian rouble against the euro, to which the Convertible Mark is pegged.

## 2.4. PUBLIC PROCUREMENT, STATISTICS; FINANCIAL CONTROL

### Chapter 5 - Public procurement

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

Bosnia and Herzegovina has **some level of preparation** in the area of public procurement. There was **backsliding** in the reporting period resulting from the preferential treatment for domestic bidders in awarding public contracts from June 2020 till May 2021, in breach of the SAA and the commitments of Bosnia and Herzegovina towards the EU. The country needs to align its legislation with the EU *acquis* in the area of public procurement and utilities and continue the alignment process for concessions where the legal framework is highly fragmented and needs to be harmonised to eliminate overlaps, inconsistencies and uncertainties. Recommendations from last year were not addressed and remain valid.

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

- ensure continued equal treatment of domestic and EU bidders in awarding public contracts in line with provisions of the SAA;
- adopt the amendments to the law on public procurement;
- strengthen the administrative capacities of the Public Procurement Agency and the Procurement Review Body by increasing their staff and providing appropriate training, and make the procurement process more transparent.

#### Institutional set-up and legal alignment

The **legal framework** is partially in line with the EU *acquis*. The principle of non-discrimination is not applied as in May 2020 the Council of Ministers adopted a decision on obligatory application of domestic preferential treatment for domestic bidders at the rate of 30% as of 1 June 2020. The decision, which was in breach the SAA, was in force until 1 June 2021. No further extension of preferential treatment of domestic bidders has been adopted so far; the Council of Ministers rejected several such proposals, the latest in July 2021. Although this preferential treatment was not extended, there remains a significant risk that it could be re-imposed, making the public procurement environment uncertain for potential bidders.

The law on public procurement includes exemptions which are not covered by the EU *acquis*. Amendments to the public procurement law, which would further align it with the EU *acquis*, remain to be adopted by Parliament. The legislative framework on concessions and public private partnerships is highly fragmented and needs to be aligned with the EU *acquis*. In the reporting period, the *Republika Srpska* entity amended its law on public-private partnership (PPP) and adopted regulations on launching PPP projects, private partner selection procedure and procedure for contracting PPP projects process with the aim to align its framework with the EU *acquis*; however, the legal framework remains fragmented. All legal and financial instruments used for public procurement and concessions, including inter-governmental agreements concluded with third countries, should comply with the principles of transparency, competition, equal treatment and non-discrimination.

The implementation of 2016-2020 **strategy for the development of public procurement** is

delayed. The Procurement Portal is functioning satisfactorily, but there was no progress concerning the coordination with audit institutions. By the end of 2020, 930 Public Procurement Officers were trained and 490 examined and certified. The **Public Procurement Agency (PPA)** of Bosnia and Herzegovina is the body authorised to initiate, implement and monitor public procurement reform in all sectors. Its administrative capacities are insufficient. Each contracting authority needs to be staffed with officials who have the relevant skills and expertise.

The Public Procurement Agency manages the central procurement portal, where tender and contract notices and other important information and guidance are published, and the relevant data from contracting authorities in the country is collected. The use of electronic procurement enables any interested person to download tender documents.

#### Implementation and enforcement capacity

In 2020, Bosnia and Herzegovina's **public procurement market** represented 8.05 of the country's GDP, slightly below the 2019 level. The average number of bids per tender was 2.0 in 2020, the same as in 2019.

**On monitoring the awarding and implementation of contracts**, the Public Procurement Agency's administrative capacities are insufficient to fulfil its tasks. Statistics collected from contracting authorities and published by the Public Procurement Agency provide a solid tool for monitoring the use of procurement procedures and show a slight decrease in the use of the negotiated procedure without prior publication (8.53% of the value of all contracts awarded in 2020 compared to 8.55% in 2019). The Agency's monitoring role should be strengthened to enable it to identify potential weaknesses and irregularities in procurement procedures.

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

#### Efficient remedy system

The **legislation on the right to appeal** is broadly in line with the EU *acquis* although time limits are excessively short. Concessions and private public partnerships are covered by separate regulations and need to be aligned with the EU *acquis*. The institutions responsible for the review procedures are the contracting authority in first instance, the procurement review body in second-instance and the Court of Bosnia and Herzegovina in third instance. The **implementation capacity** of the procurement review body, with offices in three locations (Sarajevo, Banja Luka and Mostar), remains in the hands of 34 staff, which is insufficient to address efficiently the high number of complaints submitted. A formal mechanism to co-ordinate the three offices and ensure consistent decision-making and legal certainty is still missing.

The rising trend in the number of appeals submitted to the procurement review body requires strengthening its capacity. Only a small number of decisions have been challenged before the Court of Bosnia and Herzegovina. The transparency of the decision-making of the procurement review body needs to be significantly enhanced.

## **Chapter 18 - Statistics**

*EU rules require Member States to be able to produce good quality statistics in line with the principles of the European statistics Code of Practice and statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.*

Bosnia and Herzegovina is at an **early stage of preparations** in the area of statistics. **Limited progress** was made during the reporting period, including by the submission of an excessive deficit procedure notification to the European Commission and a few improvements related to business statistics. Last year's recommendations remain valid. The country will have to enhance cooperation, coordination, decision-making processes and the legal basis to develop the national statistical system in key statistical areas, increasingly applying European and international standards. In order to better support policy analysis, improvement is needed on the provision of timely, exhaustive and countrywide statistics on government finance, national accounts and labour market. The classification of regions equivalent to the NUTS classification remains to be finalised.

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

- adopt a master plan for production of national accounts;
- implement a standard survey on income and living conditions;
- adopt a methodology, responsibilities and budgetary aspects of the next agricultural census and adopt a roadmap for preparation of the future population census.

As regards **statistical infrastructure**, a law on statistics of Bosnia and Herzegovina remains to be aligned with the principles of the European Statistics Code of Practice. The structural set-up of the statistical system causes challenges regarding the coordination and efficiency of the production of statistics. Statistics are only to some extent timely, relevant and reliable.

Coordination of the national statistical system between the Agency for Statistics of Bosnia and Herzegovina (BHAS) and other producers needs to be strengthened; the same applies to cooperation with providers of statistics and cooperation between the Agency for Statistics and the entities' offices. The latter need to timely carry out the surveys according to the overall statistical programme. These issues are highly relevant, as European methodology needs to be applied in a harmonised manner.

The use of administrative data is not sufficient. In order to produce official statistics, the Agency for Statistics needs to obtain access to administrative data other than that of the Indirect Taxation Authority. Some work continued in view of using administrative data for statistical purposes by comparing and analysing 2020 administrative data from the Indirect Taxation Authority with data from the Statistical Business Register (checking data on activity status, code of the main activity and address).

On **classifications and registers**, there was limited progress in further developing the Statistical Business Register, but data received from relevant administrative sources remains insufficient. A base for production of main business demography has been prepared, but business demography data is still not transmitted to Eurostat. The address list of agricultural households is in place and is being used to prepare a quality research framework necessary for the future agricultural census. The main classifications (NACE Rev.2, ISCO-08, CPA, GEONOM and ISCED 2011) are in place. The equivalent to NUTS II regions have only been provisionally defined and accepted by the European Commission until Bosnia and Herzegovina finalises and agrees the entire classification and includes it in the definition of the equivalent to NUTS III level as well.

On **macroeconomic statistics**, the production of and responsibility for national accounts continue not to be in line with the EU *acquis*. A master plan for the development of national accounts will need to be agreed among the three statistical institutes, as an appropriate national accounts system is not fully in place. Annual accounts are compiled using production, expenditure and income approaches, while quarterly accounts are compiled only

according to the production and expenditure approaches. Supply and use tables and input-output tables are not compiled regularly. Annual sector accounts and quarterly sector accounts are not produced.

Regarding the transition to ESA 2010 methodology, the sector classification is completed but without an agreement on sub-sectors of the general government sector. This prevents full application of ESA 2010. Data on general government is not compiled by sub-sectors. Moreover, the responsibility for practical implementation is still unclear. Bosnia and Herzegovina needs to provide the European Commission with its GDP per capita figures harmonised at NUTS II level. Balance of payments statistics are methodologically harmonised with international statistical standards established by the sixth edition of the Balance of Payments and International Investment Position Manual.

Little progress was made in compiling government finance statistics in line with ESA 2010. For the period 2015-2019, data was processed and transmitted to Eurostat. Bosnia and Herzegovina made some progress in terms of submission of an excessive deficit procedure notification, transmission of quarterly balance of payments and international investment position and some progress on national accounts time series. Bosnia and Herzegovina has also put in place adequate infrastructure for data transmissions to Eurostat and the European Central Bank.

On **business statistics**, some progress continued to be made by using an improved production method to publish results of structural business statistics. Structural business statistics for 2017 and 2018 were produced using a combined method (statistical survey and administrative data sources) for enterprises with less than 20 employees. Short-term statistics for industry, construction and services are not fully available and will need to be established in line with requirements of the EU *acquis*. Producers Price Indices for low-rise construction for the reference period 2017-2020 have been published for the first time. The structure for all required sets of data for short-term business indicators has been prepared and the data was transmitted to Eurostat using SDMX-ML format. The PRODCOM industrial production survey is conducted and results are sent to Eurostat on an annual basis.

Foreign affiliates statistics (FATS) are produced by the Agency for Statistics for inward statistics and by the Central Bank for outward statistics. Inward foreign affiliates statistics (IFATS) for 2018 were submitted to Eurostat. Full compliance with FATS regulations needs to be ensured. Regarding tourism, Bosnia and Herzegovina is only producing accommodation statistics, but has conducted a private and business travel survey. Research and development statistics are compiled for four sectors – business, government, higher education and non-governmental organisations – and are published annually. For the first time, data were submitted to Eurostat for government budget allocations for research and development (GBARD) and gross domestic expenditure on research and development (GERD) in SDMX format. The Community Innovation Survey is conducted on a regular basis. ICT statistics for enterprises and households were also provided to Eurostat.

On **social statistics**, preparation for the next population and housing census has hardly progressed. Related legislation is still at an early stage of preparation and has not been agreed among entity statistical institutes. A new master sample frame is now available and will be used not only for the household budget survey (which started in April 2021), but also for upcoming surveys, such as the labour force survey (LFS) and a full-scale survey of income and living conditions. The labour force survey was implemented annually and began to be conducted on a quarterly basis in January 2020 following a pilot continuous survey. LFS data for all four quarters of 2020 were published. Both the questionnaire and methodological documents were modified to be aligned with Eurostat recommendations and were used in the

LFS survey for the first quarter of 2021. Calculation of the labour cost index and introduction of the structure of earnings survey are not implemented. Job vacancy statistics are collected regularly. Social protection statistics (ESSPROS – European System of Integrated Social Protection Statistics) are submitted to Eurostat, including revised ESSPROS data for the period 2013-2018. Intensified cooperation with the institutions responsible for monitoring migration flows is needed in order to obtain complete data on migration. In the area of education, all levels of the government are covered and statistics are published on an annual basis. Culture statistics include 15 cultural domains, although their coverage is not yet adjusted to Eurostat requirements. There have been some improvements regarding crime statistics, which is collected on a monthly basis and submitted annually for the UNODC questionnaire. The negative effects of the COVID-19 pandemic were reflected in a reduction in the budget by governments to carry out some surveys.

The lack of a recent agricultural census – the last one took place in 1960 – is a major limitation for **agricultural statistics**. Therefore, special attention needs to be paid to adopting a methodology and defining the responsibilities and budgetary aspects of a future agricultural census. A very limited number of statistical indicators are produced for agriculture, including some experimental estimates. An annual farm survey (AFS) has been conducted for 2020. Supply balance sheets are not available. Statistics on crops, vineyards, orchards, animal production and milk and dairy are not in line with the EU *acquis*; the same is true for slaughter statistics.

As for **energy statistics**, further work is needed to improve the quality of data in line with EU requirements, in particular annual data on renewable energy sources and basic monthly data on oil. For the first time, the SHARES (harmonised calculation of the share of energy from renewable sources) questionnaire for the reference year 2018 was submitted to Eurostat.

Regarding **environmental statistics**, the Agency for Statistics continued to publish data from the annual statistical surveys on climate change and greenhouse gas emissions from agriculture and waste disposal. The Agency for Statistics is not reporting to Eurostat on monetary environmental accounts.

## Chapter 32 - Financial control

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

Bosnia and Herzegovina is at an **early stage** in this area. **Some progress** was made in fulfilling last year recommendations, notably in developing and adopting strategies on public internal financial control in all entities. All central harmonization units need to continue strengthening their capacities and monitor the effectiveness of internal control functions in the public sector, with particular attention to the risk management and internal audit functions. The financial and operational independence of supreme audit institutions must be ensured in practice. Bosnia and Herzegovina should improve the quality of their audit reports, and step up their communication efforts to reinforce the public awareness of their work.

In the coming year, Bosnia and Herzegovina should:

- continue with the implementation of the recently adopted PIFC strategies;
- improve the quality of the monitoring framework on public internal financial control and the implementation of the PIFC report recommendations across budget entities;

→ ensure the functional, financial and operational independence of supreme audit institutions at all levels of government and improve the impact of SAIs work through communication strategies 2021-2025.

### Public internal financial control

A comprehensive **strategic framework** for public internal financial control (PIFC) for all levels of government is in place together with individual 2020-2025 PIFC strategies. The PIFC strategies and their action plans have been adopted in 2020. The strategies have identical monitoring and reporting frameworks. The PIFC reform is coordinated by the Coordination Board of the Central Harmonisation Units (CHU), which needs to be strengthened. The enabling conditions for implementing managerial accountability are not yet in place, as there is no countrywide strategic framework on public administration reform. Annual PIFC reports are adopted by each government, however there is no systematic follow up on the reports' recommendations.

**Managerial accountability** is not yet embedded in the administrative culture of the public sector. Across levels of government, basic accountability mechanisms between ministries and subordinated agencies are not in place, and effective management of subordinate bodies is not ensured. While there are rules of procedure at each government level ensuring legal and financial scrutiny of policies, coordination of policy content with government priorities is lacking throughout the public administration. Public entities have no strategic plans with clear objectives and performance indicators against which managers and staff members performance is assessed. The highly centralised systems of decision-making hinder efficient implementation of the principle of managerial accountability, with no clear role for managers at the lower level (*see Public Administration Reform*).

The legal framework for the functioning of **internal control** is in place at all levels of government. The legal provisions on internal control are not consistently integrated in the general Public Finance Management regulations, business processes and management information systems at all levels of government and in the public enterprises. A countrywide management information system for risk management, internal control and monitoring and reporting of the financial management and control activities is in advanced stage of development (PIFC application). The reporting will also include key performance indicators of public enterprises. The network will cover all levels and all public sector organisations in Bosnia and Herzegovina allowing for consolidation and monitoring of information on major risks, internal control actions and their impact.

The majority of the first-level budget spending units and public enterprises submit to the CHUs an internal control self-assessment report, which is in its essence a statement of assurance on internal control systems. State level institutions, 67 out of 80, submitted their self-assessment reports for 2020 online. Risk management is in the initial phase of implementation. Some progress was made in December 2020 with the adoption of the risk management guidelines for State-level institutions to support the uniform organization of risk management processes. Public sector managers need to establish risk registers and define adequate risk mitigation measures, integrated in the management decision-making cycle. Budget inspection is in place at each level, dealing with complaints and checking compliance of actions. There is no overlap with the internal audit function.

**Internal audit practice** is regulated at state and entity levels and Brčko District and is in line with international audit standards. The internal audit function remains inefficient due to the fragmentation of the public sector. Some efforts are under way to better regulate the internal audit function at the Federation entity and the Brčko District and provide tailored trainings

for internal auditors at the state level and *Republika Srpska* entity. The internal audit manuals at all levels are being updated in parallel to the development of internal audit management software. Internal audit units remain weakly staffed and many of them operate with only half of positions filled. Nearly all appointed internal auditors in the public sector are certified, comprising a total of 721 certified internal auditors since 2016 when the certifications started. While most of the internal audit job positions available are occupied, such as 322 out of 451 or 71%, the persisting problem lies in the fragmentation of the internal audit system and weak capacities of those units. Hence, in the reporting period their added value in contributing to effective practices in internal auditing remains weak across all levels of government. Internal audit certification procedures are in place and implemented at all levels of government except in the Brčko District. However, more needs to be done to increase professional development of audit staff, especially on risk assessment, using IT and work with analytical tools.

**Central harmonization units (CHUs)** have been established at state, entity levels and Brčko District. The three CHUs, except in Brčko District, prepare yearly consolidated reports to their respective governments on PIFC implementation. The reports are adopted by each government with decisions requiring further action for implementing the PIFC strategies in each individual public sector organisation, focusing mostly on monitoring the trends on number of financial management and control self-assessment reports, establishment of internal audit units, their staffing and execution of annual audit plans. The quality of the PIFC reports needs to be strengthened, by including risk management, among others. Their impact on internal control remains weak, as recommendations remain not well implemented across public entities at all levels. The CHUs do not have sufficient staff and administrative capacity to provide methodological guidance, promote and monitor PIFC reforms in a conventional way. The coordination Board of Central Harmonisation Units continued its work according to the workplan, but its effectiveness in driving reforms need to improve. Since 2020 a PIFC application with business analytics is being developed with the aim of providing quality information for the PIFC reports and supporting the monitoring capacity of the CHUs. The CHUs should start to implement quality reviews on internal control and internal audit.

#### External audit

With regard to the **constitutional and legal framework**, there is no constitutional anchorage of any of the Supreme Audit Institutions (SAI). The functional, operational and financial independence of the SAIs at all respective levels of government is regulated in the specific SAI laws broadly in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). However, the requirements of the SAI laws with respect to financial independence need to be better respected by the executive and effectively implemented. All audit offices should be able to use and manage their approved budgets as they see fit, without any interference, or requirement for approval, by the respective Ministries of Finances, particularly so at the Federation entity.

The **institutional capacity** of SAIs needs to be strengthened across levels of government. The Federation entity faces a particular challenge in ensuring external audit coverage of its cantonal levels. All SAIs have developed a new cycle of strategic development plans for 2021-2025, which are adopted across all levels of government. SAIs should continue to work closely with the prosecution authorities to see how to best handle instances of possible fraud and corruption, that the SAI uncovers during an audit. The Coordination Board of State Audit Institutions needs to be further strengthened in effectively following up with audit offices on how the legal framework and related procedures on external audit can be implemented across levels and as well establish a better monitoring system on progress undertaken by the various audit offices.

ith regard to the **quality of audit work**, all the SAIs have a broad mandate, which covers financial, compliance and performance audit. The trend on number of performance audits has remained stable across levels. The SAIs have INTOSAI compliant methodologies and manuals. The SAIs should consider improving the quality of their audits in providing compliance assurance, bringing up the causes of the identified weaknesses and increase the number of performance audits. Each SAI report includes assessment of the internal control of the audited organisation. However, the assessments are of general nature. The SAIs need to apply comprehensive internal control assessments tailored to the audited areas, types of transactions and type of organisations.

The **impact of the audit work** of all SAIs is limited. The audit recommendations are predominantly focused on formal compliance targeting outputs, do not address the causes of the weaknesses or the likelihood of implementation. This leads to high number of recommendations and low rate of implementation across levels of government, which remains in average across levels between 25% to 60% fully implemented or in the process of being implemented. Additionally, SAIs should consider terminating the practice of including recommendations in audit reports that are out with the mandate of the particular auditee, as such is not in line with international standards. While parliaments have procedures in place for examining audit reports, the level of parliamentary scrutiny to these reports varies across levels of government. SAIs need to step up efforts in establishing closer partnerships with respective parliaments in making the recommendations of audit institutions binding for the government.

The quality of the audit findings need to be improved. The results should be presented in terms of value added by the SAIs and communicated in a more efficient manner in the audit reports and in the media. Additionally, the SAIs should develop communication strategies in order to improve the impact of their work

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

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

An **anti-fraud coordination service** (AFCOS) to facilitate effective cooperation and exchange of information with the Commission is not yet in place. Similarly, there is no corresponding AFCOS network of authorities involved in the protection of the EU's financial interest. A countrywide anti-fraud strategy for the protection of the EU's financial interest needs to be adopted.

While there is no solid track-record on **cooperation with the Commission** during investigations, the State Investigation and Protection Agency and the Ministry of Finance and Treasury ensure cooperation on an ad-hoc basis. Although limited, cooperation on investigations has been positive. Bosnia and Herzegovina does not report on irregularities to the Commission through the Irregularity Management System.

#### Protection of the euro against counterfeiting

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

other entities to withdraw all suspect banknotes and coins from circulation. However, no sanctions are imposed for failure to fulfil this obligation. There is no legal obligation for credit institutions and other payment service providers to ensure that euro banknotes and coins are checked for authenticity and that counterfeits are detected.

### 3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

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

Bosnia and Herzegovina maintained its engagement in a number of regional cooperation initiatives, such as the Central European Free Trade Agreement (CEFTA), Energy Community, Transport Community, the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council, of which it hosts the seat.<sup>8</sup> In 2020, the country presided over the US-Adriatic Charter and the CEFTA Agreement.

The Covid-19 pandemic has accelerated the ambition to enhance regional integration, by displaying the important links between markets in the region as well as between the EU and the six Western Balkans economies. Given the European perspective of the Western Balkans, the EU has continued to treat the region as privileged partners by associating them with the Union's mechanisms and instruments, including an exemption from temporary EU export restrictions of medical equipment.

At the Sofia Summit on 10 November 2020, the six Western Balkans leaders adopted the Declaration on the Common Regional Market and the Declaration on the Green Agenda for the Western Balkans. This followed upon previous commitments taken at the EU-Western Balkans Zagreb summit in May 2020 and the recognition of the role of deepened regional economic integration to support the economic recovery of the Western Balkans.

