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**BOSNIA AND HERZEGOVINA 2009 PROGRESS REPORT**

*accompanying the*

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

**Enlargement Strategy and Main Challenges 2009-2010**

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# COMMISSION STAFF WORKING DOCUMENT

## Bosnia and Herzegovina 2009 PROGRESS REPORT

### 1. INTRODUCTION

#### 1.1. Preface

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

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

This report covers the period from early October 2008 to mid- September 2009. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are being prepared or awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and permits an objective assessment.

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

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

#### 1.2. Context

Bosnia and Herzegovina is a potential candidate for EU membership. The Stabilisation and Association Agreement (SAA) between Bosnia and Herzegovina and the EU was signed in June 2008. The Interim Agreement, which focuses on the trade-related areas of the SAA, has been in force since July 2008. However, constitutional elements established by the Dayton/Paris peace agreement have continued to be challenged by key political leaders in both Entities, and EU-related reforms have seen limited progress. There has been little

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

<sup>2</sup> Enlargement Strategy and Main Challenges 2009-2010 (COM (2009) 533 of 14.10.2009)

consensus on the main reform priorities, and there have been attempts to reverse previously agreed reforms. A shared vision on the direction of the country remains necessary for the smooth operation of institutions, for creating more functional and efficient State structures, and for speaking with one voice on EU and international matters. In this regard, the country's political leaders have engaged in a joint EU/US-led initiative, started on 8/9 October 2009 in Sarajevo. This now needs to be converted into concrete results that will unblock Bosnia and Herzegovina's progress towards the EU through constitutional changes and a renewed domestic consensus.

An international presence under UN auspices — the Office of the High Representative, OHR — has been in place in Bosnia and Herzegovina since 1995. Its possible closure is being considered by the international community, but a decision depends on Bosnia and Herzegovina's progress in meeting specific objectives and conditions, which have been determined by the Peace Implementation Council Steering Board<sup>3</sup>. The EU has started preparations to strengthen its engagement in the country upon the closure of the OHR.

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

Bosnia and Herzegovina is participating in the **Stabilisation and Association Process**. The Stabilisation and Association Agreement (SAA) has been ratified by fourteen Member States so far. The implementation of the Interim Agreement (IA) has been satisfactory overall in its first year, though efforts to prepare for forthcoming obligations under the IA/SAA – which is a European Partnership priority - need to intensify.

The EU provides guidance to the authorities of Bosnia and Herzegovina on reform priorities as part of the *European Partnership*. Progress on these reform priorities is encouraged and monitored by Reform Process Monitoring (RPM) meetings and by the bodies established by the Interim Agreement. One Plenary RPM meeting, six sectoral RPM meetings, five Interim Sub-Committee meetings and one Interim Committee meeting have been held over the reporting period.

The regular meeting between Members of the European Parliament and Members of the Bosnia and Herzegovina Parliamentary Assembly took place in January 2009. A political dialogue meeting at the level of foreign ministers was held in September 2009. Three coordination meetings on EU-related matters between high-level representatives of the government and parliament of Bosnia and Herzegovina and representatives of the Commission's Delegation and the EUSR took place in the reporting period.

In addition to Community support, the EU has continued to deploy considerable resources in Bosnia and Herzegovina in the framework of the Common Foreign and Security Policy and the European Security and Defence Policy. A new High Representative/EU Special Representative was appointed in March 2009. The mandate of the EU Special Representative is, *inter alia*, to promote overall political coordination and offer EU advice and facilitation to

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<sup>3</sup> These cover five objectives: (1) Acceptable and sustainable resolution of the issue of apportionment of property between the State and other levels of government; (2) Acceptable and sustainable resolution of defence property; (3) Completion of the Brčko final awards; (4) Fiscal sustainability (promoted by an agreement on a permanent ITA coefficient methodology and establishment of a National Fiscal Council); and (5) Entrenchment of the rule of law (demonstrated by adoption of a National War Crimes Strategy, of a Law on aliens and asylum and of a National Justice Sector Reform Strategy), as well as two specific conditions: (1) signing of the SAA and (2) a stable political situation.