The Common Regional Market is structured around the four freedoms (free movement of goods, services, capital and people) while also covering aspects of digital, investment, innovation and industrial policy. This makes it the most ambitious regional integration effort to date in the Western Balkans. The Common Regional Market builds on EU rules and standards and represents a stepping-stone to integrate the region more closely with the EU Single Market already before accession.

The Common Regional Market will be critical in increasing the attractiveness and competitiveness of the region. It will help Bosnia and Herzegovina to speed up the recovery from the aftermath of the pandemic, notably to attract investors looking for diversification of supply and shorter value chains and to maximise the benefits of the infrastructure investments under the Economic and Investment Plan. It is therefore important that all parties play a constructive role in building the Common Regional Market and deliver on their joint commitments.

The Green Agenda for the Western Balkans aims at reflecting, the European Green Deal in a proportionate and adapted manner in the Western Balkans. The objective is to turn environmental and climate challenges, similar in the region, into opportunities. Given that

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<sup>8</sup> Bosnia and Herzegovina also actively participates in initiatives such as the Brdo-Brijuni Process, the Central European Initiative, the Adriatic-Ionian Initiative, the EU Strategies for the Danube Region and for the Adriatic-Ionian Region, the Migration, Asylum, Refugees Regional Initiative (MARRI), the Regional School of Public Administration (ReSPA), the Regional Youth Cooperation Office in the Western Balkans (RYCO), the South East European Cooperation Process (SEECP) and the Western Balkans Fund.

natural resources and climate change do not know any border, the Green Agenda foresees joint actions, which will contribute to the sustainable socio-economic development and the green recovery of the entire region. in the post-pandemic period. Bosnia and Herzegovina should contribute to successfully implement this joint regional vision, with high level of ambition.

The Berlin Process summit on 5 July 2021 was an occasion for the Commission to announce targeted assistance related to combating the COVID pandemic and post-pandemic recovery, as well as the preparations of a 2021 financial package under WBIF for the implementation of the Economic and Investment Plan. The participants also took stock of the achievements of the connectivity agenda with the region, which now includes 45 investment projects, supported by EUR 1 billion in EU grants that have leveraged EUR 3.8 billion in loans. Regrettably, despite good technical progress, the Western Balkan partners were not able to conclude several important agreements related to the Common Regional Market and CEFTA, because of bilateral and status issues. The participating Member States and the Commission called for a constructive approach to making progress on the Common Regional Market, which will help the region take full advantage of the Economic and Investment Plan.

In July 2021, the regional agreement on roaming fees signed at the April 2019 Western Balkans digital summit in Belgrade entered into force, enabling 'roam like at home' (RLAH).

Bosnia and Herzegovina has continued to closely cooperate with Croatia, Montenegro and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions close to 74,000 people or 27,000 households people who became refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. Within the framework of the Regional Housing Programme (RHP), around 3,133 families will be supported with housing solutions out of which 1,808 housing units have been built or reconstructed in Bosnia and Herzegovina so far. Significant challenges remain with regard to the economic and social integration and wellbeing for many families, required to ensure the sustainability of return.

The unresolved fate of **missing persons** who disappeared in relation to the conflicts of the 1990s remains a key issue to be solved in the Western Balkans. By March 2021, over 9,996 people were still missing as a result of the conflicts in the region. Further efforts on a regional scale are needed to establish the unresolved fate of 6,377 people still missing as a result of the conflict, of which 55 were identified in 2020, and 8 until May 2021.

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

Relations with *Albania* are friendly and without open issues, with occasional high-level bilateral visits. The Presidency Chair and the Foreign Minister visited Albania in October 2020 and in March 2021 respectively. The two countries also agreed to establish full-fledged bilateral embassies. Trade flows remain low.

There are no official relations with *Kosovo*\*, as Bosnia and Herzegovina does not recognise Kosovo's independence and the two maintain a strict visa regime. An initiative to simplify the visa procedure for citizens of Kosovo is still pending.

Concerning *Montenegro*, bilateral relations are good. There are no border issues but the agreed border demarcation is yet to be physically marked on the terrain. The first joint border crossing point Deleuša/Vračenovići was opened in October 2020.

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

Regarding *North Macedonia*, relations are good and several bilateral agreements are in place, including on cooperation on EU integration.

Bilateral relations with *Serbia* are overall good and stable although without concrete steps forward in tackling outstanding issues, including on borders. Bilateral high-level visits are regular. The two countries also need to reach an agreement on two river dams on the Drina river and a portion of the Belgrade-Bar railway which crosses into Bosnia and Herzegovina's territory. Serbia and the *Republika Srpska* entity launched construction of three hydroelectric power plants on the upper Drina; as this was done without the involvement of Bosnia and Herzegovina's State institutions, upon appeal the Constitutional Court ruled that a decision of the Commission for Concessions is required; this is pending.

*Turkey* is a strong international supporter of Bosnia and Herzegovina and exchanges at high level are frequent. Bosnia and Herzegovina and Turkey signed a memorandum of understanding and cooperation in the field of diplomatic archives and protocols in November 2020. In March 2021, the two countries signed an agreement on cooperation in infrastructure and construction projects (particularly in regards to the Sarajevo-Belgrade highway which Turkey committed to finance), an agreement on mutual recognition of driving licenses and an agreement on military-financial cooperation. Turkey opened a consulate general in Banja Luka in September 2020.

Relations with *Croatia* are overall good, although affected by outstanding bilateral issues. Bilateral visits took place at foreign ministers' level. The 1999 border agreement has not been ratified by either side and there are open issues concerning land and sea borders. The implementation of the 2001 succession agreement is affected by open issues on private properties and acquired rights. In support to the State-level coordination body, in October 2020 Bosnia and Herzegovina established an expert and a legal team to dispute Croatia's plan to build a facility for radioactive waste and spent nuclear fuel storage at Trgovska Gora, near the border. There is no agreement on dual citizenship.

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

##### **CLUSTER 2: INTERNAL MARKET**

This cluster covers chapters 1-free movement of goods, 2-freedom of movement for workers, 3-right of establishment and freedom to provide services, 4-free movement of capital, 5-company law, 7-intellectual property law, 8-competition policy, 9-financial services, and 28-consumer and health protection. This cluster is key for Bosnia and Herzegovina's preparations for the requirements of the EU's internal market and is of high relevance for early integration and the development of the Common Regional Market.

Major steps are required to align the legislative framework with the EU *acquis* on free movement of goods, in particular on technical requirements for products, conformity assessment and on market surveillance; the country should adopt a countrywide strategy for the quality infrastructure. Bosnia and Herzegovina should also align with the EU Services Directive, provide for the mutual recognition of foreign qualifications for regulated professions, and open up the postal market for competition. Bosnia and Herzegovina should remove unjustified restrictions to the free movement of capital and adopt a new law on anti money laundering and countering the financing of terrorism. In the field of company law, Bosnia and Herzegovina took some steps on electronic registration of companies, but needs to establishing a central registry of businesses and a single authority for the oversight of statutory auditors. Bosnia and Herzegovina also needs to implement the strategy on enforcement of intellectual property rights and amend the Law on Patents. On competition

policy, Bosnia and Herzegovina further aligned the law on State aid with the *acquis*; it should now ensure the operational independence of the State Aid Council and improve its enforcement record, and align existing aid schemes with the SAA. On financial services, Bosnia and Herzegovina needs to urgently appoint qualified members of the Federation entity Securities Commission, sign a Financial Stability Memorandum of Understanding, and improve coordination in supervision and enforcement. On consumer and health protection, Bosnia and Herzegovina needs to align with the EU *acquis* on serious cross-border health threats including communicable diseases, on tobacco control ((including the introduction of prohibition to smoke in public places), on substance of human origin, on medicines for human and veterinary use and the the state-level law on consumer protection.

## Chapter 1 - Free movement of goods

*The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.*

Bosnia and Herzegovina is at an **early stage of preparation** in the area of free movement of goods. **Limited progress** was made in this area with the appointment of the members of the Metrology Council, but the other two of last year's recommendations were not addressed and remain valid. Major steps still need to be taken to align the legislative framework with the EU *acquis*, in particular on technical requirements for products, conformity assessment and on market surveillance. In the coming year, Bosnia and Herzegovina should in particular:

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

### General principles

As regards the **general principles**, the legislative and institutional framework for the free movement of goods is not in place. Bosnia and Herzegovina does not have a coherent countrywide approach, nor does it have a **strategy or action plan for alignment** with the EU *acquis*. No steps were taken to comply with commitments under the Stabilisation and Association Agreement (SAA) or to repeal conflicting regulations at all levels.

### Non-harmonised area

There are no plans to ensure that legislation and administrative practices for the **non-harmonised area** are aligned to the obligations of **Articles 34-36** of the Treaty on the Functioning of the European Union and the relevant case law of the European Court of Justice. There is no specific body established or empowered to fulfil the obligation of notifying technical regulations.

### Harmonised area: quality infrastructure

While the legal basis and administrative structure for technical regulations, standards, conformity assessment, accreditation, metrology and market surveillance are in place, they are not aligned with the EU *acquis* and remain uneven and fragmented. The relevant administrative structures involve institutions set up at both state and entity levels, and the

coordination between them remains weak. There is still no countrywide strategy to put in place quality infrastructure, which is necessary for Bosnia and Herzegovina to have a coherent countrywide approach.

On **standardisation**, the Institute for Standardisation of Bosnia and Herzegovina (ISBIH) is a full member of the European Telecommunications Standards Institute and an affiliate member of the European Committee for Standardisation (CEN) and of the European Committee for Electro-technical Standardisation (CENELEC). Between 15 June 2020 and 14 June 2021 ISBIH adopted 2 057 European standards (ENs) as national standards. The percentage of adopted European standards is 89.71%. However, conflicting ex-Yugoslav mandatory standards have still not been withdrawn in a systematic manner across the country, and there is still no countrywide register of the legislation in force.

The Institute for Accreditation of Bosnia and Herzegovina (BATA) is the single national **accreditation** body. It is an associate member of the European Cooperation for Accreditation. BATA is understaffed, with 20 employees out of the 28 required under the implementing legislation, one less than in 2020. There are 145 **conformity assessment** bodies in Bosnia and Herzegovina: 79 testing laboratories, 2 medical and 8 calibration laboratories, 4 product certification body and 52 inspection bodies. The Law on accreditation is still not aligned with the EU *acquis*, and the designation of conformity assessment bodies and conformity assessment procedures are still not applied consistently throughout the country.

The Institute of **Metrology** of Bosnia and Herzegovina (IMBiH) participates in EU technical committees, European development programmes and cooperation projects with EU metrology institutes, and the BiH Metrology Council was appointed. Metrology institutes in Bosnia and Herzegovina need to cooperate and coordinate their activities in implementing the legislation in this area. IMBiH remains understaffed, with 51 of the 72 members of staff required under the implementing legislation, two less than in 2020.

In the reporting period, the **Market Surveillance** Agency and the inspection bodies of the entities and the Brčko District implemented 19 checks as part of proactive surveillance, and 16 were initiated on reactive surveillance. As a result of 190 product safety inspections, 4 857 unsafe products were withdrawn from the market (of which 1 613 were destroyed), and businesses brought 2 658 products into compliance with safety requirements. The market surveillance system is still largely based on mandatory standards and pre-market control. The Law on market surveillance is still not aligned with the EU *acquis*.

#### Harmonised area: sectoral legislation

On the '**new and global approach**', Bosnia and Herzegovina started to adopt legislation designed to align with the EU *acquis* on electrical equipment, machinery, electromagnetic compatibility, lifts, personal protection equipment, non-automatic weighing instruments and pressure equipment, as well as **fertilisers**. However, this legislation is not applied across the country, as the legislative framework is fragmented and the *Republika Srpska* entity implements its legislation separately.

No progress was made on aligning the legislation with the EU *acquis* on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) or on strengthening administrative capacities in this area. There is no countrywide approach to alignment to EU '**old approach product legislation**' or in regard to **procedural measures**. On the **pricing of medical products**, Bosnia and Herzegovina is partly aligned with the EU *acquis*. On **civil explosives**, Bosnia and Herzegovina still lacks a comprehensive legal framework on the transport of dangerous goods. Legislation on returning **cultural objects**

**unlawfully removed** from the territory of an EU Member State is not aligned with the EU *acquis*.

## Chapter 2 - Freedom of movements for workers

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

Bosnia and Herzegovina has **some level of preparation** in the field of free movement of workers. However, **no progress** was made in the reporting period and last year's recommendations remain therefore valid.

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

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

Regarding **access to the labour market**, the legislation does not differentiate between EU workers and other third-country nationals. In order to work in Bosnia and Herzegovina, an EU citizen has to obtain a work permit and meet certain conditions, with several exceptions as provided by the law on foreigners. Employment in public administration is reserved for Bosnia and Herzegovina citizens. In 2020, 884 work permits were issued to third-country nationals, of which 372 work permits were issued to EU citizens. Main sectors are processing industry, sales, civil construction, and services.

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

Bosnia and Herzegovina still lacks a countrywide database of vacancies.

As regards the **coordination of social security systems**, Bosnia and Herzegovina has 10 bilateral agreements on social security in place, of which 6 are with EU Member States, and another 16 agreements (of which 12 with EU Member States) are implemented on the basis of succession from the former Yugoslavia. The country's system of coordinating social security schemes remains fragmented, with limited administrative capacities and lack of formal cooperation among relevant authorities covering all levels of government. There has been no progress on the European Health Insurance Card (EHIC).

## Chapter 3 - Right of establishment and freedom to provide services

*EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. Postal services are open to competition since 2017.*

Bosnia and Herzegovina is at an **early stage of preparation** regarding the right of establishment and freedom to provide services. **No progress** was made in this area. Last year's recommendations have not been addressed and remain valid. The existing legislation remains to be aligned with the EU Services Directive and it does not provide for the mutual recognition of foreign qualifications for regulated professions. A countrywide strategy for development of postal services needs to be adopted in order to create a consistent regulatory framework that is aligned with the EU *acquis*.

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

- establish a register of the relevant legislation in force and identify the legislation to be

amended to ensure alignment with the EU Services Directive;

- elaborate a comprehensive inventory of all additional administrative and technical requirements for the registration of domestic and foreign undertakings economically active countrywide with a view to abolishing the ones hampering the creation of the single economic space;
- adopt a countrywide law on postal services, to further align the legislation with the EU *acquis*, including the Regulation on cross-border parcel delivery services, and open up the postal market to competition.

The legislation on **right of establishment** and **freedom to provide cross-border services** is not aligned with the EU *acquis*. In particular, no progress was made on developing a horizontal law enshrining the principles of the Services Directive, reviewing the sector-specific legislation to identify laws that need to be aligned with it, and establish the point of single contact. Legislative alignment at all levels of government requires building up sufficient administrative capacity and strong coordination between administrative bodies at all levels.

The legal framework for **postal services** is partly aligned with the EU *acquis*. A new state-level law and strategy on postal services need to be prepared and adopted in order to ensure a consistent regulatory framework aligned with the EU Postal Services Directive. The legal framework for providing universal postal services across the country remains to be harmonised and the postal market needs to be fully opened up to competition. The institutional and financial independence as well as the administrative capacities of the Agency for Postal Traffic should be strengthened to enable it to perform its regulatory function. There was no progress on aligning legislation with the EU Regulation on cross-border parcel delivery services.

The legislation still does not provide for the **mutual recognition of foreign qualifications for regulated professions** as required by the EU *acquis* in this area. The general roadmap for alignment with the relevant EU *acquis* remains to be implemented. Significant efforts still have to be made to establish an adequate institutional framework, including e-government facilities and national contact points assisting citizens requesting the recognition of their professional qualifications.

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

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

Bosnia and Herzegovina is **moderately prepared** in the area of free movement of capital. There was **no progress** in the alignment with the EU *acquis* on the free movement of capital. Last year's recommendations were addressed only to a limited extent and remain valid.

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

- reduce the extensive administrative requirements for short-term capital transactions and amend the legislation to comply with SAA commitments on the acquisition of real estate by EU citizens;
- adopt a new law on anti money laundering and countering the financing of terrorism, including a register of beneficial ownership information for legal persons and a register of beneficial ownership information for legal arrangements.

As regards **capital movements and payments**, the country continues to apply full current account convertibility. Long-term capital transactions are mostly liberalised, but restrictions remain for short-term capital transactions, including financial credits and loans provided by residents to non-residents, and residents' payments of life insurance premiums to non-residents. Investment rules for institutional investors are subject to limitations on investment in foreign securities. In March 2021, the *Republika Srpska* entity simplified the conditions for opening a foreign currency account abroad, especially for domestic companies that invest or perform economic activities through a business unit established abroad.

The state-level Law on foreign direct investments does not provide equal treatment of foreign and domestic natural persons for the acquisition of property. Entity laws on foreign investments still stipulate that a maximum of 49% of foreign ownership is allowed for companies operating in media affairs and the military industry unless, in case of justified interest, the entity government issues a decision to exceed 49% of the founding capital. The restriction therefore remains in force and is not in line with the requirements of the EU *acquis* on the free movement of capital, unless justified on grounds of public policy or public security.

For the acquisition of real estate by foreign natural persons, reciprocity is required unless the matter is regulated by an international agreement. Farmland cannot be owned by foreign natural and legal persons. The Stabilisation and Association Agreement (SAA) obliges the country to adjust its legislation on the acquisition of real estate so that from 2021 nationals of EU Member States are treated in the same manner as nationals of Bosnia and Herzegovina.

There was no progress in privatising companies of strategic interest where entity governments retain majority shares and management rights.

As regards the **payment systems**, the Central Bank of Bosnia and Herzegovina (CBBH) operates a modern payment system since introducing a new gyro clearing system in 2019. All interbank transactions up to 10,000 BAM go through this system. Bosnia and Herzegovina needs to adopt legislation to align with the EU *acquis* (Payment Service Directive II, the Electronic Money Directive II and the SEPA Regulation) to be able to adhere to the Single Euro Payment Area (SEPA) schemes for communities of banks or financial institutions outside the European Economic Area. In 2021, the Federation entity adopted legislation aimed at improving transparency and comparability of fees of payment service providers, amongst others by defining maximum fees for debit and credit card transactions.

Payment services need to be further liberalised and modernised to benefit existing and new players on the market. The system should be open to operators other than banks.

Regarding **anti-money laundering**, Bosnia and Herzegovina needs to adopt a new law on anti-money-laundering and countering the financing of terrorism (AML/CFT) in line with international standards, and further align with the EU *acquis* on anti-money laundering and countering the financing of terrorism. The new law should in particular cover customer due diligence requirements, the reporting of suspicious transactions, and the transparency of beneficial ownership. While Bosnia and Herzegovina has been removed from the EU list of high-risk third countries, the country should continue to improve its AML/CFT framework, including by introducing a register of beneficial ownership information for legal persons and a register of beneficial ownership information for legal arrangements.

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

also still need to be implemented.

## Chapter 6 - Company law

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

Bosnia and Herzegovina has **some level of preparation** in the field of company law, corporate accounting and audit. Some steps were taken in the area of electronic registration of companies in both entities and the Brčko District. However, there was **no progress** towards establishing a central registry of businesses, connecting the business registers with each other throughout the country, and ensuring harmonisation in these fields across the country. There was no progress either towards establishing a single countrywide competent authority for the oversight of statutory auditors. Recommendations from last year were not addressed and remain valid.

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

- review the existing legislation in the area of company law with a view to identifying amendments needed to complete alignment with the EU *acquis*;
- improve the connection and coordination of company registers among entities and the Brčko District.

**Company legislation** at all levels of government remains aligned only to a limited extent with the EU *acquis*. No central registry of businesses has been set up, nor has any connection been made among the company registers of the entities and Brčko District. Electronic registration of businesses was launched in the *Republika Srpska* entity in the reporting period. Such a system was also established in Brčko District. Legislation to simplify the registration process, including electronic registration, is still pending adoption in the Federation entity.

The legislation on **corporate accounting and auditing** remains partially aligned with the EU *acquis*. As regards the accounting standards, the respective laws in the entities and Brčko District prescribe the use of International Financial Reporting Standards (IFRS) for annual and consolidated accounts of all legal entities. Bosnia and Herzegovina still needs to align its legal framework in the area of non-financial reporting with the Directive on disclosure of non-financial and diversity information by certain large undertakings and groups. The state-level Accounting and Audit Commission of Bosnia and Herzegovina acts as an expert body responsible for accounting and auditing standards, accompanying instructions and practices. The entities' professional bodies are authorised to translate and officially publish standards. In the reporting period, both entities amended their legislation on accounting and auditing in order to further align their legal frameworks with the EU *acquis*. In January 2021, the Federation entity also adopted a Law on the Register of Financial Statements to enhance the quality of financial reporting in line with best international practice. Public audit oversight is performed by the Public Oversight Board in the Federation entity, by the Ministry of Finance in the *Republika Srpska* entity and by the Accounting and Auditing Board in Brčko District. However, Bosnia and Herzegovina still needs to designate a single countrywide competent authority with ultimate responsibility for the oversight of statutory auditors, in line with EU *acquis* requirements.

## Chapter 7 - Intellectual property law

*The EU has harmonised rules for the legal protection of intellectual property rights (IPR) and of copyright and related rights. Rules for the legal protection of IPR cover, for instance,*

*patents and trademarks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, computer programmes and broadcasting.*

Bosnia and Herzegovina is **moderately prepared** in the area of intellectual property law. **No progress** was made in this area during the reporting period. Significant efforts are required, in particular to improve enforcement and coordination. The recommendations from last year were not addressed and remain valid.

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

- implement the strategy on enforcement of intellectual property rights;
- amend the Law on Patents.

The Institute for Intellectual Property of Bosnia and Herzegovina (IIP) operates as an independent administrative body. The Institute's development strategy gives it the role of coordinator in the system of enforcing intellectual property rights.

With regard to **copyright and neighbouring rights**, the legislative framework is largely aligned with the EU *acquis*. Further alignment is needed, in particular in the area of orphan works and collective rights management.

Copyright works and related rights were deposited and registered in the IIP. Six organisations in the country are authorised for the collective management of copyright and related rights.

In the area of **industrial property rights**, the legislative framework is partially aligned with the EU *acquis*. Further alignment is needed, in particular for patents, trademarks and trade secrets. Bosnia and Herzegovina has acceded to the relevant multilateral conventions, as required by the SAA, except for the European Patent Convention, for which it still has to adopt relevant amendments to the Law on Patents.

Regarding **enforcement**, in the reporting period the Indirect Taxation Authority received only 69 requests for customs measures based on protected trademarks and issued 57 decisions on temporary retention and seizure of goods. The State Investigation and Protection Agency investigated only 36 cases of which 6 were closed while the remaining 30 cases are still under investigation.

The administrative and judicial capacity of the enforcement institutions remains insufficient and their cooperation needs to be strengthened. Bosnia and Herzegovina's strategy on IPR enforcement has yet to be implemented. The country still does not have a reliable system for collecting and analysing data nor for exchanging data between the various enforcement institutions. Steps need to be taken to ensure businesses and consumers are involved in preventing counterfeiting and piracy, including through awareness-raising campaigns, across all enforcement institutions. Prosecutors, judges and court panels handling cases involving intellectual property law need to be more specialised to handle such cases in a more efficient and consistent manner.

## **Chapter 8 - Competition policy**

*EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position, and also include rules on concentrations between companies which would significantly impede competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.*

Bosnia and Herzegovina has **some level of preparation** in the area of competition policy. There was **some progress** in this area in the reporting period, in particular with further alignment of the law on State aid with the EU *acquis*. Bosnia and Herzegovina should further align its implementing legislation in the area of competition and State aid with the EU *acquis*. Recommendations from last year were not addressed and remain valid.

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

- step up efforts to improve the enforcement record of the State Aid Council by ensuring that State aid measures are notified *ex ante* by granting authorities;
- in line with SAA provisions, ensure that the State Aid Council operates independently and align with the EU *acquis* the existing aid schemes, introduced before the State Aid Council was established,

### Antitrust and mergers

The legislative framework on **antitrust and mergers** is broadly aligned with the EU *acquis*. The Law on Competition of Bosnia and Herzegovina largely mirrors the provisions of the Treaty on the Functioning of the European Union on restrictive agreements and on abuse of dominant position. It provides for an *ex ante* control of the effects on competition of mergers above certain turnover thresholds, in line with the principles of the EU Merger Regulation. Implementing legislation providing further substantive and procedural rules as well as guidance on implementing competition rules is in place and aims at broadly complying with the EU *acquis*. Implementing legislation needs to be further aligned with the EU *acquis*.

As for the **institutional framework**, the Competition Council is an operationally independent body responsible for implementing the Law on competition. The Competition Council may issue requests for information, carry out dawn raids and impose fines and remedies if it identifies a breach of competition rules. It can prohibit mergers, or authorise them, with or without conditions, and provide opinions on draft legislation that may affect competition. A leniency programme for companies providing information on cartel cases is in place. Parties may appeal the Competition Council decisions before the court.

The functioning of the Competition Council is significantly impeded by tight procedural deadlines and ethnic-based decision-making procedures, which require decisions of the Council to be supported by at least one representative of each constituent people in order to have legal effect.

Regarding **enforcement capacity**, the Competition Council is composed of six members assisted by 20 staff. The staff's level of expertise needs to be further developed through relevant training. On **implementation**, in the reporting period the Competition Council took 27 decisions, including 10 on prohibited agreements, 7 on abuse of dominant position and 10 authorising concentrations. The imposed fines amounted to circa EUR 250 000. The Competition Council should continue to strengthen the enforcement of competition rules. The judiciary's capacity to handle complex competition cases is improving and it needs to be further reinforced.

### State aid

As regards **State aid**, the legislative framework is partially aligned with the EU *acquis* and with the provisions of the SAA. It comprises the Law on the State Aid System in Bosnia and Herzegovina and the regulations adopted by the Council of Ministers and by the governments of the entities and of the Brčko. In June 2020, the Law on State Aid System was amended to further align it with the *acquis*. The implementing legislation is not developed evenly across

the country and remains to be aligned with the EU *acquis*. A regional aid map still remains to be drawn up.

As for the **institutional framework**, the State Aid Council is responsible for ensuring the consistent implementation of the Law on the State aid system. The State Aid Council is composed of eight members appointed by the Council of Ministers and the governments of the entities and of the Brčko District. As in the case of the Competition Council, the functioning of the State Aid Council is significantly impeded by ethnic-based decision-making procedures, which require decisions of the Council to be supported by at least one representative of each constituent people in order to have legal effect. The mandate of the members of the State Aid Council from the *Republika Srpska* entity expired in July 2020 and no actions have been taken to nominate new ones yet.

The **enforcement capacity** of the State Aid Council is insufficient. With only six staff members, its secretariat is not in a position to fulfil its tasks. Furthermore, staff expertise needs to be developed through relevant training. On **implementation**, the State Aid Council issued only two (positive) decisions over the reporting period. A vast majority of State aid measures are put in place by granting authorities before they are notified to and approved by the State Aid Council. The existing State aid schemes still have to be aligned with EU State aid rules, in accordance with obligations arising from the SAA. Bosnia and Herzegovina needs to ensure that all State aid measures granted are transparent.

In April 2020, the State Aid Council published the Manual on application of State aid rules and a notification on application of the State aid law in the context of COVID-19 pandemic, designed to be aligned with the European Commission's guidelines set out in the Temporary Framework of 19 March 2020.

#### Liberalisation

Concerning **liberalisation**, the Law on Competition and the Law on the State aid system are applicable to public undertakings and undertakings with special or exclusive rights. The rules on financing services of general economic interest are not fully aligned with the EU *acquis*.

### **Chapter 9 - Financial services**

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

Bosnia and Herzegovina has **some level of preparation** / is **moderately prepared** in the area of financial services. There was **some progress** in implementing last year's recommendations. Further steps are needed to significantly improve coordination in supervision and enforcement within the sector. The overall level of preparedness in the securities market remains low. Last year's recommendations remain largely valid.

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

- sign a Financial Stability Memorandum of Understanding;
- strengthen the bank resolution framework by amending the entities' banking laws and the law on deposit insurance to enable the creation of a financial stability fund
- demonstrate improvements in the coordination between corrective and enforcement powers of supervisory bodies (including banking agencies).

As regards **banks and financial conglomerates**, the banking sector appears adequately capitalised and liquid. The overall capital adequacy ratio was at some 18% at the end of 2020,

well above the regulatory minimum of 12%. However, the fragmented market contributes to an only moderate profitability for the banking sector. Strategies on fully implementing Basel III are in place. A common methodology to determine systemically important banks remains to be adopted.

Banking agencies coordinated their response to support the financial sector and the general economy during the pandemic, including by a temporary moratorium on debt repayments of up to six months and a possible loan restructuring. The moratorium was renewed in 2021. Banking agencies also suspended dividends and limited remuneration in the banking sector. Banking agencies, in a coordinated manner, adopted implementing legislation primarily related to liquidity, credit, foreign exchange risk as well as capital calculation in order to ease the requirements and assist banks to deal with COVID-19 consequences, thus stimulating lending activity. Financial stability will have to be closely monitored, also through more frequent meetings of the Standing Committee for Financial Stability. The deposit insurance system is operational, but the amount of insured deposits is not in line with the requirements of the EU *acquis*. While the implementation of the Law on deposit insurance enhances the bank resolution framework, this framework should be further strengthened.

Implementation of the Supervisory Review and Evaluation Process (SREP) methodology continued, which enabled identifying risks and corrective measures for individual banks. To be complete, the legal framework must notably strengthen supervisors' corrective and enforcement powers and introduce consolidated supervision of banking groups across the entities.

The ratio of non-performing loans (NPL) declined to 6.1% of the outstanding loan portfolio at the end of 2020. Nevertheless, institutional and legal obstacles to swift and effective NPL resolution need to be reduced, also as NPL are likely to increase after COVID-19 related support measures expire.

Fragmentation of the institutional and regulatory set-up continues to impede banking supervision. A Financial Stability Memorandum of Understanding to improve cooperation and information sharing for bank supervision, crisis preparedness and management, and systemic risk oversight has been prepared but not yet signed by the relevant parties, including the Central Bank, the Deposit Insurance Agency and banking agencies.

Bosnia and Herzegovina made some progress on **insurance and occupational pensions**. Both entities adopted legislation on compulsory vehicle insurance in July 2020 to gradually liberalise their insurance markets. The Federation entity adopted a new law for liberalising the premium tariffs by October 2025. It also adopted implementing decisions on insurance conditions and tariffs, providing amongst others for implementation of a bonus/malus system harmonised between entities. The *Republika Srpska* entity amended its legislation to extend the deadlines for the tariffs liberalisation until October 2026, with a view to alleviating the consequences of the pandemic on the insurance sector. Both entities adopted implementing legislation, including on conditions and premiums for third party liability in the Federation entity, and on reporting requirements to the Insurance Agency as well as on payment conditions in voluntary pension funds in the *Republika Srpska* entity.

Both entities adopted a methodology for the supervision of branch offices in inter-entity operations to implement the existing protocol on cooperation and harmonisation of inter-entity business operations. In October 2020, the Multilateral Guarantee Agreement entered into force, abolishing green card checks for vehicles registered in Bosnia and Herzegovina entering the European Union. Despite some incremental awareness raising initiatives and surveys on qualitative requirements for alignment carried out by the insurance companies, no

progress has been made in preparing for transition into the Solvency II-based regulatory framework.

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

No progress was made in terms of **financial market infrastructure**. Legislation is not in line with the EU *acquis*, including the Settlement Finality Directive.

The regulatory framework for **securities markets and investment services** is under the entities' competences. Both entities have a securities market regulator (Securities Commission) and a dedicated, though not harmonised legal framework on securities market and investment funds. Coordination between the entities needs to be improved to ensure consistent alignment with key areas of the EU securities market *acquis*, such as market manipulation and market abuse rules. Since the end of 2019, the Securities Commission of the Federation entity had lost the quorum of three members required to operate even its technical mandate, rendering it unable to perform its regular duties. As a result, all requests for capital increase, mergers and acquisitions have come to a halt, creating serious problems for businesses and the capital market. Members of the Securities Commission of the Federation entity were appointed only in September 2021.

With the aim to simplify issuance of debt securities and to enhance broker-dealer activity, the *Republika Srpska* entity amended its legislation on securities markets. With the entry into force of the Law on factoring in December 2020, this entity's Securities Commission is authorised to license factoring companies.

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

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

Bosnia and Herzegovina is at an **early stage** of preparation in the field of consumer protection and public health. **No progress** was made in the area during the reporting period; last year's recommendations remain valid. The legislation on serious cross-border health threats including communicable diseases is not yet aligned with the EU *acquis* at all levels of government.

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

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

### Consumer protection

On **horizontal aspects**, the legal framework for **consumer protection** is still enshrined in the Law on consumer protection, adopted in 2006 at state level. This needs revision to ensure

alignment with the significant developments in the EU *acquis* that have taken place since then.

The Consumer Protection Council (CPC) acts as an expert advisory body for the Council of Ministers. The CPC proposes an annual state consumer protection programme, monitors its implementation, and defines the fundamentals of consumer protection policy and the direction of the scope of consumer protection activities funded by the state budget. However, the reports on the execution of the 2019 State-level annual consumer protection programme and the 2020 State-level annual consumer protection programme were not adopted.

The Ombudsman's office for consumer protection issued decisions in 249 consumer complains. The Ombudsman delivered 20 expert opinions, provided 365 pieces of legal advice, answered 37 requests for information and signed a cooperation agreement with all 15 consumer associations from both entities.

The legal framework in the area of consumer credit and distance marketing of financial services remains to be aligned with the EU *acquis*.

The legal framework for **product safety** is not yet aligned with the EU *acquis*. Over the reporting period, the Market Surveillance Agency and the inspection bodies of the entities and the Brčko District implemented 19 checks as part of proactive surveillance, and 16 were initiated on reactive surveillance. As a result of 190 product safety inspections, 4 857 unsafe products were withdrawn from the market (of which 1 613 were destroyed), and businesses brought 2 658 products into compliance with safety requirements.

#### Public health

On **horizontal aspects**, there was no progress in drafting a **health strategy** at the state level or in the Brčko District. There is no state-level health information strategy or integrated **health information system** in place.

Legislation on **tobacco control** policies at the level of the entities and the Brčko District is not aligned with the relevant EU *acquis*. Bosnia and Herzegovina is a party to the WHO Framework Convention on tobacco control, but this convention has not been fully implemented due to a lack of systematic monitoring. Bosnia and Herzegovina has still not ratified the protocol to eliminate illicit trade in tobacco products.

The legal framework regulating the areas of **blood, tissues, cells and organs**, at the level of the entities and the Brčko District is not yet aligned with the EU *acquis*. Though one entity adopted legislation designed to be aligned with the EU *acquis* on biomedically assisted fertilization, this is not the case across the country as the legal framework is fragmented. The country lacks the necessary administrative capacities to fulfil the requirements laid down in the EU *acquis* on human organ, tissue and cell transplantation. The entities have established institutes for transfusion medicine. Transplantation programmes are organised at entity level with very limited cooperation between them. There was no progress in setting up an oversight system at state level in this field in order to ensure efficient coordination in the whole country.

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

partially implemented by the competent institutions of the entities and the Brčko District.

In relation to COVID-19, the authorities at all levels reacted promptly and introduced mitigation measures to slow down the transmission of the virus, but these measures were not well coordinated throughout the country. Official COVID-19 information is gathered, presented and reported on locally and internationally through the pre-existing international health regulation mechanism. Bosnia and Herzegovina also continued to use the EU joint procurement agreement for medical counter-measures. As regards to vaccination against COVID-19, the authorities ensured successful participation in the COVAX facility. At the beginning of the vaccination process, Bosnia and Herzegovina mainly relied on the donations, only the *Republika Srpska* entity directly purchased vaccines. Mass vaccination across the country has not fully started, and there is no central database on the vaccinated citizens. The EU is providing EUR 7.76 million in assistance to support public health institutions, adapted to respond to the needs, and a grant of EUR 13.7 million for the purchase of vaccines (including transport costs, and up to 15% of which can be used for vaccine-related supplies and equipment). The country received 214 110 doses between May and August 2021, facilitated by Austria, through this *EU4health* grant. Bosnia and Herzegovina also received multiple donations from the EU Member states (500 000 from Austria, 170,000 from Croatia, 120,000 from Greece, 52 8000 doses from Slovenia, 200,000 doses from Hungary and 50,000 doses from Bulgaria by end August 2021), bringing the total COVID-19 vaccines doses provided by the EU to over 1.3 million by the end of August.

On **cancer screening**, Bosnia and Herzegovina has no countrywide cancer control plan, or a countrywide early detection programme. The Federation entity has no systematic cancer registers or screening programmes for the treatment of cancer, due to legislative issues and limited financial capacity. Both entities have cancer registers. The *Republika Srpska* entity has an early detection programme in place. The Brčko District has no register or early detection programmes.

Bosnia and Herzegovina has a network of 74 community-based **mental health** centres with multi-disciplinary teams and some of them have additional specialists. A special forensic psychiatric hospital provides treatment to forensic patients from across the country.

On **preventive measures**, some activities to reduce **alcoholism and prevention of alcohol-induced disorders** were carried out with the participation of NGOs. **Drug abuse prevention and harm reduction, preventative measures** are implemented through education and NGO activities, although these efforts are not systematic. Rehabilitation and social reintegration programmes have been introduced unequally in different parts of the country, a more systematic approach needs to be introduced.

On **health inequalities**, a key challenge facing the health care system is to improve accessibility for all citizens, although the legislation stipulating equal access to health is in place. Ensuring good quality accessible public health care for all citizens including marginalised groups is one of Bosnia and Herzegovina's key reform priorities. Roma have access to healthcare services only if they are registered at the employment or education administrations. Due to this many Roma lack health insurance. During the declared state of emergency / natural disaster, all levels of government passed measures on temporary universal health protection coverage with regard to COVID-19.

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

The cluster covers chapters 10 - information society and media, 16 - taxation, 17 - economic and monetary policy, 19 - social policy and employment, 20 - enterprise and industrial policy, 25 - science and research, 26 - education and culture, 29 - customs union.

Bosnia and Herzegovina needs to develop and adopt laws electronic communications and electronic **media**, and on electronic identity and trust services, in line with the EU *acquis*, and pursue the digital switchover. On **taxation**, it should bring excise duties on beer in line with the EU *acquis*, and ensure the interoperability of e-signature. It should improve cooperation and coordination of macroeconomic and fiscal policies, also in the context of the Economic Reform Programme (ERP), and guarantee the independence of the Central Bank and the integrity of the currency board. On **economic and monetary policy**, it should ensure consistent political support for and high visibility, countrywide ownership and coherence of the Economic Reform Programme. On **social policy**, it should adopt employment strategies, develop a Youth Guarantee implementation plan and enhance social dialogue. On industrial policy, it should simplify and harmonise business registration and update strategy documents. It should develop and adopt a smart specialisation strategy, and a roadmap for research infrastructure. It should ensure a fully functional system of (re-)accreditation of higher **education** institutions and study programmes, and continued participation in international assessment studies. It should implement the law on **customs** policy, and increase administrative capacities.

Socio-economic reforms must be pursued to help address the existing structural weaknesses, low competitiveness, high unemployment, as well as the impact of the pandemic, which has further increased their urgency. This cluster and the reforms concerned have significant links to Bosnia and Herzegovina's Economic Reform Programme.

## **Chapter 10 - Information society and media**

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

Bosnia and Herzegovina is at an **early stage of preparations** in the area of information society and media. **No progress** was achieved in implementing last year's recommendations, which remain valid. The legislation and strategic framework are not in place and not aligned with the EU *acquis*. No progress was made on introducing the European emergency number 112. The Regional Roaming Agreement entered into force in July 2021, enabling 'roam like at home' (RLAH).

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

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

Regarding **electronic communications and information and communication technology**, the country has still made no progress in adopting the legislation related to electronic communications and electronic media in line with the 2018 EU regulatory framework.. Bosnia and Herzegovina has not developed a broadband strategy, even though it introduced the 4G network in 2019. The Communications Regulatory Agency still lacks financial independence and no efforts were made to improve the procedure for appointing its management to ensure full political independence.

In 2020, there were 60 internet providers and 3,336,591 internet users (94.49% penetration rate), with a penetration rate of 21.39% for broadband internet. The Regional Roaming Agreement enabling ‘roam like at home’ entered into force in July 2021, leading to a further decrease of the price of roaming services.

Regarding **information society services**, Bosnia and Herzegovina made no progress in adopting a countrywide strategy and action plan for development of the information society. No progress was made for the adoption of the law on electronic identity and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*. Also, no progress has been made in ensuring the interoperability of the electronic signature system throughout the country.

The country made no progress in adopting a countrywide strategy on the security of networks and information systems and in designating a countrywide single point of contact responsible for coordination and cross-border cooperation. Bosnia and Herzegovina needs to establish a network of Computer Security Incident Response Teams to facilitate strategic cooperation and the exchange of information.

As regards **audio-visual policy**, Bosnia and Herzegovina made no progress in developing and adopting a law on electronic communications and electronic media in compliance with the EU *acquis*. No progress has been made in adopting legislation on media ownership transparency, including a register of ownership structures, as well as legislation on advertising in the media. The country made no progress in completing the second phase of the digital switchover. Bosnia and Herzegovina has not introduced a suitable model to collect broadcasting fees that would ensure the public broadcasting system’s financial sustainability and political independence. The Public Services Broadcasting Corporation, as prescribed by the respective law, is still not established. The financing of local public broadcasters from the public budget also needs to be brought in line with the EU *acquis*, as it constitutes State aid and provides opportunities for political pressure and influence.

## Chapter 16 - Taxation

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

Bosnia and Herzegovina has **some level of preparation** in the area of taxation. **No progress** was made in the reporting period. The Commission’s recommendations of 2020 were not implemented and remain valid.

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

- bring the legislation on VAT and on excise duties in line with the EU *acquis*, notably on excise duties on beer;
- eliminate all administrative burdens in the area of electronic signature (e-signature) in order to ensure its interoperability and a harmonised countrywide system.

The legislative framework for **indirect taxation** is partially aligned with the EU *acquis*. The country needs to further align VAT legislation with EU *acquis* and improve cooperation between the Indirect Taxation Authority (ITA) and the tax administrations of the entities and Brčko District, including through joint audits.

As regards excise duties on tobacco, alcohol, non-alcoholic beverages other than natural juices and water, fuel and coffee, there are considerable discrepancies with the EU *acquis*. This concerns the scope and classification of the excisable goods as well as exemptions,

structures and minimum rates. The country needs to align its law on excise tax fully with the EU *acquis*.

On **direct taxation**, in August 2020, the *Republika Srpska* entity adopted a new law on tax procedure allowing the e-registration of business entities, and, in December 2020, amended the law on income tax. There was no progress in the field of direct taxation in the Federation entity as new legislation on income taxation and social contributions to reduce tax burden on labour and harmonise with the *Republika Srpska* entity remain to be adopted.