Bosnia and Herzegovina to help the country meet requirements for European Union membership.

The EU Police Mission (EUPM) has continued to concentrate its efforts on supporting the fight against organised crime. EUPM continued to monitor and assess the implementation of police reform. Its mandate will expire at the end of 2009 and discussions about the establishment of a follow-on mission until 2011 are in the final phase.

The EUFOR/ALTHEA military mission contributed to maintaining a safe and secure environment in the country. Local law-enforcement agencies proved able to deal with public unrest issues. In November 2008, the UN Security Council extended EUFOR's mandate for one year. EUFOR forces currently amount to some 2,000 troops in the country, backed up by 'Over the Horizon' reserves — in total four battalions, shared with NATO. Mutual tactical reserve arrangements are also in place with KFOR. Any future reconfiguration of EUFOR/ALTHEA will be decided taking into account the overall political situation and developments in Bosnia and Herzegovina.

The visa facilitation and readmission agreements between Bosnia and Herzegovina and the European Community continued to be implemented. In the framework of the **visa liberalisation** dialogue process, Bosnia and Herzegovina has made good progress in the areas of justice, freedom and security, but has not met all the benchmarks set in the roadmap. Bosnia and Herzegovina is encouraged to continue its efforts, in particular in the areas of biometric passports, border and migration management and the fight against corruption and organised crime.

As a potential candidate for EU membership, Bosnia and Herzegovina aligned itself with 100 CFSP declarations from a total of 128 relevant declarations adopted by the EU during the reporting period.

As regards pre-accession **financial assistance**, the 2009-2011 Multi-Annual Indicative Planning Document (MIPD) for Bosnia and Herzegovina was adopted in July 2009. The European Commission (EC) allocated to the country a total of € 89.1 million under the 2009 Instrument for Pre-accession Assistance (IPA) programme. The main areas of assistance are: public administration, constitutional reform, rule of law, civil society, culture, SME development, labour market and *acquis* approximation. The 2009 Programme also aims to alleviate the impact of the financial and economic crisis in Bosnia and Herzegovina.

IPA — and the remaining CARDS assistance — is implemented by the Commission's Delegation in Sarajevo. Little progress was made towards decentralised management of aid during the reporting period. The National Fund and the Central Financial and Contracting Unit (CFCU) in the Ministry of Finance and Treasury (MoFT) are only partially staffed. Decentralised management remains a medium-term objective for Bosnia and Herzegovina. It is an indispensable step in order to accede to all components of the IPA programme and to prepare for the future management of structural funds.

The complex institutional and political environment in the country, significant delays in ratifying the 2007 and 2008 IPA Financing Agreements, as well as difficulties in appointing a National IPA Coordinator, have seriously delayed the implementation of IPA programmes.

In the framework of the Civil Society Facility, the 2009 IPA programme will provide € 3.0 million to support **civil society** development with a focus on strengthening civil society networks and enhancing the role of civil society in the fight against corruption.

In response to the economic crisis, an IPA **crisis package** has been created, comprising €200 million for the Western Balkan region which are expected to leverage investments of at least €1 billion, co-financed by the partner financial institutions. The country will benefit from a share of multi-beneficiary funds for competitiveness, SMEs, energy efficiency and banking sector regulation. In addition, national IPA funds were programmed in response to crisis. They will provide financing in amount of €39 million, including via the Infrastructure Project Facility, to support the development of small and medium sized enterprises and provide significant investment in infrastructure in the transport, environment, and energy sectors. Funding will be granted also to the Deposit Insurance Agency to enable it to cope with the negative impact of the financial crisis on the deposit outflows.

Bosnia and Herzegovina joined its first Community programme - the 7th Framework Programme for research, technological development and demonstration activities (FP7). The Memorandum of Understanding for its participation in the FP7 was signed in November 2008 and entered into force in January 2009.