On **administrative cooperation and mutual assistance**, Bosnia and Herzegovina ratified the OECD/Council of Europe multilateral convention on mutual administrative assistance in tax matters (MAC) and deposited the instrument of ratification in September 2020. The convention entered into force on 1 January 2021. The country has not yet committed to automatically exchange financial account information based on the OECD single global standard. Bosnia and Herzegovina has signed double taxation agreements with 20 EU Member States.

Concerning **operational capacity and computerisation**, the electronic submission of VAT and excise duties declarations is in place. However, coordination, cooperation and data exchange among the country's different tax administrations need to be further improved, including the countrywide harmonisation and interoperability of the e-signature.

## Chapter 17 - Economic and monetary policy

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

Bosnia and Herzegovina is at an **early stage** of preparation on economic and monetary policy. There was **no progress** towards improved cooperation and coordination of macroeconomic and fiscal policies. The 2020 recommendations were not addressed and remain valid. Monetary policy underpins economic stability, but full independence of the Central Bank remains to be ensured.

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

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

As regards **monetary policy**, the exchange rate regime continues to be characterised by a currency board arrangement, which links the convertible mark (KM) to the euro as the anchor currency. This provides stability within the country's complex institutional environment. The Central Bank's objective of keeping the domestic currency stable remains in contrast with the primary objective of monetary policy in the EU, which is price stability. The Law on the Central Bank is not fully aligned with the EU *acquis* as regards the prohibition of monetary financing.

The Law on the Central Bank does not ensure the Bank's unconditional functional independence. The central bank is required to report to the Parliamentary Assembly on its audited annual financial statements for parliamentary scrutiny and to the Presidency on the preliminary financial reports. This latter requirement could impinge on the central bank's independence. Legislative provisions governing the removal of the Governing Board members and the duration of appointment of replacement members remain to be fully aligned with the EU *acquis*. In 2020, three new members were appointed to the central bank's Governing Board. Two members were appointed following a change in the composition of the state presidency, which appoints board members. The circumstances of appointments (and previous dismissals) may raise concerns of political interference. In August 2021, the mandate of the central bank's Governing Board expired and the Presidency of Bosnia and Herzegovina failed to adopt a decision to appoint the Governing Board. On the last day of its mandate, the Governing Board adopted the decision to apply the principle of continuity to enable undisturbed performance of core tasks and functions of the central bank, until the Presidency appoints new members of the Governing Board. The Serb member of the Presidency has also repeatedly proposed to use central bank reserves for fiscal purposes which would undermine the currency board arrangement. Therefore, a continued focus on preserving the integrity of the currency board arrangement and the independence of the central bank in line with the EU *acquis* is crucial.

Banking supervisory powers lie with the two entities' banking agencies. While the banking system weathered the pandemic shock relatively well so far, the efficiency of banking sector supervision is impeded by fragmented competences and insufficient coordination.

Regarding the EU *acquis* on **economic policy**, the quality of Bosnia and Herzegovina's medium-term economic reform programme points to significant weaknesses in administrative coordination and policy formulation. Implementation of the jointly adopted policy guidance was partial. Capacities to design, implement and monitor structural reforms need to be significantly enhanced to meet the requirements of the European Semester. This means establishing a countrywide medium-term reform programme that is coherent, consistent and based on a jointly agreed prioritisation. In that vein, the coordination role of the Directorate of Economic Planning should be strengthened, including the provision of necessary resources. During the Economic and Financial Dialogue, the country did not succeed to formulate a common position towards two issues in the policy guidance contained in the Joint Conclusions, namely (i) to create in line with the EU *acquis* a central (i.e. countrywide) registry of bank accounts of private individuals and (ii) to adopt the law on electronic identity and trust services for electronic transactions with a single supervisory body in line with the *acquis*.

The governments' response to the COVID-19 pandemic remains uncoordinated and fragmented, in terms of both the substance and timing of the introduction. In May 2020, a task force was established aiming to coordinate the activities of all levels of the government in Bosnia and Herzegovina concerning socio-economic measures in response to the COVID-19 crisis and to facilitate mobilisation of funding for all levels of government through domestic funds and foreign financial assistance. However, no meetings held during the reporting period.

The reporting of public sector data in line with the European System of National and Regional Accounts (ESA 2010) remains very limited and the alignment of the underlying statistical framework with ESA 2010 requirements and definitions is still limited. Data provision and transparency is severely hampered by a lack of cooperation between the main statistical bodies. Fiscal rules remain at entity level and there is still no independent fiscal institution to

monitor and enforce compliance with countrywide fiscal rules. The medium-term budgetary framework remains insufficiently developed and underused as a policy-guiding instrument.

## Chapter 19 - Social policy and employment

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

Bosnia and Herzegovina has **some level of preparation** in the field of social policy and employment. **Limited progress** was achieved in implementing last year's recommendations, especially when it comes to labour legislation, but serious challenges remain to be addressed as regards employment, social inclusion and protection, and poverty reduction, especially related to coordination among the responsible institutions across the country. Some progress was achieved related to development of entities and countrywide employment strategies and efforts should be taken to adopt them. No steps were taken to strengthen and promote social dialogue.

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

- adopt entity-level and countrywide employment strategies as a policy framework, while providing for additional capacities for implementation and monitoring;
- take steps to establish and implement the Youth Guarantee by developing a Youth Guarantee Implementation Plan in line with the EU model and guidance;
- enhance social dialogue at all levels and conclusion of general collective agreements.

The **labour laws**, in place at the level of the entities and Brčko District, apply to all employees, except to civil servants, and guarantee a minimum level of protection of employee rights. In order to fully meet EU standards in this area, the legal framework still requires further improvement, especially when it comes to the protection of workers, which include protection against discrimination.

The right to strike is regulated by the entity-level labour laws and by the laws on striking that are in place at all levels of the government. Beside the existing legislation on the amicable settlement of labour disputes in the *Republika Srpska* entity, the Federation entity adopted legislation on the issue in April 2021. These laws are generally based on ILO principles and recommendations, despite some differences when it comes to institutional arrangements. Implementation of the labour laws remains inadequate, especially when it comes to social dialogue, protection for workers and the enforcement of labour inspection.

The pandemic exposed the need to amend the labour laws to address deficiencies related to crisis management, such as lack of detailed provisions regulating work from home, paid and unpaid leave due to force majeure, temporary reduction of working hours, as well as limited options for adequate response in order to protect jobs and provide socio-economic security for employees.

Laws on **occupational health and safety** are in place in the entities and the Brčko District. In October 2020, a new law on occupational safety came into force in the Federation entity, setting basic principles of occupational safety and health. The bylaws regulating specific aspects of occupational safety and health need to be adopted and harmonised with the EU *acquis* throughout the country. Enforcement and implementation of legislation remains partial, especially when it comes to inspection capacities, control over proper prevention of injuries at work, investment in safety and relevant training for employers or assistance to conduct a proper risk assessment in the workplace. The system of collection and dissemination of statistical data on work-related injuries and diseases still needs to be

improved. Official data on reported accidents and fatalities, along with most affected sectors, were not published for 2020.

As a response to COVID-19 outbreak, authorities at all levels introduced a number of measures aimed at protecting health and safety of workers, including stricter application of occupational safety and health-at-work legislation, especially on use of personal protective equipment, disinfection and physical distancing. Such measures also included the suspension or reduction of activities in a number of sectors, such as education, retail, hotels, restaurants and catering services, and public transportation.

**Social dialogue** remains weak at all levels and no significant improvements have been made. The involvement of social partners in the implementation of policies is limited and their internal capacities require improvements. Economic and Social Councils (ESC) operate at entity level, although the ESC in the Federation entity has been facing many difficulties in its work over the past two years. The state-level Economic and Social Council has not been established. There are no general collective agreements in the two entities, but a number of branch agreements are in place limited mainly to the public sector and some state-owned enterprises. The new legislation in the Federation entity introduced mechanisms for individual and collective amicable labour dispute settlement in expedited and less costly manner

Regarding **employment policy**, there is still no countrywide employment strategy in place. Entity strategies have expired too. New entity-level and countrywide draft employment strategies for 2021-2027 are being prepared. The Federation entity Government, in cooperation with the ILO, also adopted in May 2021 a draft employment strategy for period 2021-2027 and forwarded it for parliamentary procedure. Efforts should be taken to finalise and adopt them.

According to the data of the Labour Force Survey in 2020, the activity rate was 47,7% (reference age 20-64y), the employment rate 40.1% (reference age 20-64y), the **unemployment rate** 15.9% (reference age 15-74y), and the inactivity rate 52.3%. Out of the total active population, 60.4% are men and 39.6% women. Out of the total number of employed persons, 61.7% are men and 38.3% are women, while out of the total number of unemployed persons 53.7% are men and 46.3% are women. The unemployment is especially affecting the 25-49y cohort which makes 60.6% of the unemployed person, (22.9% belong to the 15-24y, 16.4% to the 50-64y and 0.1% to the 65+). The educational structure of persons in employment shows that 67.5% have completed secondary school and specialization, 20.7% have a college, university, master or doctoral degree, and 11.7% completed primary school or lower education.

The highest share in educational structure of the unemployed persons have those with completed secondary education and specialization (70.8%), followed by those with a college, university, master and doctoral degree (15.1%), and those with completed primary school or lower education (14.1%).

**Public employment services** are implementing various labour market programmes, with special focus on mitigation of impact of the COVID-19 pandemic. Results of the implemented active labour market policies are under evaluation. The capacity of the public employment services to provide quality services to jobseekers has been gradually improving but remains weak. The administration of social benefits further limits the ability of public employment services to assist active jobseekers.

Bosnia and Herzegovina took part in bilateral and regional awareness-raising meetings on the Youth Guarantee. In the upcoming period, the country needs to put in place coordination mechanisms involving all relevant actors and take concrete steps to gradually establish and

implement the Youth Guarantee scheme by developing the Youth Guarantee Implementation Plan, in line with the commitment taken by Bosnia and Herzegovina in the Western Balkans Declaration on ensuring sustainable labour market integration of young people.

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

There has been no progress in preparations for using the **European Social Fund**. (See Chapter 22 - Regional policy and coordination of structural instruments).

On **social protection and inclusion**, there are still no countrywide strategies on poverty reduction, social inclusion and protection or a system at state level for monitoring policy implementation. For persons with disabilities, institutional care is still prevalent. Services within the community that enable independent living are not adequately supported and there is no comprehensive strategy for deinstitutionalisation. At entity level, there is a wide range of strategies and laws related to social inclusion and protection, but they are not enforced due to lack of funding, inadequate procedures, standards and referral practices and a general lack of coordination. The **social protection system** remains underdeveloped and the effectiveness of social transfers is limited. Social assistance is neither well targeted, nor needs-based due to the absence of adequate system for data collection. A large number of people in Bosnia and Herzegovina are not covered by public health insurance and as such are not entitled to the basic package of health care services. In addition, because of the highly decentralised governance structure, the eligibility conditions for social assistance differ between entities, districts and cantons. Along with differences in eligibility criteria, there are also differences in coverage, targeting efficiency and generosity. Cooperation between the social service centres and employment bureaus is not well established. The transformation of institutions for social protection and, in particular, of those for children without parental care is still ongoing. Deinstitutionalisation requires comprehensive reform with regard to financing of the new services for both, **capacity building and support to social service centres across the country**.

There are still no countrywide systematic measures to improve the situation of older persons. A strategy for Improving the Situation of the Elderly 2019-2028 was adopted in the *Republika Srpska* entity but systematic measures to improve the situation of older persons need to be taken at country level. Bosnia and Herzegovina should adopt a new action plan for children.

The EU Statistics on Income and Living Conditions (EU-SILC) is still not available in the country.

The principle of **equal opportunities and equal treatment of men and women in matters of employment and social policy** is regulated by the laws on gender equality and antidiscrimination, and by the entity-level labour laws. These laws contain provisions on gender equality covering different areas (employment, education, training and professional qualification) but in practice the enforcement of non-discrimination legislation remains low. In 2020, the employment rate for the population aged 20-64 was 40% for females and 65% for men, resulting in a high gender employment gap of 25 percentage points.

In February 2021, the Federation entity government adopted a development strategy 2021-2027. One of the goals is inclusive social development within which support to and promotion of women's entrepreneurship is emphasised. A 2019-2023 strategy for development of women's entrepreneurship is in place in the *Republika Srpska* entity too.

On **non-discrimination in employment and social policy**, although labour laws within the country address the issue of non-discrimination at work, apart from policy frameworks which target the increase of employment opportunities for persons with disabilities, there are no strategies or action plans in place specifically developed for employment-related discrimination. The labour market and the social policies have not been very successful in addressing the specific needs of vulnerable population, including Roma. The weak links between the responsible ministries and lack of cooperation constitutes a barrier for progress. The Human Rights Ombudsman institution is the body in charge of protection from discrimination. In 2020, the Ombudsman dealt with 35 cases of employment-related discrimination, with the highest number of complaints in the reporting period relating to mobbing in the workplace. However, it still does not reflect the real situation on the ground as a significant number of citizens do not initiate proceedings, nor they seek judicial protection for fear of being fired. Most public bodies do not have mechanisms for dealing with complaints of mobbing and discrimination, which is not in line with the antidiscrimination law.

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

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

Bosnia and Herzegovina remains at an **early stage of preparations** in the area of enterprise and industrial policy. **Limited progress** was made on the policy for small and medium-sized enterprises (SMEs). Implementation of recommendations of the previous report hardly progressed; they thus remain valid. The investment environment continued to be unsatisfactory.

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

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

The majority of companies in Bosnia and Herzegovina (some 70%) have experienced a decline in operations and a decreased turnover, following COVID-19 related containment measures introduced since spring 2020. As expected, the services and tourism sectors felt the impact of the crisis significantly more than the rest of the economy. Textiles, furniture, basic and fabricated metals experienced the worst hit within the manufacturing. Furthermore, COVID-19 raised concerns on the resilience of the agri-food sector in a situation of supply chain disruptions, limitations on movement and trade restrictions. SMEs have experienced a more severe revenue decline compared to larger companies. They are more prone to complete shutdowns, due to a smaller number of workers capable of ensuring the continuity of operations in health crisis. They are also more exposed to supply chain disruptions and reliance on specific industry segments.

Governments of the entities and the Brčko District continued with the COVID-19 emergency support measures in form of wage subsidies and tax reliefs from stabilisation and solidarity

funds. Guarantee funds are operational in both entities. In September 2020, the Federation entity introduced a COVID-19 alleviating measure for its textile, leather, footwear and clothing strategy. In October, this entity allocated EUR 46 million to support tourism, transport, agriculture and industry, resulting in positive effects on employment. Furthermore, the *Republika Srpska* entity adopted a grant procedure for investments to assist businesses, enabling over 90 companies to procure modern equipment and technology worth EUR 14,8 million. Brčko District adopted a law on mitigating the consequences of COVID-19 on its economy. Although substantial resources were allocated to mitigate the economic consequences of COVID-19, a consistent countrywide approach (coordinated with the private sector) is largely absent and the crisis response has been fragmented, insufficient and slow so far. Delays in implementation occurred, particularly with the provision of loan guarantees which are to some extent characterised by lengthy and cumbersome procedures.

Regarding **enterprise and industrial policy principles**, Bosnia and Herzegovina still lacks a countrywide industrial development strategy as well as a state-level body promoting consistency between industrial strategies and coherence with other policies affecting industrial competitiveness. The Federation entity's development strategy for 2021-2027 remains to be adopted by Parliament. The *Republika Srpska* entity is yet to finalise a strategy for industrial development beyond 2020. The Brčko District adopted its 2021-2027 development strategy in May 2021 and the Government is tasked to prepare sectoral strategies.

A few steps were made to improve the business environment and to attract investments. A register of business incentives is operational in the *Republika Srpska* entity since October 2020. The *Republika Srpska* entity amended a set of legislation on administrative and utility fees, in addition to the previously amended law on court fees. The average duration of bankruptcy proceedings in the *Republika Srpska* entity has been significantly shortened and legislation on an out-of-court model of financial restructuring was passed. The *Republika Srpska* entity also adopted a law on free zones with the aim to align with the state-level regulatory framework. In 2021, the Federation entity adopted some legislation related to bankruptcy, financial consolidation of companies and a register of fees and charges. In September 2021, the Federation entity also adopted a law on crafts, which amongst others simplifies the registration and closure of craft businesses and regulates the management of a crafts registry. However, overall, the investment environment and the level of competitiveness remain unsatisfactory. Bosnia and Herzegovina is still lacking a countrywide strategic framework to encourage foreign direct investments and to improve the business environment. Common causes of informality like high barriers to starting a business and rules on taxes and para-fiscal charges continue to be among the most salient business environment issues, together with 'red tape' and the regulatory differences across various levels of the government. Electronic registration of businesses was launched in the *Republika Srpska* entity. Such a system was also established in Brčko District. Legislation to simplify the registration process, including electronic registration, is still pending adoption in the Federation entity.

Regulatory impact assessment is systematically applied across the country. Overall, the simplification of business-related legislation is being carried out on an ad hoc basis and is not harmonised throughout the country, e.g. as regards additional administrative and compliance requirements between entities.

As the COVID-19 pandemic represents a significant additional burden for the public sector, oversight and governance of public enterprises will need to be strengthened, including actions to put public companies on equal footing with other industrial enterprises and to reduce

substantial payment arrears. The Federation entity established a registry of public companies at the Federation Information Agency, and this body proceeds with updating company information. The process is expected to be completed later in 2021. In line with its privatisation plan, this entity aims at privatising public enterprises in the processing and mining industry.

Efforts to develop a countrywide strategic framework for SME development 2021-2027 with harmonised objectives, priorities and measures relevant for each administrative level have been progressing. Strategic guidelines for harmonisation of SME development and entrepreneurship support remain to be adopted by the Council of Ministers. They are addressing the Small Business Act (SBA) implementation only on dimensions related to public procurement, standards and technical regulations and internationalisation. In April 2021, the *Republika Srpska* entity adopted its 2021-2027 SME development strategy, but Bosnia and Herzegovina has no timelines yet for developing a comprehensive countrywide SME framework for implementing the SBA as a whole. In March 2021, the SBA coordination working group developed action plans 2021-2023 for support to SMEs innovation in both entities and Brčko District. The resulting countrywide priorities are planned to be used for development of a Smart Specialisation Strategy, which will however need a fully-fledged analysis for evidence-informed policymaking process.

Preparations of industry towards a green, digital transformation and global competitiveness in line with the EU industrial strategy are at a very early stage. While the level of internet usage in enterprises is high (with 98% of them using computers, 96% having internet access and 64% having a website), the share of medium-to-high value-added and technology products is modest and technology extension services are still non-existent. The economy's innovation performance has decreased over the last two years, specifically in the green technologies sector as indicated by the European Innovation Scoreboard 2021 that covers Bosnia and Herzegovina for the first time. Bosnia and Herzegovina's level of assistance to SME innovation is still the lowest in the region, while SME skills programmes are mainly supported by international donors. The collaboration of SMEs and research institutions is not sufficiently developed to create conditions for the application of innovative financing models like innovation vouchers or collaborative grants. The needed amendment to the patent law (*see Chapter 7 – Intellectual Property Law*) could improve both collaboration and financing of innovation activities for higher value-added business.

In spite of limited steps to increase the capacity of institutions to do monitoring and perform evaluations, there is still a lack of funding to conduct evaluations of planned enterprise and industrial policy measures and evaluations throughout the country. Data to describe the structure and dynamics of industry remain insufficient.

As for **enterprise and industrial policy instruments**, no progress was made in the EU *acquis* alignment of legislation on financial transactions to combat late payment in commercial transactions. The Brčko District will have to adopt such legislation as well.

Bosnia and Herzegovina continued to participate in the EU's COSME programme on the competitiveness of enterprises and SMEs. In 2020, the partners from the two Enterprise Europe Network (EEN) consortia covering Bosnia and Herzegovina – EUNORS (*Republika Srpska* entity) and BITNET (Federation entity) – were involved in 67 international matchmaking events, to which they brought 300 of their clients, resulting in 654 meetings. These events targeted a number of sectors, including agro-food, energy, ICT, electronics, industrial manufacturing, medical and environmental protection. Their matchmaking activities resulted in 27 partnership agreements with other European SMEs.

As regards **sectoral policies**, the Federation entity adopted an amendment to the action programme for implementation of textile, leather, footwear and clothing strategy, to address the impact of COVID-19 on companies in those industrial sectors.

## Chapter 25 - Science and research

*The EU provides significant support for research and innovation. All Member States can benefit from the EU's research programmes, especially where there is scientific excellence and solid investment in research. Successful implementation of the EU acquis in this domain requires integration into the European Research Area. Well-developed research and innovation capacity to produce scientific excellence to support sustainable economy and knowledge-based society is needed.*

Bosnia and Herzegovina has **some level of preparation** in the area of science and research. **Limited progress** was made in the reporting period, particularly in the field of international research and innovation cooperation. The inclusion of Bosnia and Herzegovina in the European Innovation Scoreboard is a major achievement. Last year's recommendations remain valid.

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

- adopt the action plan for the implementation of the 2017-2022 revised strategy for scientific development;
- develop and adopt a smart specialisation strategy;
- prepare and adopt the roadmap for research infrastructure.

**On research and innovation policy**, the legislative framework regulating science and research development remains fragmented and still needs to be improved throughout the country. There was no progress in developing the action plan for implementation of the 2017-2022 revised strategy for scientific development. In December 2020, a Council for Science was appointed as an advisory and expert body; it held first constituent session in January 2021.

The country's estimated total allocations for research remain low at 0.3% of GDP. An increased budget in this area would support the country's economic recovery, also given the relevance of innovation to the Economic and Investment Plan for the Western Balkans. Further progress should be made to ensure reliable and comprehensive statistics on research and innovation. The country's research capacities remain very limited, while the trend of a brain drain continues although limited due to COVID-19 outbreak, most notably in the health, medical, and IT sector, with no systematic measures having been introduced so far to address the issue.

Regarding the development of the of the Smart Specialisation Strategy for Bosnia and Herzegovina no progress has been achieved; the strategy still remains to be developed and adopted.

The government's efforts in upgrading research and innovation policies and related activities (e.g. the Strategy for the Development of Science and the pending adoption and implementation of the related Action Plan) as well as grants provided to organisations for submitting proposals under Horizon 2020 have been intensified.

Systemic collaboration and interaction needs to be enhanced between 'triple helix' actors – academia, industry and governments. Following the COVID-19 outbreak, certain efforts in this regard were observed, as some activities of academia and industry aimed at alleviating the pandemic impact were undertaken, such as the production of medical and personal

protective equipment, as well as sharing expert knowledge and information.

As regards **international cooperation**, Bosnia and Herzegovina continues to be active and successful in Horizon 2020, having competitively already received EUR 8.6 million (more than tripling the amount of the previous 7<sup>th</sup> framework programme FP7), as well as in the European Cooperation in Science and Technology (COST). Bosnia and Herzegovina participated 113 times to 67 signed grants of **collaborative Instrument actions** of Horizon 2020. The success rate of applications from Bosnia and Herzegovina is equal to the overall Horizon 2020 success rate of 12,1%. At the Sofia Summit held in November 2020, the Protocol on Open Access to Research Infrastructures in the Western Balkans was adopted.

The country also cooperates at regional level, with the Central European Initiative, it is active in EUREKA and in COST with an increasing number of participations in its actions. Bosnia and Herzegovina became full member of EUREKA in 2021, during the Austrian chairmanship of the network.. Bosnia Herzegovina has implemented a total of 11 EUREKA collaborative projects worth of over EUR 7 million in total funding for universities and SMEs. Bosnia and Herzegovina envisages participating in a new EUREKA regional call in 2021 in the areas of health, ICT, energy, food, agriculture and forestry.

Bosnia and Herzegovina continues to participate in the **European Research Area** Committee and related advisory bodies and initiatives. It also participates in the European Strategic Forum on Research Infrastructures, but still has to finalise the roadmap for research infrastructure. In February 2021, Bosnia and Herzegovina concluded an agreement with European Organization for Nuclear Research (CERN) on cooperation in the area of high-energy physics. Starting with 2021, Bosnia and Herzegovina is included in the European Innovation Scoreboard, enabling its participation in the European Institute of Innovation & Technology's regional innovation scheme (EIT RIS).

## **Chapter 26 - Education and culture**

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

Bosnia and Herzegovina is **at an early stage** of preparation in the area of education and culture. **Some progress** was achieved with the adoption of policy documents related to inclusive education, quality and relevance of vocational education and training and integrating entrepreneurial learning and key entrepreneurship competences into the education system. A fully functional system of accreditation of higher education institutions and in particular study programmes is still lacking. Bosnia and Herzegovina needs to align legislation at all levels of government with the framework laws on education, and ensure application of the common core curriculum based on learning outcomes. Social inclusion at all stages of education needs to be ensured. Youth strategies across the country should be developed and implemented. COVID-19 pandemic affected the education system with the closure of the schools and shift to online education without prior preparation and necessary infrastructure. Having only been partly addressed, the recommendations of the 2020 report remain relevant.

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

- ensure a fully functional system of (re-)accreditation of higher education institutions and study programmes across the country;
- ensure continued participation in international assessment studies (International Student Assessment – PISA, Trends in International Mathematics and Science Study – TIMSS and

In the area of **education and training**, in September 2020 Bosnia and Herzegovina adopted the Recommendations for Action Policies with the Roadmap for promotion of inclusive education in Bosnia and Herzegovina. Activities on implementation of these Recommendations should be intensified. The adoption of relevant legislation on adult education was completed throughout the country, but some cantons still need to adopt relevant legislation in early childhood education and care, vocational education and training, as well as youth strategies. The education system lacks common standards for the different levels of education, as well as in teacher training and performance evaluation.

Although the legal framework regulating the collection and systematization of data for the country is in place, there is no mechanism in place to systematically measure or monitor the quality of education inputs, outputs, or outcomes. Data does not feed back into the policy-making process.

Due to demographic changes, the number of students enrolled at all levels of education is gradually declining. In early childhood education and care (ECEC), the enrolment rate remains very low but with a positive trend at around 12%. As for 3-6 year olds pre-school enrolment Bosnia and Herzegovina has the lowest enrolment figure in Europe with 25%, which includes only 3% for Roma children. Access to primary and secondary education in Bosnia and Herzegovina is satisfactory, with 97.6% of children attending primary and 84.6% attending secondary education.

Enrolment of Roma children in primary and secondary schools remains very low, at only 35%. 69% attend primary and 23% secondary education. The situation has worsened due to the COVID-19 crisis and the lack of possibilities to follow online classes. The education of children with special needs remains a challenge, particularly in terms of ensuring the necessary infrastructure, provisions, transportation and school assistants to support both children and teachers.

Legislation at all levels needs to be aligned with the framework laws on education. Comprehensive teacher training focused on developing students' key competences should be provided and a systematic approach for application of the common core curriculum based on learning outcomes ensured.

In January 2021, Bosnia and Herzegovina adopted the countrywide policy document on improving the quality and relevance of the vocational education and training (VET) based on the Riga conclusions (2021-2030). This should contribute to improving the links with labour markets and to increasing employability and attractiveness of VET. Small-scale activities to help introduce dual education in the VET system need to be scaled-up in order to make it more relevant for employment. In October 2020, Bosnia and Herzegovina adopted the policy document on priorities in the integration of entrepreneurial learning and entrepreneurial key competence in education systems in Bosnia and Herzegovina (2021-2030).

The further development of a national qualification framework (NQF) for Bosnia and Herzegovina has not progressed. The action plan for the development and implementation of the qualifications framework expired in 2020 and should be revised since it was never operational and no specific commission has been established. The process of developing qualifications and occupations remains slow and requires better coordination and harmonisation across the entire country. Bosnia and Herzegovina's NQF is not yet referenced to the European Qualification Framework, neither is there a mechanism for validation of prior learning.

The accreditation of higher education institutions and study programmes is still facing challenges, with the accreditation of study programmes being particularly problematic primarily because of the absence of clear procedures and methodology. However, implementation of the Commission's recommendations on the subject remains very limited. Overall, efforts on ensuring a fully functional accreditation system of higher education institutions, in particular study programmes, should be significantly intensified.

In September 2020, the Council of Ministers adopted the roadmap for systemic implementation of the Lisbon Convention on the recognition of higher education qualifications.

Participation in the 2022 PISA and 2021 PIRLS is not yet ensured as Bosnia and Herzegovina has not concluded agreements on participation in these studies. Additional efforts to ensure continuous participation in international assessment studies, in particular PISA 2022, should be taken to track the country's progress and define evidence-based long-term policy reforms, and enhance visibility and comparability in a larger context.

Bosnia and Herzegovina's participation in the Erasmus+ programme resulted in the selection of 246 International Credit Mobility projects in 2020, involving around 3800 students and staff going to and from Bosnia and Herzegovina. Higher education institutions are involved in 3 Erasmus Mundus Joint Master Degrees projects. Although the number of capacity building project proposals in the field of higher education increased from 40 to 49 proposals, the number of selected projects with partners from Bosnia and Herzegovina remained constant at 8 in 2020, and 3 of the 8 projects are coordinated by Bosnia and Herzegovina higher education institutions. The delay in the accreditation of study programs has hampered the overall participation in curriculum development projects in the last two years (i.e. the share of curriculum development projects in the total selected projects was 25% in 2020 and 2019, in comparison to 75% in 2018).

The COVID-19 pandemic had a serious impact on education in Bosnia and Herzegovina, sharpening the socio-economical challenges that the country faces. During the reporting period, more than 400 000 children were strongly affected by school closures. 82% of children were not able to attend preschool for extended periods. Lack of IT knowledge by staff was a significant obstacle for distance learning. In addition to technological knowledge, distance learning equally requires new pedagogical skills as compared to classroom learning. Furthermore, many families had problems in securing the necessary equipment and internet connection. As of September 2020, most schools had established combined models of teaching (online/in-class teaching, different shifts, etc.). However, many challenges remained, such as the lack of logistics and infrastructure to ensure that epidemiological measures are respected and the safety of all is guaranteed. A strategy for teachers and students on how to ensure quality in distance learning including the assessment of students' progress is still missing.

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

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

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

Bosnia and Herzegovina actively joined the European Week of Sport (23-30 September 2020) for the third time, under the framework of the Commission's initiative European Week of Sport Beyond Borders. The 2020 European Week of Sport in Bosnia and Herzegovina was implemented via the designated BiH National Coordinating Body (NCB) including representatives of the Ministry of Civil Affairs of Bosnia and Herzegovina, Olympic Committee of BiH, relevant entity ministries and Brcko District.

## Chapter 29 - Customs union

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

Bosnia and Herzegovina has **some level of preparation** in the area of customs union. Customs legislation is not fully aligned with the EU *acquis*. **No progress** was made during the reporting period. The Commission's recommendations from 2020 were not implemented and remain valid. In the coming year, Bosnia and Herzegovina should in particular:

- implement the 2015 Law on Customs Policy, and eliminate all administrative burdens in order to ensure the interoperability of the e-signature system on a countrywide basis;
- reinforce the administrative and operational capacity of the Indirect Taxation Authority;
- increase post-clearance controls based on risk analysis, expand use of simplified procedures for reliable economic operators and upgrade interconnectivity and interoperability with the EU IT systems and requirements.

The body in charge of implementing **customs legislation** and policies is the Indirect Taxation Authority (ITA). Further alignment with the Union Customs Code is needed, notably on custom procedures and simplified procedures. The application of the 2015 Law on Customs Policy, partially aligned with the EU *acquis*, remains to be implemented. This law provides for the introduction of authorised economic operators and for additional simplified customs procedures requiring the use of the e-signature. In June 2021 the ITA was accredited for issuing countrywide e-signature by the Ministry of Transport and Communication. The customs tariff and custom valuation of Bosnia and Herzegovina is harmonised with the Combined Nomenclature (CN). Regarding the rules of origin, the country continues applying the Pan-Euro Mediterranean Convention.

he country is an observer in the Common Transit Convention (CTC) and intends to join it once it has met all legal and technical requirements, especially the implementation of New Computerised Transit System (NCTS).

Bosnia and Herzegovina should also continue aligning its provisions on the protection of intellectual property rights (IPR) when it comes to customs enforcement. Also, further alignment is needed with the EU *acquis* for authorised economic operators (AOP), which has to be achieved through implementation of CEFTA Additional Protocol 5. Cross-border smuggling of tobacco products and other illicit activities in the border regions continue to be an important area where further improvements in cooperation and antifraud tools are needed. As part of the antifraud effort, the accession to the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products is recommended.

On **administrative and operational capacity**, ITA's administrative capacity should be substantially strengthened. Bosnia and Herzegovina needs to progressively align its systems with EU customs requirements, such as the new computerised transit system (NCTS) and internal control standards (ICS). Its capacity to conduct a risk analysis is hampered by an inadequate IT system. The customs authorities still perform a high percentage of physical controls.

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

This cluster covers chapters 14 - Transport policy, 15 – Energy, 21 - Trans-European Networks, and 27 - Environment and climate change. The green transition and sustainable connectivity are key to economic integration within the region and with the European Union, facilitating cross-border trade within the region and creating real benefits for businesses and citizens. This cluster and the reforms concerned have significant links to Bosnia and Herzegovina's Economic Reform Programme, the Commission's Economic and Investment Plan and the Green Agenda for the Western Balkans endorsed by Bosnia and Herzegovina in December 2020.

Bosnia and Herzegovina actively participates in the Transport Community and Energy Community, and it endorsed the Transport Community action plans and the Green agenda for the Western Balkans at the Sofia Summit in December 2020. The country should improve road safety to reduce traffic fatalities, and strengthen the regulatory bodies on transport, including civil aviation. The development of corridor Vc motorway is ongoing; further steps are needed on connectivity reform measures and in aligning with the TEN-T and TEN-E regulations. Bosnia and Herzegovina remains heavily reliant on lignite coal and still plans to increase its energy generation based on fossil fuels, jeopardising its commitments to decarbonisation and climate neutrality by 2050. Since many years its legislation on electricity and natural gas is not compliant with the EU and Energy Community *acquis*, which hampers regional market integration. Bosnia and Herzegovina needs to adopt new laws on gas and electricity in line with the EU *acquis* and increase its administrative capacities to benefit from the Economic and Investment Plan. It needs to introduce legislation on renewable energy, energy efficiency and climate in line with its obligations and commitments, and significantly step up its ambitions towards a green transition.

#### **Chapter 14 - Transport policy**

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

Bosnia and Herzegovina has reached **some level of preparation** in this area, with **some progress** achieved in the past year, including on implementation of the framework transport strategy and its action plan. The country needs to further align with and implement effectively the EU *acquis* in all areas of transport and at all levels of government in line with the Transport Community action plans on road, road safety, rail and transport facilitation. This includes further strengthening of its administrative capacity, in particular as regards road safety as well as enforcement, inspection and investigation bodies for road transport, railways, inland waterways and aviation. Last year's recommendations have not been sufficiently addressed and remain valid.

In addition to addressing the shortcomings set out below, in the coming year Bosnia and Herzegovina should in particular:

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

As regards the **general EU transport *acquis***, Bosnia and Herzegovina is implementing its framework transport strategy for the period up to 2030. In March 2021 the Council of Ministers adopted a first report on the implementation of the 2016-2020 framework transport strategy.

Transport remains insufficiently developed and the speed of structural adjustment and reforms is slow. Bosnia and Herzegovina should focus on implementing the short- and medium term measures as highlighted in the Transport Community Treaty (TCT) action plans. The necessary investments are being delayed by limited borrowing capacity, financial constraints, lack of focus on key priorities and of coordination and cooperation between government levels. There was no progress in completing key sector reforms. Further efforts are required to ensure full alignment with the Intelligent Transport Systems (ITS) Directive and secure implementation of relevant national laws in the areas of road and rail. An overall strategy for ITS is yet to be adopted and resources should be allocated for its implementation.

Bosnia and Herzegovina continues to actively participate in the EU macro-regional strategies for the development of the Danube Region (EUSDR) and the Adriatic and Ionian Region (EUSAIR).

The country is moderately prepared for **road transport**. It made limited progress in the reporting period, in particular in maintaining, developing and improving infrastructure. It should pay particular attention to implement the measures agreed in the TCT road safety action plan to develop climate resilient, intelligent and resource-efficient TEN-T road network. Implementation of road safety legislation remains a concern, although there was a slight decrease in the still too high number of accidents and fatalities. Bosnia and Herzegovina is preparing a 2021-2025 framework road safety strategy and action plans. It started setting up a section on traffic safety coordination at the Ministry of Communications and Transport, which would need to be developed towards a lead road safety agency as requested in the TCT road safety action plan. Bosnia and Herzegovina urgently needs to establish a countrywide system for the continuous collection of road crash data. Regulatory measures on access to the international road transport market and to the occupation of road transport operator, including a functional system to license such operators, are in place.

For years, Bosnia and Herzegovina has failed to adopt a countrywide law on the international transport of dangerous goods by road. The country needs to strengthen its mechanisms for monitoring implementation of the relevant international rules and EU legislation, including those on transportable pressurised equipment, roadside checks of vehicles and road safety.

On **rail transport**, Bosnia and Herzegovina is moderately prepared, but it only made limited progress in the reporting period, primarily in developing, maintaining and improving infrastructure. Nearly half of the railway infrastructure is unsafe, outdated and unreliable, and cannot enable suitable international transit on the network. Further efforts are needed regarding the adoption of the multiannual maintenance plan for the entire core network. As regards reconstruction and new construction of railway sections, Bosnia and Herzegovina

should aim at using contemporary TSI and EU standards, taking into account the related elements of the TCT rail action plan.

To a large extent, the Law on Railways is aligned with the EU railway *acquis*, particularly with regard to the first, second and third EU railway Directives packages. Further revision is needed to align with the fourth EU railway package of 2016 and to proceed with an opening of the railway market in compliance with the results of the ongoing capacity-building project. This would also require a review of the railway laws in both entities aiming to provide non-discriminatory access to the public railway infrastructure. Alignment with the EU *acquis* on rail passenger rights is also pending. Network statements are prepared but not published. The reform concerning the establishment of independent bodies (railway regulatory authority, railway safety authority, railway accident investigation body) is ongoing and depends on the adoption of amendments to the Law on Railways. Negotiations on protocols concerning the railway border crossing procedures between Bosnia and Herzegovina and Croatia did not proceed in the reporting period due to technical concerns on border and customs-related issues raised by Croatia.

On **maritime transport**, Bosnia and Herzegovina remains at an early stage of preparation, as maritime transport is not a priority on the agenda, given that the country has neither a commercial port nor a maritime fleet.

**Inland waterway transport** is at an early stage of preparation, with some progress in the reporting period mainly at entity level. Reconstruction works of Brčko Port started in June 2021. Further efforts are needed to develop the institutional, legal and regulatory setup of waterway transport in Bosnia and Herzegovina and to ensure the safety of navigation on inland waterways.

The preparation of **civil aviation** is continuing. The 2009 Law on Civil Aviation is still under revision with a view to align it with the requirements of the European Common Aviation Area (ECAA). Bosnia and Herzegovina's Air Navigation Services Agency, which took over responsibility for air traffic control from Croatia since December 2019, is operational. However, Bosnia and Herzegovina needs to urgently address the problem of chronic lack of adequately trained and qualified personnel within the Bosnia and Herzegovina Directorate of Civil Aviation (BHDCA), to avoid the risk of safety oversight. The recent reorganisation of BHDCA, while implementing major changes in its management structure, did not sufficiently address this problem. Moreover there is no progress on alignment with the EU Regulation on Passenger Rights.

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

## **Chapter 15 - Energy**

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

The country remains at an **early stage of preparations** in this area. Only **limited progress** was made during the reporting period, notably on renewable energy and energy efficiency. Bosnia and Herzegovina still needs to make significant efforts in strengthening countrywide cooperation and coordination and improve the fragmented and inconsistent legislative and regulatory framework. Last year's recommendations remain relevant.

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

- adopt gas and electricity legal frameworks compliant with the third energy package at state and entities level;
- ensure full harmonisation of laws at entity level in the area of electricity and gas to prevent further delays in opening and functional operation of the energy market and establishment of a day-ahead market;
- adopt state- and entity-level legislation on renewable energy and energy efficiency in line with the obligations stemming from the Energy Community Treaty and the commitments from the 2020 Sofia summit declaration on the Green Agenda for the Western Balkans.

Bosnia and Herzegovina has yet to adopt concrete, comprehensive and binding action plan(s) implementing the 2017 framework energy strategy in line with its commitments under the Sofia Summit Declaration on the Green Agenda for the Western Balkans, such as the 2030 energy and climate targets under the Energy Community and EU acquis and the 2050 climate neutrality target. This requires *inter alia* implementation of a progressive decarbonisation policy and active participation in the Coal Region in Transition initiative. Measures to improve **security of supply** need to be redirected from coal to renewables. Preparations for an extension of the Tuzla coal power plant (Block 7) continue. This may increase the country's security of supply, but at the same time significantly prolong dependency on coal. In 2020 the Energy Community Secretariat launched an infringement case on Tuzla Block 7 because of a state guarantee of the Federation for a Chinese loan due to possible violation of State Aid provisions of the Energy Community acquis. Because a supplier of important equipment has recently stepped out, the Tuzla 7 project's future is uncertain. Bosnia and Herzegovina is also committed to gradually phase out coal subsidies, to align with the EU Emissions Trading, and to introduce other carbon pricing instruments to promote decarbonisation. This will be particularly challenging for a country like Bosnia and Herzegovina whose energy production and industry depend to a large extent on fossil fuels.

The level of security of electricity supply is hindered by long-lasting issues with the functioning of the state-level transmission company (TRANSCO), whose management is still not appointed due to political blockages. In June, a TRANSCO Investment Plan was adopted, unblocking investments for the construction of electric power, which would contribute to a more stable electricity supply. However, the company management remains inefficient in its overall operation.

As regards security of supply for natural gas, the country is fully dependent on a single source, rendering Bosnia and Herzegovina vulnerable in case of disruption. As of April 2021, Bosnia and Herzegovina started receiving natural gas through Turkish Stream.

The draft law on the Southern Gas interconnector with Croatia (Zagvozd –Posušje –Novi Travnik with a branch to Mostar) was adopted by the FBiH Parliament. This project will contribute to strengthening the integration into the European gas market and increasing the security of supply.

In November 2020, the *Republika Srpska* entity Regulatory Commission for Energy certified the transmission system operator for natural gas.

In 2021, the disused oil refinery in Brod has been connected to the Croatian natural gas network. This disputed cross-border project which connects the refinery through a pipeline under the Sava River did not obtain prior approvals by the Presidency and State Parliament which are the competent bodies under the national law and jurisprudence. State-level authorities are examining the issue.

There was no progress in transposition of legislation on compulsory oil stocks and petroleum products. Bosnia and Herzegovina is strongly encouraged to develop the necessary legislation, establish a body at State level on compulsory oil stocks and ensure harmonisation of legislation at entity level, in line with the requirements under the EU *acquis*.

There is no progress as regards creation and functioning of an **internal energy market**.

In December 2020, Bosnia and Herzegovina was sanctioned by the Energy Community due to its serious and persistent failure to comply with the second energy package in the gas sector, as well as the third energy package in both electricity and gas sectors. The lack of state-level legal and regulatory framework for gas and electricity prevents the country from unbundling the transmission system operator, enabling organised internal energy markets, and establishing a day-ahead market. Bosnia and Herzegovina needs to adopt gas and electricity legal frameworks compliant with the third energy package and followed by fully harmonised entity laws, thus preventing further delays in the opening and unbundling of energy markets.

At entity level, electricity distribution system operators are still not legally and functionally unbundled from electricity production (Federation entity) or from other communal services (Brčko District). In June 2020, the *Republika Srpska* entity adopted a new Law on Electricity that aims at unbundling distribution and deregulating prices. In May 2021, the Energy Community Secretariat submitted a reasoned request to the Ministerial Council following the failure of Bosnia and Herzegovina to rectify the breaches related to unbundling of distribution system operators. In Brčko District, a law on electricity is under preparation. The country still needs to adopt and enforce a new law for adequate restructuring, certification and operation of the transmission system operator according to the third energy package.

The market still operates on the basis of bilateral contracts between dominant power utilities and registered traders. The regulatory authorities are operational, but their independence continues to be hampered by political interference.

The gas market remains closed without adequate regulatory oversight and lacks transparency, particularly when it comes to setting prices for end consumers.

The country is yet to align its respective legislative framework with the EU *acquis* on **hydrocarbons**, which includes transposing the Directive on the Safety of Offshore Oil and Gas Installations.

On **renewable energy**, there is some progress. However, there is still no state-level legal framework and the legislation at entity level needs to be revised in line with principles of the cost effective support framework. The Brčko District remains without legislation in this area.

In September 2020, the State Electricity Regulatory Commission increased the permit capacity for wind and solar power plants, which can be connected to the transmission network. The Podvezlje wind farm (48 MW) started energy production in January 2021.

In February 2021 and June 2020, the entity parliaments adopted similar declarations on the protection of rivers, calling on the entity governments to impose a moratorium on the construction of small hydropower plants until a review of the harmful impacts and all relevant renewable energy legislation is completed. The Federation entity is already revising its legislative framework to stop subsidies by feed-in tariff to small hydropower plants.

In November 2020, the *Republika Srpska* entity and Serbia agreed to build three hydropower plants (HPP) on the Drina river with a total capacity of 180 MW. Construction of the Buk Bijela HPP started in May 2021. Since the concession was awarded without the required state-level approval, a complaint was lodged at the Constitutional Court, which in July 2021 ruled that a decision of the Commission for Concessions is required; this is pending. The

Constitutional Court had established in previous decisions that rivers and riverbeds are state property. Bosnia and Herzegovina should exploit and invest in hydropower in a responsible manner, in constructive dialogue between all stakeholders including the civil society as well as in compliance with EU rules and procedures, particularly the environmental *acquis*, and with due respect to the general principles of transparency, legal certainty and accountability.

Further alignment with EU requirements is necessary for the issuance, transfer and cancellation of guarantees of origins and for the use of minimum levels of renewable energy in new buildings and in existing buildings subject to major renovation.

In the area of **energy efficiency**, although a new national energy efficiency action plan 2019-2021 was prepared, its adoption is still pending. The same is the case for the *Republika Srpska* entity action plans 2019-2021. The Federation entity adopted its action plan in February 2021. The country needs to complete the transposition of the energy efficiency directive and the framework energy labelling regulation. In close cooperation with the Energy Community Secretariat, Bosnia and Herzegovina drafted a first version of the integrated National energy and climate plan (NECP) 2021-2030, which will replace the national energy efficiency action plan. More ambitions are necessary. It should contain clear measures designed to reduce greenhouse gas emissions by integrating climate action into all relevant sectoral policies, in line with the 2018 Energy Community recommendation and the Green agenda for the Western Balkans.

Bosnia made no progress on **nuclear energy, nuclear safety and radiation protection**. The country is a party to the Convention on Nuclear Safety and to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. The country shall consider participating to the European Radiological Data Exchange Platform (EURDEP) and to the European Community Urgent Radiological Information Exchange (ECURIE).

## Chapter 21 - Trans-European Networks

*The EU promotes trans-European networks (TEN) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.*

Bosnia and Herzegovina has achieved **some level of preparation** in the area of trans-European networks. There was **some progress** in the development of corridor Vc motorway. The legislative framework needs to be aligned with the TEN-T and TEN-E regulations for implementing transport and energy projects. The implementation of connectivity reform measures remains slow. In general, transport and energy infrastructures are insufficiently developed. Bosnia and Herzegovina did not sufficiently address the recommendations of last year, which therefore remain valid.

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

- continue with the development of the indicative extension of the TEN-T and TEN-E core networks in line with the priorities identified in the Economic and Investment Plan for the Western Balkan and in the Green Agenda;
- adopt and implement the multiannual maintenance plans for road network as well as an efficient strategy on the funding sustainability for road maintenance;
- align with Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure.

On **transport networks**, Bosnia and Herzegovina chaired the Regional Steering Committee (RSC) meetings from July 2020 to July 2021, and participated actively in other technical committees on railway, roads and road safety, transport facilitation as well as waterborne and multimodal transport under the Transport Community Treaty (TCT) permanent secretariat.

Bosnia and Herzegovina as member of the Ministerial Council of the Transport Community endorsed action plans for road, road safety, rail and transport facilitation in October 2020 and on waterborne and multimodal transport in July 2020. The country will have to mobilise sufficient resources and administrative capacity to implement the Transport Community Treaty and the numerous measures proposed in the action plans. The country needs to accelerate the implementation of connectivity reform measures and continue with the adoption of the multiannual maintenance plans for the entire road and rail core networks. Border crossing agreements with neighbouring countries remain a challenge; more efforts are required to strengthen mutual relations and cross border cooperation.

Priority connectivity projects on the indicative extension of the TEN-T core network to the Western Balkans have been planned through the single priority project pipeline. The preparation and the implementation of those projects have been intensified during the reporting period. In relation to the Corridor Vc motorway, several subsections are under construction, while the remaining ones are under preparation. In the reporting period works on Tarčin - Ivan tunnel subsection started and Zenica bypass was open to traffic in July 2021. The works on the border crossing at Svilaj were completed in August 2021 and its opening will ensure full functionality of the already finalised motorway section from Svilaj to Odžak and the international bridge in Svilaj. Construction works on the interstate bridge between Bosnia and Herzegovina and Croatia at Gradiška are ongoing. The country should aim to close the financing gap for new projects on Corridor Vc motorway by mid 2022.

Serious efforts are needed to accelerate the development of the rail core network where investments remain limited. Under the TCT rail action plan, Bosnia and Herzegovina is committed to align with the EU technical specifications for interoperability by the end of 2021. The navigability of the Sava River requires further demining and rehabilitation. A WBIF grant for demining the right bank was approved in December 2020. The tendering procedure for the rehabilitation of the Brčko Port started in December 2020 and works began in June 2021. In addition to fulfilling EU standards on public procurement, state aid and environmental impact assessments, current and future infrastructure investments should comply with the TEN-T regulatory framework. As a reaction to the COVID-19 pandemic, green corridors were established and are functioning effectively throughout the major corridors.

**On energy networks**, Bosnia and Herzegovina still needs to align with Regulation (EU) 347/2013 on the guidelines for trans-European energy infrastructure. The country should finalise the Single Project Pipeline including the energy sector. This will ensure eligibility of the project of Energy Community interest (Trans Balkan corridor) and the two gas projects of mutual interest (North and South interconnectors with Croatia). Bosnia and Herzegovina has to step up efforts to make progress with the preparation and development of those projects. Tender documentation for the southern gas interconnector with Croatia (Zagvozd –Posušje – Novi Travnik with a branch to Mostar) is being prepared. Bosnia and Herzegovina remains heavily dependent on carbon intensive infrastructure and needs to develop its regional connections to unlock the potential of the Economic and Investment Plan and the Green Agenda for the Western Balkans.

## **Chapter 27 - Environment and climate change**

*The EU promotes strong climate action, sustainable development and protection of the environment. EU law contains provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.*

Bosnia and Herzegovina is at an **early stage of preparation** / has achieved **some level of preparation** in the area of environment and climate change. **Limited progress** was made during the reporting period, mainly at entity level without a countrywide harmonisation. The country needs to ensure an even, countrywide harmonised and consistent approach in strategic planning and alignment with the EU *acquis* at all levels of government. Significant efforts are needed on implementation and enforcement. The recommendations from the last year were not fully addressed and remain valid.

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

- implement the countrywide environmental approximation strategy and prepare and adopt an environmental protection strategy, and accordingly enhance the legal framework, strengthen administrative capacity and monitoring systems, and improve inter-institutional coordination among all relevant authorities, in accordance with the commitments of the Green Agenda for the Western Balkans and the 2050 climate neutrality target;
- urgently formalise the procedures for the appointment and functions of the national focal point (NFP) for Bosnia and Herzegovina for the implementation of all environmental conventions to which Bosnia and Herzegovina is a signatory;
- continue implementing the Paris Agreement by putting in place policies and measures to deliver on its updated nationally determined contribution (NDC), adopt and implement the revised climate change adaptation and low emissions development strategy, and adopt an integrated national energy and climate plan (NECP) in line with the Energy Community recommendation.

## **Environment**

**Horizontal legislation** is, to a limited extent, aligned with the EU *acquis*. The sub-sector strategies and legislative framework at different levels of governments remain countrywide non-harmonised for the respective areas covered, leaving the environment sector unevenly covered regulated across the country. The countrywide environment approximation strategy adopted in 2017, and supplemented by more specific environmental approximation programmes for the entities and the Brčko District, still needs to be updated and fully implemented. A single, integrated action plan for the implementation and monitoring of this strategy in all subsectors remains to be adopted. The development of a countrywide environmental protection strategy for Bosnia and Herzegovina is underway. Countrywide harmonised efforts are still required in transposing the provisions of environmental impact assessment (EIA) and strategic environmental assessment (SEA) in the legislation at all levels of government and across relevant sectors to ensure a consistent alignment. Enforcing SEA and EIA provisions needs to be strengthened together with the necessary improvements in the access to information and the participation of the public in the decision-making process on planned investments. A strategy on gathering, transferring and reporting of environmental data is pending adoption. The legal framework regulating environmental inspections and its enforcement needs to be improved in line with the relevant EU *acquis*. Institutional capacities need to be considerably strengthened. Countrywide harmonised efforts are required to progress in aligning with a number of horizontal environmental directives such as the directive on environmental liability, the directive on infrastructure for spatial information (INSPIRE) and the directive on environmental crime. The long overdue requirement to

formalise appointment procedures of national focal points for Bosnia and Herzegovina concerning the implementation of environmental conventions to which the country is a signatory party, and to determine their functions, still remains to be met.

Alignment with the EU *acquis* on **air quality** remains limited. To provide reliable data for Bosnia and Herzegovina, a well-functioning countrywide harmonised air monitoring network still needs to be established, together with the countrywide programme for air quality improvement. The country needs to align with the EU directive on reduction of national emissions of certain atmospheric pollutants, to establish functional national emission inventories and reporting, and accelerate activities on full ratifications and implementation of the Air Convention and its protocols. Bosnia and Herzegovina should develop a national strategy on progressive decarbonisation and clean energy transition in line with its commitments on depollution under the 2020 Sofia declaration on the Green agenda for the Western Balkans. There has been no progress in aligning with the EU *acquis* on reducing the sulphur content of certain liquid fuels. In that respect the country remains in serious and persistent breach of the Energy Community Treaty. Sanctions are applied since January 2021. There has been no progress on alignment with EU *acquis* on volatile organic compounds (VOC) and there are no accredited bodies in Bosnia and Herzegovina for monitoring VOC emissions. Main emission sources in Bosnia and Herzegovina remain the thermal, coal-fired power plants, industry, household heating and transport.

A consistent countrywide strategy for **waste management** has yet to be developed to align with the EU *acquis*. Bosnia and Herzegovina needs to pay particular attention to the EU plastic strategy and single-use plastics directive. As in other areas of environment, Bosnia and Herzegovina needs to ensure a coordinated and harmonised countrywide approach in dealing with waste management, which is of particular importance in the context of circular economy. This needs to be reflected both in the legislative framework and its strategic approach. Bosnia and Herzegovina needs to align with the Landfill Directive and close down or rehabilitate non-compliant landfills. Substantial efforts and awareness-raising measures are required to reduce waste generation and promote reuse and recycling. Alignment is furthermore required with the EU *acquis* on sewage sludge, batteries, packaging, polychlorinated biphenyls/ polychlorinated terphenyls and end-of-life vehicles.

On **water quality**, as in other areas of environment, the country lacks a consistent and harmonised countrywide strategy and sustainable investment plan on water management and urban waste water management. Specific plans for implementing EU legislation on drinking water, urban waste water and flood risk management are still to be adopted. A roof report on river basin management plans remains to be adopted. An action plan for flood protection and river management for 2014-2021 is being implemented. Flood hazards and risks are being mapped for the entire country .

Alignment with the EU *acquis* on **nature protection** remains limited. There is no progress as regards pending adoption of the list of potential Natura 2000 sites and secondary legislation. The planning for and investments in renewable energy, including hydropower, wind and solar power plants, requires compliance with the EU's environmental legislation, in particular regarding SEA, EIA, the Birds and Habitats Directives as well as the EU *acquis* on nature protection and water management. As a result of growing environmental concerns of many NGOs and citizens as regards unrestrained development of hydropower, the parliaments of both entities have called on their governments to impose a moratorium on the construction of small hydropower plants until a review of relevant legislation is completed (*see Chapter 15 – Energy*). There has been no progress in establishing a system in Bosnia and Herzegovina for systematically monitoring biodiversity. Bosnia and Herzegovina needs to designate

institutions, ensure the necessary human and financial resources and establish structures in order to fully implement the Convention on international trade in endangered species of wild fauna and flora (CITES). The country reports regularly to the CITES secretariat. Bosnia and Herzegovina should prepare the legislation and establish the conditions for ratification and implementation of the Nagoya Protocol on access to genetic resources and fair distribution of profits generated by their use.

Alignment with the EU *acquis* on **industrial pollution control and risk management** remains very limited. The pollutants release and transfer register (PRTR) needs to be fully operational for Bosnia and Herzegovina. This includes enforcing the obligation to report to PRTR countrywide, enabling public access to and integration of the collected data and its transmission to the EU institutions. The PRTR Protocol to the Aarhus Convention remains to be ratified. Bosnia and Herzegovina has reported on the implementation of the national emissions reduction plan (NERP) in 2020 to the Energy Community Secretariat (EnCS). The EnCS initiated a dispute settlement procedure against Bosnia and Herzegovina for not meeting their NERP ceilings for emissions of certain pollutants into the air from large combustion plants for the reporting years 2018 and 2019. Countrywide harmonised efforts are required to further align with the directives on industrial emissions, eco-labelling and eco-management and audit schemes. Bosnia and Herzegovina still needs to align with the directive on the control of major-accident hazards involving dangerous substances (Seveso III).

On **chemicals**, Bosnia and Herzegovina's alignment with the EU REACH Regulation concerning the registration, evaluation, authorisation and restriction of chemicals remains uneven. The country still needs to align with the EU regulation on classification, labelling and packaging of substances and mixtures (CLP). Relevant bodies responsible for receiving information to formulate preventative and curative measures remain to be appointed. Bosnia and Herzegovina needs to align with EU legislation on asbestos and on the protection of animals used for scientific purposes. Further countrywide harmonised progress is required for implementation of the Rotterdam convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade, to which Bosnia and Herzegovina is a party. There has been no progress in acceding to the Minamata Convention.

Significant further efforts are still needed to align with the EU *acquis* on environmental **noise**.

Regarding **civil protection**, the country is preparing to become a participating state of the Union Civil Protection Mechanism (UCPM). Establishing secure trans-European services for telematics between administrations (sTESTA) is a pre-condition for connecting to the common emergency communication and information system (CECIS) of the European Commission in view of UCPM membership. Bosnia and Herzegovina should implement the 2020-2025 Action plan adopted in January 2021. Operational resources should be allocated at the municipal level, with specialised rescue units complementing these resources at cantonal and/or entity levels for disasters of larger scale or complexity. The Covid-19 pandemic highlighted the need to strengthen the legal framework and institutional capacities as well as human and financial resources of civil protection authorities also with regard to health emergencies. A single risk assessment for the country, systematic inspections, the establishment of civil protection stakeholder associations and civil protection education, will increase Bosnia and Herzegovina's resilience vis-à-vis disasters. There is no progress on the highly recommended countrywide introduction of the 112 European unified emergency number (for police, ambulance and firefighters).

## **Climate change**

The level of alignment with the EU climate *acquis* remains limited. Bosnia and Herzegovina needs to align with the new EU climate *acquis* in a countrywide harmonised manner and establish a consistent legal framework. The country is revising its national climate change adaptation and low emission development strategy covering 2013-2025, which is consistent with the EU 2030 framework on climate and energy policies. Its implementation and integration into all relevant sectors should be a priority. Bosnia and Herzegovina is working on a national adaptation plan (NAP) aiming to progress towards goals outlined in the Paris Agreement and 2030 Sustainable Development Goals.

Bosnia and Herzegovina was among the first countries to submit in April 2021 its revised NDC for 2020-2030 to the UNFCCC. It plans to reduce GHG emissions for slightly more than one third by 2030, and almost two thirds (about 66%) by 2050 compared to 1990. There has been no progress in aligning with the EU monitoring and reporting regulation, the directives on fuel quality, ozone depleting substances, fluorinated gases, carbon capture and storage as well as other relevant legislation. In May 2021 Bosnia and Herzegovina ratified the Kigali amendment to the Montreal Protocol on substances that deplete the ozone layer. Under this amendment the country is required to freeze HFC production and use in 2024, with an 80% reduction by 2045. To progress in aligning with the EU climate *acquis* and its implementation, Bosnia and Herzegovina needs to move away from a project-based approach. The country's administrative capacities should be significantly reinforced at all levels of government, covering all relevant sectors to ensure meaningful implementation of the required measures.

## **CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION**

This cluster covers chapters 11 - Agriculture and rural development; 12 - Food safety, veterinary and phytosanitary policy; 13 - Fisheries; 22 - Regional policy & coordination of structural instruments; and 33 - Financial & budgetary provisions.

While implementing the 2018-2021 strategic plan for **rural development**, Bosnia and Herzegovina must step up its efforts to prepare and adopt a post 2021 countrywide strategy for rural development. The country has yet to adopt the state-level laws on wine and on organic production, and harmonise across the country the legislation on quality policy. The country needs to align the legislation on **food safety, veterinary and phytosanitary policy** and strengthen its administrative capacities; in particular, it should speed up preparations for national reference laboratories, provide an updated National Salmonella Control Plan and maintain the vaccination against rabies and brucellosis. Bosnia and Herzegovina must step up its efforts to prepare and adopt a countrywide strategy on **fisheries** and aquaculture and harmonise data collection. It should start preparing a countrywide **regional development** strategy, improve public investment planning and develop a single project pipeline in all relevant sectors. It should take steps to ensure the management of **own resources**, notably by reinforcing the capacity of the Indirect Tax Authority to effectively implement customs legislation, stepping up the fight against tax and customs fraud, and adopting a master plan for the production of national accounts

### **Chapter 11 - Agriculture and rural development**

*The common agricultural policy (CAP) supports farmers and rural development. This requires strong management and control systems. There are also common EU rules for quality policy and organic farming.*

Bosnia and Herzegovina is at an **early stage of preparation** in the area of agriculture and rural development. There was **no progress** in implementing last year's recommendations. While implementing the 2018-2021 strategic plan for rural development, though at an uneven pace across the country, Bosnia and Herzegovina has yet to adopt the state-level laws on wine and on organic production. The recommendations of 2020 were not implemented and remain valid.

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

- effectively complete the 2018-2021 strategic plan for rural development, in particular by harmonising rural development programmes and support measures across the country, and prepare and adopt a new post-2021 strategic plan for rural development;
- adopt state-level laws on organic production and, respectively, on wine;
- harmonise across the country the legislation on quality policy.

Concerning **horizontal issues**, there was no progress in establishing the necessary administrative structures required for the common agricultural policy (CAP), including a paying agency. There was no progress in developing elements of an integrated administration and control system (IACS), a land parcel identification system (LPIS) or a farm accountancy data network (FADN). The country has to improve the sector coordination and strengthen administrative capacities at all levels of the government. An agreement has been pending for a long time to set-up the necessary institutional structures for the instrument for pre-accession assistance for rural development programme (IPARD), so that the country could benefit from this instrument. No progress was noted in aligning direct payments with the EU rules through decoupling them from production and linking payments to cross-compliance. Farm advisory services remain to be developed in a harmonised way across the country.

As regards sector-specific **common market organisation (CMO)** schemes, the country still needs to prepare and set up the regulatory framework in line with the EU *acquis*. There was no progress in adopting the state-level law on wine. A register of grapes and wine producers or a vineyard cadastre is yet to be set up. Overall, the country must ensure reliable countrywide statistics, particularly on the number and size of households as well as on farms producing grapes.

No progress was made in harmonising **rural development** programmes and support measures across the country. The relevant levels of the government should address it in their policy implementation without further delay.

The country delayed the reporting on the implementation of the 2018-2021 strategic plan for rural development. The first report, related to the reporting period of 2018, was adopted by the Parliamentary Assembly only in February 2021. It shows that the system of collection and processing of data for planning of agriculture and rural development policies and their monitoring has to be substantially improved at all levels. The country should intensify the strategy implementation and reporting. Moreover, the country has to prepare and adopt a post-2021 strategic plan for rural development without delay.

**On quality policy** there was no progress. The country has to step up its efforts to further improve and harmonise its legal framework with relevant EU *acquis*, in particular concerning wine and spirit drinks, and to ensure a clearer distribution of competences. As for **organic farming**, there was no progress. The country is yet to prepare and adopt the state level-law required by the EU *acquis*, and subsequently ensure that regulatory frameworks across all levels of the government are harmonised with it. Support measures remain unevenly implemented across the country.

## Chapter 12 - Food safety, veterinary and phytosanitary policy

*EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare, and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, protection against harmful organisms and animal nutrition.*

Bosnia and Herzegovina has **some level of preparation** in this area. There was **no progress** in the reporting period. The country is yet to align with the EU *acquis*, particularly as regards official controls, animal health and plant health. Its administrative capacities regarding official controls and laboratories should be strengthened. The country's central databases and animal registers require further improvements in order to be fully functional and in line with the EU *acquis*. The recommendations of 2020 were not implemented and remain valid.

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

- introduce inter-laboratory comparative tests as a regular practice, particularly between laboratories in the country that are in charge of the analysis of samples for notifiable diseases, to increase controls and administrative capacity, especially of inspection services and laboratories;
- speed up preparations for national reference laboratories, through further alignment with the *acquis*, and notably by increasing the accreditation of laboratory methods used in hygiene, veterinary and phytosanitary controls, food and feedstuff analysis;
- adopt the OECD seed schemes, notably for agricultural seeds and forestry material;
- provide an updated National Salmonella Control Plan (NSCP), and maintain the vaccination against rabies and brucellosis and reinforce monitoring and surveillance measures.

In the area of **general food safety, food safety rules and specific rules for feed**, Bosnia and Herzegovina continued to align with the EU requirements for the export of bovine, ovine and caprine meat. Nevertheless, the country needs to step up its efforts in improving its system to fulfil the public and animal health requirements. Regarding animal health, the official control system needs to be strengthened, notably for the registration of farm holdings and the deregistration of holdings that are no longer active as well as the reliability of livestock numbers and species present on active holdings. The central database for animal identification needs further improvement as regards the reliability of its information. The passive surveillance of notifiable diseases should be strengthened, notably the early detection system and awareness of farmers. The laboratory network should be improved, so that all laboratories in charge of disease analysis and samples could be involved in laboratory proficiency testing and thus take part in disease validation and verification on a regular basis. The country should make further efforts to meet the criteria for export of table eggs to the EU and ensure that its NSCP is update and aligned with the EU *acquis* and fully implemented.

The country continued improving the legislation on food additives and the system for recognition of mineral and spring waters. Further alignment of the legislation with the EU *acquis* needs to be accelerated, notably the state-level regulatory framework and particularly the laws on food and veterinary medicine. Effective implementation of the legislation is key. Fully implementing the hygiene package in a harmonised manner across the country remains a challenge. The full national reference laboratories system is still not in place in Bosnia and Herzegovina. The country is advised to speed up the preparations for national reference laboratories through further alignment with the EU *acquis*, and notably by increasing the accreditation of laboratory methods used in hygiene, veterinary and phytosanitary controls, and used in the food and feedstuff control system. Bosnia and Herzegovina continued to

implement its **veterinary policy** on the control, prevention and eradication of communicable animal diseases. The measures against brucellosis and rabies have to be improved, notably the monitoring and surveillance, and sustainable national resources need to be ensured. With the EU support, the country needs to continue with rabies vaccination campaigns until this disease is considered eradicated, given the new outbreak of rabies reported in 2020. Taking full ownership of these vaccination campaigns, as of autumn 2023 Bosnia and Herzegovina should transition to using its own means for such future vaccination campaigns in line with obligations to harmonise with the relevant EU *acquis*. Following the cessation of vaccination against classical swine fever in some parts of the country in 2020, Bosnia and Herzegovina must ensure that the contingency plan and the surveillance plan are in place. The country has to improve its system of managing animal disease notification and outbreak information. The country's residue monitoring plan is being implemented. However, the country has to step up its efforts to improve the level of its effectiveness. The country's laboratories generally have satisfactory capacities. There is still a need for more staffing, equipment and accredited laboratory methods for diagnosing animal diseases. It is important that Bosnia and Herzegovina works on setting up its central animal identification and registration systems for sheep, goats, pigs and equine.

With regard to the **placing on the market of food, feed and animal by-products**, the country's official food and feed control system is yet to be fully aligned with the EU *acquis*. At all levels of the government, administrative capacities need to be strengthened. This is particularly true for the inspection services and laboratories, for which inter-laboratory comparative tests need to be introduced. The country needs to step up its efforts to further align these sectors with the *acquis*. A countrywide strategy for management of animal by-products remains to be effectively implemented.

In the area of **phytosanitary policy**, the country should step up its efforts to align with the EU *acquis*, particularly as regards the new Plant Health Law and official controls.

The country continues to implement its programme for special surveillance of quarantine pests for potatoes. The registration of plant operators in a single phyto-registry continues. However, no progress has been made on issuing plant passports. The OECD seed schemes are yet to be adopted. The country has not yet fulfilled the EU *acquis* requirements of setting up its laboratories as reference laboratories providing phyto-sanitary controls. The principles of integrated pest management remain to be implemented in a harmonised manner.

There were no developments in the area of **genetically modified organisms (GMOs)**. Efforts are required, notably to ensure alignment with the EU *acquis*, harmonise legislation across the country and ensure its effective implementation. Inspection services at all levels of the government are to be strengthened. There was no progress in setting up the country's reference laboratory for testing, controlling and monitoring the presence of GMOs in food and feed.

### **Chapter 13: Fisheries**

*The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on markets and aquaculture, and support for fisheries and coastal communities.*

Bosnia and Herzegovina is at an **early stage of preparation** in this area. There was **no progress** in the reporting period. The country must step up its efforts to prepare and adopt a countrywide fisheries and aquaculture strategy and subsequently ensure its effective

implementation across the country in line with EU *acquis*. The recommendations of 2020 were not implemented and remain valid.

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

- prepare and adopt a countrywide strategy on fisheries and aquaculture in view of aligning the legislation with the EU *acquis*;
- harmonise the methodology for data collection for fish and fishery products across the country, and establish relevant statistics.

There was no progress in developing a countrywide policy framework and legislation on inland and marine fisheries, in order to prepare for the EU's common fishery policy (CFP). Some preparations for the design of a countrywide strategy on fisheries and aquaculture have started, but the country must speed up its efforts in this regard.

Institutional capacity and administrative structures remain weak and insufficient. The country still lacks a state-level legal framework and its legislation remains fragmented and non-harmonised across the country. There are no **specific structural actions** in place to support small-scale and/or inland fisheries.

No progress was made in setting up relevant measures and strengthening the administrative capacity to implement **resource and fleet management**. In that context, the system for management and control of fishing activities in line with the CFP is yet to be set up. A fleet register is yet to be in place and properly managed. The collection of data on catches and landings per type of fishery remains to be improved and harmonised across the country. The country still lacks any structural and state aid measure in line with the EU *acquis*.

Concerning **market policy**, marketing standards for certain fishery products are in place, but there was no further progress including the establishment of producer organisations in line with the EU *acquis*.

Regarding **international agreements**, Bosnia and Herzegovina continues to cooperate on sea fisheries with the General Fisheries Commission for the Mediterranean (GFCM) and the UN's Food and Agriculture Organisation (FAO). However, the country's membership to the GFCM is still not finalised yet. As a party to the Malta *MedFish4Ever* Declaration, the country should contribute to its effective implementation.

## Chapter 22 - Regional policy & coordination of structural instruments

*Regional policy is the EU's main tool for investing in sustainable and inclusive economic growth. Member States bear responsibility for its implementation, which requires adequate administrative capacity and sound financial management of project design and execution.*

Bosnia and Herzegovina remains at **an early stage of preparation** in the area of regional policy and coordination of structural instruments. **No progress** was achieved last year, therefore the recommendations remain to a large extent valid. In the coming year, Bosnia and Herzegovina should in particular:

- start preparing a countrywide regional development strategy;
- improve public investment planning and develop a single project pipeline in all relevant sectors, and ensure its endorsement by the National Investment Committee and its regular update;
- reach an agreement on coordination modalities for the effective use of pre-accession funds while respecting the NIPAC functions as provided for in the IPA Framework Agreement.

On **legislative framework**, Bosnia and Herzegovina still has to establish a system for managing EU structural funds. Bosnia and Herzegovina has only few countrywide strategies in fields relevant to cohesion policy. In particular, the adoption of a countrywide strategy on public finance management is important as a condition for budget support.

There is no sound countrywide regional development policy, with accompanying institutional structure and performance monitoring framework. The NUTS II regions are only provisionally defined and accepted by the European Commission until Bosnia and Herzegovina finalises and agrees the entire classification including definition of the NUTS III level. Improvement of the statistical and analytical basis (including definition of NUTS regions) is required to develop sound strategic framework for cohesion policy. GDP per capita figures harmonised at NUTS II level are still to be provided. Relevant budget laws allow for both flexibility and multi-annual budgeting, but the multi-annual programmes need to be included in a more comprehensive manner in the entities' budgets and more consistently across administrative levels. Legislative frameworks establishing financial control and independent internal audit structures are in place at both state and entity levels.

**The institutional framework** for planning, implementation and monitoring of the EU pre-accession assistance (IPA) is set up and operational. An agreement is overdue on coordination modalities for the effective use of pre-accession funds while respecting the role of the National IPA Coordinator (NIPAC) as provided for in the IPA Framework Agreement. In view to IPA III assistance, necessary decisions in order to set up the internal coordination platform for IPA programming and implementation are still missing.

Weaknesses in the **administrative capacity** in key institutions managing EU funds still need to be addressed. Human resources should be further developed through relevant trainings. The capacity for programming and managing EU pre-accession funds and introducing cohesion policy needs to be improved. A systematic plan such as a management and control system roadmap to help prepare administrative capacities to implement EU regional policy should be developed already now, in order to avoid an absorption shock at a later stage. The role of the NIPAC as principle coordinator and EU contact point for the management of EU funds needs to be strengthened.

It should also be noted that Bosnia and Herzegovina is one of the five accession countries participating to the European Strategy of Adriatic Ionian Region (EUSAIR), which promotes cooperation and synergies among the participating EU and non-EU countries.

Despite difficulties stemming from the lack of agreement on the way to reconcile the IPA legal framework with the system of coordination of European integration, Bosnia and Herzegovina's authorities delivered as required on the **programming** of IPA III. The authorities submitted the Action Documents for the Programme IPA 2021. However, project preparation and strategic planning capabilities still need to improve in order to secure full absorption capacity for IPA III programme.

The National Investment Committee adopted a revised single project pipeline for the environment sector in August 2020. The process of drafting a pipeline of investments for the energy sector is still ongoing while the one for the social sector has not yet started.

The 2021-2027 territorial cooperation programmes are being developed. Bilateral IPA cross-border cooperation (CBC) programmes were submitted to the Commission in July 2021. There is a need for an efficient and systematic coordination of cross-border, transnational and interregional cooperation.

Regarding **monitoring and evaluation**, no progress was made during the reporting period. The capacities within the NIPAC office remain insufficient.

With the exception of cross-border cooperation programmes, the country is still missing a **financial management, control and audit system** for EU funds. Structures and bodies defined in Annex A of the Framework Agreement remain to be established.

### **Chapter 33 - Financial & budgetary provisions**

*This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.*

Bosnia and Herzegovina is at an **early stage** of preparation in the area of financial and budgetary provisions. There was **no progress** in strengthening administrative capacities for coordination and management of own resources. Last year's recommendations have not yet been implemented and remain valid. Significant further efforts are needed to ensure sound capacities, institutional set-up and cooperation of institutions and bodies to be involved in application of the own resources system.

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

- strengthen the capacity and inter-agency cooperation to combat tax and customs fraud;
- reinforce the capacity of the Indirect Tax Authority (ITA) to effectively implement customs legislation;
- adopt a master plan for production of national accounts for Bosnia and Herzegovina.

The capacity of ITA needs to be improved and it needs to implement an accounting system for customs duties to distinguish recovered debts and outstanding debts in line with the EU's traditional own resources accounting.

Several aspects of the country's law on VAT, concerning special schemes and exceptions, are not aligned with the EU *acquis*.

On **Gross National Income (GNI) resource**, definitions and accounting rules of ESA 2010 are used for compilation of the GNI. Some progress on methodological issues and on the coverage of the non-observed economy has been achieved over the last years. However, a common, coordinated, and appropriate national accounts system at the level of the whole country is not yet in place. This should be given high priority. A master plan for the development of national accounts needs to be adopted to facilitate development of this system, in line with ESA 2010.

In terms of administrative infrastructure, both human and administrative resources remain insufficient to ensure the full and correct application of EU rules concerning payments into the EU budget. Better coordination among administrative structures and implementing rules are needed to ensure correct forecasting, calculation, accounting, collection, payment and control of own resources.

### **CLUSTER 6: EXTERNAL RELATIONS**

This cluster includes chapters 30 - External relations, which covers the EU's common trade and commercial policy as well as its humanitarian aid and its development policy, and 31 - Foreign, security and defence policy.

Bosnia and Herzegovina has ratified CEFTA Additional Protocol 6 on trade in services, and should now implement it, together with Additional Protocol 5 on trade facilitation. It should also finalise its accession to the WTO and consider establishing a development and humanitarian aid policy. While it adopted a new strategy for control of small arms and light weapons (SALW), the country's alignment with EU foreign policy sharply declined. The country should improve its alignment with the EU foreign policy statements and restrictive measures, appoint the 'political director' and 'European correspondent', and reinforce arms control and monitoring regimes. The country continued to participate in EU crisis management missions.

### Chapter 30 - External relations

*The EU has a common trade and commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules for humanitarian aid and development policy.*

Bosnia and Herzegovina has reached **some level of preparation** in the area of external relations. **Limited progress** was made during the reporting period with the ratification of the CEFTA Additional Protocol (AP) 6 on trade in services. The capacity to tackle key challenges in trade policy is yet to be strengthened. The Commission's recommendations of 2020 were not implemented and remain valid.

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

- intensify efforts to finalise its accession to the World Trade Organization (WTO);
- implement the AP 5 on trade facilitation to the Central European Free Trade Agreement (CEFTA), CEFTA AP 6 on trade in services and the Common Regional Market (CRM) Action Plan 2021-2024; and negotiate and ensure a swift adoption of CEFTA AP 7 on dispute settlement;
- start the process leading to the establishment of a development and humanitarian aid policy.

On the **common commercial policy**, no progress was made as regards Bosnia and Herzegovina's accession to the WTO, although membership negotiations have been at a very advanced stage for some time. The Russian Federation is the only WTO member that has not completed its bilateral negotiations with Bosnia and Herzegovina on market access for goods and services, and has raised the issue of pending amendments to the legislation on the quality of liquid petroleum fuels in the framework of multilateral discussions. The decision on the amendments to the legislation is yet to be approved by the Council of Ministers of Bosnia and Herzegovina. In 2020, Bosnia and Herzegovina held the chairmanship of CEFTA, which was marked by two main achievements: maintaining and facilitating trade during COVID-19 pandemic and adoption of the Common Regional Market (CRM). The country ratified in August 2020 the CEFTA AP 6 on trade in services. Bosnia and Herzegovina needs to negotiate and ensure a swift adoption of the CEFTA AP 7 on dispute settlement and proceed with the implementation of the CRM Action Plan 2021-2024. During the chairmanship of Bosnia and Herzegovina, the CEFTA Joint Committee adopted the Decision on Facilitating Trade in Fruits and Vegetables aiming to simplify inspections related to clearance procedures and reduction of border formalities, establishment of relevant data and notification system between competent authorities, as well as establishment of the register of Professional Operators and their mutual recognition by CEFTA parties.

Bosnia and Herzegovina applies export controls on **dual-use goods** in accordance with its legislation. The country should consider applying for accession to the multilateral export

control schemes, such as the Wassenaar Arrangement, which can facilitate the preparations to implement the EU *acquis* for dual-use goods export control.

As regards **bilateral agreements with third countries**, Bosnia and Herzegovina signed no new agreements in the reporting period. Bosnia and Herzegovina needs to further strengthen the administrative capacity and improve cooperation and coordination between ministries and the different levels of competent authorities in order to ensure consistency of implementation and enforcement.

There were no developments in the areas of **development policy** and **humanitarian aid**. The country is a recipient of aid programmes, and has so far provided humanitarian aid only on an ad-hoc basis. Bosnia and Herzegovina is encouraged to start the process of establishing a legal framework covering international cooperation and development policy as well as humanitarian aid towards non-EU countries, in accordance with EU policies and principles, and to build dedicated administrative structures.

### Chapter 31 - Foreign, security & defence policy

*Member States must be able to conduct political dialogues under the EU foreign, security and defence policy, align with EU statements, take part in EU actions and apply agreed sanctions and restrictive measures.*

Bosnia and Herzegovina has **some level of preparation** in the area of common foreign, security and defence policy. There was **no progress** in the reporting period. While a new strategy for control of small arms and light weapons (SALW) was adopted, the country's alignment with the EU foreign policy declined. The country should improve its alignment with the EU foreign policy statements and restrictive measures towards third countries and entities, which significantly declined in 2021. The country needs to appoint the persons in charge of performing the functions of 'political director' and 'European correspondent'. Bosnia and Herzegovina is yet to join a number of international arms control regimes as well as strengthen the monitoring regime regarding weapons and military equipment. Bosnia and Herzegovina continued to participate in EU crisis management missions.

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

- improve its alignment with EU common foreign and security policy;
- develop post-manufacture marking requirements for weapons earmarked for deactivation in line with EU standards;
- improve traceability of seized and confiscated weapons, notably by amending the Law on Marking to cover these types of firearms.

The **political dialogue** between the EU and Bosnia and Herzegovina on foreign and security policy issues continued; Bosnia and Herzegovina hosted the sixth informal EU-Western Balkans meeting of political directors in Sarajevo. Bosnia and Herzegovina's 2018-2023 foreign policy strategy includes as main goals and priorities the following: full membership of the EU, activation of the NATO Membership Action Plan, fight against terrorism, cooperation at regional level, and bilateral and multilateral cooperation. Its implementation in the reporting period was affected by frequent divergent positions among the members of the Presidency.

Bosnia and Herzegovina still needs to appoint the persons in charge of performing the functions of 'political director' and of 'European correspondent' within the Ministry for Foreign Affairs. Regulations and practices based on ethnic quotas applied in the appointment of diplomatic and consular network negatively impact the capacity of the Ministry of Foreign

Affairs, adversely affecting the country's foreign policy objectives.

On **Common Foreign and Security Policy**, in 2020, the country's alignment rate with relevant High Representative statements on behalf of the EU and Council Decisions was of 70%, compared with 61% in 2019. At the beginning of 2021, the country's rate of alignment sharply declined, mainly due to disagreements within the Presidency, to reach 43% by August 2021, which is worrying. Among others, the country did not align with EU Council Decisions on restrictive measures related to the Russian Federation, China, Venezuela, and Syria. Reversing this trend would signal Bosnia and Herzegovina's commitment to its EU path.

Bosnia and Herzegovina ratified the Rome Statute of the **International Criminal Court** (ICC) in 2002; the ratification of the Kampala Amendments is pending. There has been one confidential instance where cooperation with the Court was undertaken. The country maintains a bilateral immunity agreement with the United States, granting US citizens exemptions from the jurisdiction of the International Criminal Court. In doing so, the country does not comply with the EU common positions on the integrity of the Rome Statute or related EU guiding principles on bilateral immunity agreements. Alignment with the EU position is therefore needed.

Concerning **restrictive measures**, Bosnia and Herzegovina respects arms embargoes as provided for under the lists of the UN Security Council, the OSCE and the EU.

Bosnia and Herzegovina supports all EU measures and instruments for **conflict prevention**, acts in accordance with the principles of the UN Charter and rules of international law, and fully supports the EU programme for the prevention of violent conflicts. On **non-proliferation**, Bosnia and Herzegovina is yet to join international control regimes such as the Wassenaar Arrangement, the Australia Group, the Missile Technology Control Regime and the Nuclear Suppliers Group.

With regard to trade in conventional weapons, military equipment (WME) and dual-use items, the country's overall legal and institutional framework is broadly in line with the EU *acquis*. Further improvements are required regarding the monitoring regime of WMEs produced and traded within the country.

Bosnia and Herzegovina is party to the Chemical Weapons Convention (CWC). Legislation on the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemicals and on their Destruction is in place, together with a state-level Coordination Body on CWC-related matters.

Bosnia and Herzegovina remained actively engaged in the implementation of the 2018 Regional Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans. The Council of Ministers adopted the 2021-2024 strategy for control of small arms and light weapons (SALW) as well as its action plan in February 2021. All weapons of the country's security forces are to be marked and registered into a single registry to ensure adequate traceability of small arms and light weapons in the country. The marking and registration of small arms and light weapons held by the Armed Forces of Bosnia and Herzegovina has progressed well and is nearly complete. Bosnia and Herzegovina is to develop post-manufacture marking and record-keeping requirements for seized and confiscated weapons, and weapons earmarked for deactivation.

Regarding **cooperation with international organisations**, Bosnia and Herzegovina is a member of and actively participates in the work of major international organisations, including the United Nations, the Council of Europe, and the Organisation for Security and Cooperation in Europe (OSCE). The negotiations for its accession to the World Trade

Organization are in the final stage. In addition, Bosnia and Herzegovina has been participating in NATO's Membership Action Plan (MAP) since 2019.

On *Security and Defence*, an agreement on security procedures for the exchange of classified information between the EU and Bosnia and Herzegovina has been in force since May 2006. The agreement applies to classified information and materials in any form, either delivered or exchanged between the EU and Bosnia and Herzegovina. Regular exchanges of classified information, up to the level of EU Restricted, have been taking place.

The financing threshold for the 2019 defence budget, as prescribed in the budget framework document 2019-21, represents less than 1% of the GDP. 83% of the defence budget is used for salaries, and less than 1% goes to investments. Equipment, weapon systems and infrastructure have not been maintained or replaced due to lack of funding and a centralised and dysfunctional procurement system. This also critically affects the Demining Battalion which is an important player in humanitarian demining and an essential partner for the successful implementation of the country's mine action strategy 2018-2025. The mine action authorities (Demining Commission and BH Mine Action Centre) need to develop and adopt the bylaws and standard operating procedures required for the full implementation of the new land release method.

Regarding the **common security and defence policy** (CSDP), Bosnia and Herzegovina established a framework with the EU for the country's participation in both civilian and military crisis management missions and operations. Three members of Bosnia and Herzegovina armed forces are deployed in the EU Training Mission (EUTM) in the Central African Republic.

On **hybrid threats**, the EU has offered the hybrid risk survey to Bosnia and Herzegovina to identify key vulnerabilities and address them through EU assistance; so far, the government has not expressed interest in participation.

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

The **Stabilisation and Association Agreement (SAA)** entered into force in June 2015. Bosnia and Herzegovina continued to implement the SAA. Political and economic dialogue took place regularly via the joint bodies under the agreement; the SA Council took place in July 2021. The country also participates in Economic and Financial Dialogue between the EU and the Western Balkans and Turkey, where joint recommendations are adopted at ministerial level. The SAA and its Interim Agreement, applied since 2008, have allowed progressive trade liberalisation and mutual duty-free access for most goods. Since 2000 Bosnia and Herzegovina has also been benefiting from autonomous trade measures. The country joined the Central European Free Trade Agreement (CEFTA) in 2007. The negotiations for its accession to the World Trade Organisation are in the final stage. In 2020 the EU remained the main trading partner of Bosnia and Herzegovina, accounting for 65% of the country's trade in goods (72% of exports and 61% of imports). This represents a fall of 10.2% in 2020, entirely due to the pandemic, and is broadly in line with trade patterns in the region. Total trade in 2020 was worth EUR 9.6 billion. The country's trade deficit with the EU amounted to EUR 1.5 billion in 2020. In comparison, Bosnia and Herzegovina's trade with CEFTA represented 13.6% of its total trade.

In February 2016 Bosnia and Herzegovina **applied for EU membership** and in September 2016, the European Council invited the Commission to submit its opinion on the country's application. In May 2019 the Commission adopted its **Opinion (Avis)** and accompanying analytical report. The Opinion identified **14 key priorities** in the areas of democracy/functionality, rule of law, fundamental rights, and public administration reform that Bosnia and Herzegovina needs to fulfil in order to be recommended for opening EU accession negotiations. In December 2019, the EU Council welcomed the Opinion and invited the Commission to focus its annual reports on Bosnia and Herzegovina, starting with the one in 2020, on the implementation of the key priorities.

**Visa liberalisation** for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since December 2010. A readmission agreement has been in force since 2008. The Commission's fourth report under the visa suspension mechanism concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks.

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 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 while retaining deterrence capacity to support a safe and secure environment. The UN Security Council extended EUFOR's mandate until November 2021. A strategic review of EUFOR Althea was adopted by EU Council in July 2021.

The EU provided **financial assistance** to Bosnia and Herzegovina under the **Instrument for Pre-accession Assistance (IPA)** with a total allocation of EUR 530 million in 2014-2020. The assistance is implemented under direct management by the EU Delegation in Sarajevo. As part of the response to the COVID-19 crisis, Bosnia and Herzegovina is benefiting of EUR 7 million for urgent medical equipment and EUR 73.5 million for socio-economic recovery measures under IPA II; the EU also made available a facilitated loan of up to EUR 250 million for macro financial assistance. While the recent focus has been on mobilising support in response to the COVID-19 pandemic, IPA has also continued to help the country to deliver

on key sectors such as the justice reform, migration management, employment, agriculture, environment and private sector development.

The EU has supported Bosnia and Herzegovina in migration management with EUR 80.5 million since 2018 in both IPA and humanitarian funds. The adoption of countrywide sector strategies such as on public financial management, and employment is still pending and remains a key requirement for Bosnia and Herzegovina to benefit fully from IPA funding in the future. Bosnia and Herzegovina benefits from the IPA multi-country and regional programmes and participates in three cross-border cooperation programmes, as well as in transnational cooperation programmes.

The IPA III Regulation for the 2021-2027 financial period will continue to provide financial support to the region and will also finance the Economic Investment Plan (EIP) for the Western Balkans.<sup>9</sup> The EIP was agreed by the Commission and the countries of the region in October 2020 and aims to spur the long-term economic recovery of the region, support a green and digital transition, and foster regional integration and convergence with the European Union.

Bosnia and Herzegovina participates with IPA support 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.

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<sup>9</sup> Official Journal L 330, 20.9.2021

**STATISTICAL DATA (as of 09.09.2021)**
**Bosnia and Herzegovina**

<b>Basic data</b>	Note	2008	2015	2016	2017	2018	2019
Population (thousand)		3 844 s	3 825 s	3 516 s	3 510 s	3 500 s	3 492 ps
Total area of the country (km <sup>2</sup> )		51 209 w					

<b>National accounts</b>	Note	2008	2015	2016	2017	2018	2019
Gross domestic product (GDP) (million national currency)		25 519	28 589	29 905	31 376	33 444	35 296
Gross domestic product (GDP) (million euro)		13 048	14 617	15 290	16 042	17 100	18 046
GDP (euro per capita)		3 394 s	3 821 s	4 349 s	4 571 s	4 885 s	5 168 ps
GDP per capita (in purchasing power standards (PPS))		7 600	8 800	9 000	9 200	9 800	10 300
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		29.5 s	30.6 s	31.0 s	30.8 s	31.7 s	32.3 s
Real GDP growth rate: change on previous year of GDP volume (%)		5.4	3.1	3.1	3.2	3.7	2.8
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		8.6	7.3	7.5	6.6	6.9	6.6
Industry (%)		21.2	21.9	22.6	23.3	23.9	23.1
Construction (%)		6.4	4.7	4.7	4.8	4.8	5.0
Services (%)		63.8 s	65.9 s	65.1 s	65.3 s	64.4 s	65.3 s
Final consumption expenditure, as a share of GDP (%)		107.3	102.2	99.1	96.7	94.3	93.0
Gross fixed capital formation, as a share of GDP (%)		28.8	21.1	20.7	21.9	22.8	23.0
Changes in inventories, as a share of GDP (%)		2.9	0.8	2.3	3.0	2.0	2.2
Exports of goods and services, relative to GDP (%)		26.8	35.5	36.3	40.9	42.5	40.5
Imports of goods and services, relative to GDP (%)		59.3	53.8	53.0	57.1	57.3	55.2
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2008	2015	2016	2017	2018	2019
Industrial production volume index (2015 = 100)		95.5	100.0	104.4	107.7	109.4	103.5
Number of active enterprises (number)		:	65 800 e	67 205 e	68 761 b	68 085	67 981 pw
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) (%)		:	71.5 sw	72.0 sw	69.5 bsw	69.1 psw	:
Value added by SMEs (in the non-financial business economy) (EUR million)		:	4 701 sw	5 043 sw	4 845 bsw	5 269 sw	5 752 psw
Total value added (in the non-financial business economy) (EUR million)		:	7 169 e	7 594 e	7 681 b	8 393	9 004 pw

#### Inflation rate and house prices

	Note	2008	2015	2016	2017	2018	2019
Consumer price index (CPI), change relative to the previous year (%)	1)	3.9 w	- 1.0 w	- 1.6 w	0.8 w	1.4 w	0.6 w
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

#### Balance of payments

	Note	2008	2015	2016	2017	2018	2019
Balance of payments: current account total (million euro)	2)	- 1 797.4 w	- 745.3	- 727.9	- 777.3	- 571.7	- 555.6
Balance of payments current account: trade balance (million euro)	2)	- 5 213.7 w	- 3 668.9	- 3 624.6	- 3 792.2	- 3 845.5	- 4 072.6
Balance of payments current account: net services (million euro)	2)	977.5 w	997.3	1 082.7	1 191.0	1 325.4	1 416.2
Balance of payments current account: net balance for primary income (million euro)	2)	482.1 w	99.7	20.7	- 134.6	- 101.8	- 10.9
Balance of payments current account: net balance for secondary income (million euro)	2)	1 956.7 w	1 826.6	1 793.3	1 958.5	2 050.2	2 111.7
Net balance for primary and secondary income: of which government transfers (million euro)		:	62.9	20.8	35.9	15.1	- 4.9
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 5.9	- 5.7	- 4.9	- 4.3	- 3.8
**Five year change in share of world exports of goods and services (%)		:	0.0	10.6	31.6	30.6	25.2
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)	3)	672.6 w	260.1 w	281.3 w	366.8 w	507.1 w	354.5 w
Foreign direct investment (FDI) abroad (million euro)	2) 3)	26.9 w	85.2 w	2.6 w	88.4 w	- 5.6 w	- 8.6 w
of which FDI of the reporting economy in the EU-27 countries (million euro)	4)	:	55.7 w	37.0 w	59.4 w	- 35.7 w	- 46.6 w
Foreign direct investment (FDI) in the reporting economy (million euro)	2) 3)	699.4 w	345.3 w	283.9 w	455.2 w	501.5 w	345.9 w
of which FDI of the EU-27 countries in the reporting economy (million euro)	3) 4)	375.8 w	206.4 w	229.2 w	292.7 w	257.7 w	153.5 w
**Net international investment position, relative to GDP (%)	2)	- 43.2 w	- 54.9 w	- 51.1 w	- 46.4 w	- 42.4 w	- 37.7 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		:	8.3 s	8.2 s	8.4 s	8.5 s	8.4 s

#### Public finance

	Note	2008	2015	2016	2017	2018	2019
General government deficit / surplus, relative to GDP (%)		- 2.1 w	0.7 w	1.2 w	2.6 w	1.6 w	:
General government gross debt relative to GDP (%)	5)	18.7 w	41.9 w	40.5 w	36.1 w	40.8 w	:
Total government revenues, as a percentage of GDP (%)		42.8 w	43.2 w	42.7 w	43.0 w	43.1 w	:
Total government expenditure, as a percentage of GDP (%)		44.9 w	42.6 w	41.5 w	40.4 w	:	:

#### Financial indicators

	Note	2008	2015	2016	2017	2018	2019
Gross external debt of the whole economy, relative to GDP (%)		64.1 sw	72.2 sw	71.2 sw	67.5 sw	68.0 sw	:
Gross external debt of the whole economy, relative to total exports (%)		238.9 w	203.3 w	195.8 w	163.2 w	154.7 w	156.9 w

Money supply: M1 (banknotes, coins, overnight deposits, million euro)	6) 7)	2 909.9 w	4 182.8 w	4 755.5 w	5 405.6 w	6 209.7 w	6 775.2 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	6) 8)	6 360.1 w	9 534.2 w	10 326.9 w	11 307.9 w	12 368.7 w	13 463.7 w
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	9)	7 227.7 w	8 623.9 w	8 794.8 w	9 419.3 w	9 964.7 w	:
**Annual change in financial sector liabilities (%)	10) 11) 12) 13)	3.9 w	4.6 w	5.5 w	8.3 w	8.8 w	:
**Private credit flow, consolidated, relative to GDP (%)	10) 13)	11.6 w	- 2.2 w	1.2 w	3.2 w	3.4 w	:
**Private debt, consolidated, relative to GDP (%)	10) 13)	106 bw	87 w	85 w	83 w	87 w	:
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	14)	6.98 w	5.71 w	5.20 w	4.38 w	3.79 w	3.29 w
Deposit interest rate (one year), per annum (%)	15) 16)	0.35 w	0.09 w	0.09 w	0.07 w	0.05 w	0.06 w
Euro exchange rates: average of period (1 euro = ... national currency)		1.956	1.956	1.956	1.956	1.956	1.956
Trade-weighted effective exchange rate index, 42 countries (2010 = 100)	17)	97 w	102 w	103 w	103 w	105 w	105 w
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2010 = 100)	17)	0.4 sw	0.9 sw	1.0 sw	0.5 sw	3.3 sw	2.5 sw
Value of reserve assets (including gold) (million euro)	2)	3 218.8 w	4 400.3 w	4 873.2 w	5 427.0 w	5 944.1 w	6 441.1 w

#### External trade in goods

	Note	2008	2015	2016	2017	2018	2019
Value of imports: all goods, all partners (million euro)		8 330	8 105	8 263	9 298	9 855	9 969
Value of exports: all goods, all partners (million euro)		3 432	4 595	4 815	5 653	6 085	5 876
Trade balance: all goods, all partners (million euro)		- 4 899	- 3 510	- 3 448	- 3 646	- 3 770	- 4 093
Terms of trade (export price index / import price index * 100) (number)	18)	:	100.0 sw	101.6 sw	101.3 sw	102.7 sw	102.3 sw
Share of exports to EU-27 countries in value of total exports (%)		71.3 s	70.9 s	71.0 s	70.4 s	72.2 s	72.3 s
Share of imports from EU-27 countries in value of total imports (%)		64.4 s	59.9 s	61.1 s	60.0 s	59.7 s	61.1 s

#### Demography

	Note	2008	2015	2016	2017	2018	2019
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		0.0	:	- 1.8	- 2.0	- 2.4 p	:
Infant mortality rate deaths of children under one year of age (per thousand live births)		6.9	:	:	:	:	:
Life expectancy at birth: male (years)		:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:

#### Labour market

Note	2008	2015	2016	2017	2018	2019
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Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		58.2 w	59.2 w	58.8 w	58.4 w	58.4 w	59.0 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		44.8 w	43.2 w	44.2 w	46.6 w	47.7 w	49.7 w
Male employment rate for persons aged 20–64 (%)		58.7 w	53.9 w	56.4 w	58.1 w	59.5 w	61.6 w
Female employment rate for persons aged 20–64 (%)		31.5 w	32.4 w	32.0 w	35.1 w	35.8 w	38.0 w
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		26.7 w	28.2 w	29.7 w	32.5 w	32.6 w	36.2 w
<b>Employment by main sectors</b>							
Agriculture, forestry and fisheries (%)		:	17.9 w	18.0 w	18.9 w	15.7 w	18.0 w
Industry (%)		:	22.0 w	22.7 w	22.2 w	23.5 w	23.8 w
Construction (%)		:	7.5 w	8.6 w	7.3 w	8.7 w	7.9 w
Services (%)		:	52.6 w	50.8 w	51.6 w	52.1 w	50.3 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	19) 20)	16.4 w	20.0 w	17.8 w	18.4 w	18.4 w	17.2 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	19) 20)	83.6 w	80.0 w	82.2 w	81.6 w	81.6 w	82.8 w
Unemployment rate: proportion of the labour force that is unemployed (%)		23.5 w	27.9 w	25.5 w	20.7 w	18.5 w	15.9 w
Male unemployment rate (%)		21.5 w	25.9 w	22.6 w	19.0 w	17.3 w	13.8 w
Female unemployment rate (%)		26.8 w	30.9 w	30.2 w	23.3 w	20.5 w	19.0 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		47.5 w	62.3 w	54.3 w	45.8 w	38.8 w	33.8 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		20.3 w	22.8 w	21.7 w	17.0 w	15.2 w	12.1 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		24.7 w	27.7 w	26.2 w	19.5 w	19.1 w	:
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		9.5 w	16.4 w	18.9 w	14.6 w	13.9 w	10.9 w

<b>Social cohesion</b>	Note	2008	2015	2016	2017	2018	2019
Average nominal monthly wages and salaries (national currency)	21)	752 w	830 w	838 w	851 w	879 w	:
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	:	:	:	:	:
GINI coefficient	22)	:	31 w	:	:	:	:
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 (%)		9.0 w	5.2 w	4.9 w	5.1 w	5.4 w	3.8 w

<b>Standard of living</b>	Note	2008	2015	2016	2017	2018	2019
Number of passenger cars relative to population size (number per thousand population)	23)	178.7 sw	216.7 sw	245.0 sw	252.0 sw	263.1 sw	269.5 psw

Number of mobile phone subscriptions relative to population size (number per thousand population)		769.9 ew	887.0 w	981.1 w	981.7 w	989.9 w	1 075.5 w
Mobile broadband penetration (per 100 inhabitants)		:	36.2 w	40.4 w	43.4 w	52.7 w	44.7 w
Fixed broadband penetration (per 100 inhabitants)		:	18 w	19 w	19 w	20 w	21 w

<b>Infrastructure</b>	Note	2008	2015	2016	2017	2018	2019
Density of railway network (lines in operation per thousand km <sup>2</sup> )		19.9 sw	20.1 sw	19.9 sw	19.9 sw	19.9 sw	19.9 sw
Length of motorways (kilometres)		28 w	128 w	163 w	172 w	198 w	208 w

<b>Innovation and research</b>	Note	2008	2015	2016	2017	2018	2019
Public expenditure on education relative to GDP (%)		:	:	4.3 sw	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	0.22 sw	0.24 sw	0.20 sw	0.19 sw	0.19
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	0.05	0.04	0.04	0.06	0.09
Percentage of households who have internet access at home (%)		:	:	61.5 bw	66.0 w	69.0	72.0

<b>Environment</b>	Note	2008	2015	2016	2017	2018	2019
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		59.5 w	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		:	423.0	448.8	434.2	463.4	435.7
Electricity generated from renewable sources relative to gross electricity consumption (%)		35.8	41.0	40.8	39.6	41.5	45.5
Road share of inland freight transport (based on tonne-km) (%)	24)	:	:	76.6 w	78.9 w	78.7 w	77.4 w

<b>Energy</b>	Note	2008	2015	2016	2017	2018	2019
Primary production of all energy products (thousand TOE)		:	4 367	4 742	4 624	5 672	5 405
Primary production of crude oil (thousand TOE)		:	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		:	3 165	3 520	3 612	3 659	3 403
Primary production of gas (thousand TOE)		:	0	0	0	0	0
Net imports of all energy products (thousand TOE)		:	2 083 s	2 133 s	2 299 s	1 814 s	1 979 s
Gross inland energy consumption (thousand TOE)		:	6 183	6 767	6 754	7 478	7 230
Gross electricity generation (GWh)		:	16 438	17 767	16 438	19 160	17 493

<b>Agriculture</b>	Note	2008	2015	2016	2017	2018	2019
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		1 742.8 e	1 732.8 e	1 778.8 e	1 762.0 e	1 779.6 e	1 806.3 e
Livestock numbers: live bovine animals (thousand heads, end of period)		459.0 ew	455.0 e	455.0 e	445.0 e	438.0	430.0 e
Livestock numbers: live swine (thousand heads, end of period)		502.0 ew	564.0 e	545.0 e	548.0 e	542.0 e	543.0 e
Livestock numbers: live sheep and live goats (thousand heads, end of period)		1 100.9 esw	1 093.0 es	1 091.0 es	1 090.0 es	1 085.0 es	1 085.0 es

Raw milk available on farms (thousand tonnes)		:	719.5 ew	723.6 ew	704.1 ew	699.9 ew	663.4 ew
Harvested crop production: cereals (including rice) (thousand tonnes)		1 428.3 e	1 150.9 e	1 677.5 e	1 176.9 e	1 764.1 e	1 685.6 e
Harvested crop production: sugar beet (thousand tonnes)		0.0 n	0.0 n	0.0	0.0	0.0	0.0
Harvested crop production: vegetables (thousand tonnes)		274.7 e	280.4 e	361.4 e	291.5 e	298.7 e	298.8 e

**Source: Eurostat and the statistical authorities in Bosnia and Herzegovina**

: = not available

b = break in series

e = estimated value

n = not significant value

p = provisional

s = Eurostat estimate

w = data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

\* = Europe 2020 indicator

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

Footnotes:

- 1) Consumer price inflation
- 2) Based on IMF balance of payments manual, sixth edition.
- 3) Based on IMF balance of payments manual, Asset - Liability Approach
- 4) Based on IMF balance of payments manual, sixth edition and OECD Benchmark Definition of Foreign Direct Investment - 4th edition
- 5) End of year (31 December).
- 6) Based on IMF Monetary and Financial Statistics Manual, 2000.
- 7) M1 money supply comprises cash outside banks and transferable deposit in domestic currency of all domestic sectors (except central government deposits).
- 8) M2 money supply is comprised of money supplies, M1 money and QM quasi money. QM money supplies covers other deposits in domestic currency, transferable and other deposits in foreign currency of all domestic sectors (except the deposits of the central government).
- 9) Based on IMF monetary and financial statistics manual, 2000.
- 10) Data for monetary financial institutions.
- 11) The Central Bank of Bosnia and Herzegovina started with other financial corporation statistics from 2006.
- 12) Includes data for the central bank and other banks for the end of December 2018, while data for other financial institutions are given for the end of June 2018.
- 13) GDP data for 2017 have been used.
- 14) Short-term lending rates in national currency to non-financial corporations (weighted average).
- 15) Demand deposit rates in national currency of households (weighted average).
- 16) Data for December 2018.
- 17) Revision: NEER base period 2010=100
- 18) Paasche export and import unit value indices
- 19) The public sector includes NACE Rev. 1.1 Sections L, M and N while the private sector includes other NACE Sections.
- 20) The public sector includes NACE Rev. 2 Sections O, P and Q while the private sector includes other NACE Sections.

- 21) Net earnings.
- 22) Total household consumption expenditure (rather than income) is used for the calculation.
- 23) Including petrol, diesel, electric and other types of passenger cars.
- 24) Data not collected on inland waterways. Road share of inland freight transport based on road and rail transport.