Bosnia and Herzegovina became a full member of the Union for the Mediterranean and has submitted a number of projects which are undergoing evaluation.

## **2. POLITICAL CRITERIA**

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

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

#### *Constitution*

The Dayton/Paris Peace Agreement (DPA) put an end to the 1992-1995 war and brought peace and stability to Bosnia and Herzegovina. However, Bosnia and Herzegovina's Constitution, which is contained in Annex IV to the DPA, establishes a complex institutional architecture. While progress has been made under the current constitutional structure, it still offers too many possibilities for political obstructionism. The misuse of provisions such the "entity voting"<sup>4</sup> and complex rules on quorums prevents swift decision-making and, therefore, hinders reform and the country's capacity to make rapid progress towards the EU. Among other things, the problem of blockages due to the entity voting rules needs to be addressed, and a stricter definition of the vital national clause in the Constitution is necessary.

Nationalist rhetoric from all political leaders challenging the DPA and, by implication, the constitutional order remained commonplace. Certain politicians from the Federation

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

continued to question the existence of Republika Srpska, claiming that it is the result of genocide. Republika Srpska frequently challenged the State institutions, and State competencies and laws. It continued to claim the right of self-determination and remained systematically opposed to the transfer of new competencies to the State level, including in the context of the SAA. Moreover, it requested unilaterally – without the consent of the State level and the Federation - the return of competencies transferred to the State in recent years.

In the framework of the Prud Agreement of November 2008, the leaders of the three main political parties committed themselves to initiate the process of constitutional reform and to introduce measures to harmonise the Constitution of Bosnia and Herzegovina with the European Convention on Human Rights (ECHR). However, the meetings of the Prud leaders soon showed diverging views on the future organisation of the country. The overall political climate has deteriorated in recent months and the process has been discontinued.

The Parliamentary Assembly adopted an amendment to the Constitution of Bosnia and Herzegovina that establishes the Brčko District as a unit of local self-governance. This has been a major development and step forward, which opens the way to the termination of supervision over the District once all conditions are met. According to the amendment, Brčko remains under the sovereignty of Bosnia and Herzegovina in the areas falling within the competencies of the institutions of Bosnia and Herzegovina, while its territory is a shared property of the Entities. The constitutional amendment on Brčko is one of the five objectives set by the Peace Implementation Council (PIC) for the closure of the Office of the High Representative.

No agreement on a comprehensive reform of the Constitution has been reached. Elections therefore would continue to be conducted under provisions that are in violation of the European Convention on Human Rights (ECHR). The exclusion of citizens not belonging to the three constituent peoples from the election to the House of Peoples and the Presidency is incompatible with Protocols 1 and 12 of the ECHR

On the basis of the Dayton/Paris Agreement, the international community continues to maintain a significant presence in Bosnia and Herzegovina. The OHR/EUSR's office has worked closely with the European Commission on issues related to European integration. The High Representative (HR) has continued to play a key role in facilitating reform and governance issues. The High Representative used the Bonn Powers on several occasions. Amongst other, the HR imposed two decisions related to ICTY cooperation and issued a decision to remove two police officers for anti-Dayton activities. The High Representative also used Bonn powers to annul the conclusions adopted in May by the Republika Srpska National Assembly challenging the competencies of State-level institutions He also used Bonn Powers to extend the period of temporary financing of the City of Mostar, to de-block developments related to the Brcko District and to prevent the collapse of the electricity transmission company TRANSCO.

Some progress has been made towards meeting the requirements set by the Peace Implementation Council Steering Board (PIC) for the transition from the OHR to a reinforced EU presence, notably as regards the objectives of completing the Brčko District final award, improving fiscal sustainability and entrenching the rule of law. However, the process has been hindered by insufficient political commitment. The resolution of State and defence property and a positive assessment of the political situation in Bosnia and Herzegovina by the PIC Steering Board based on full compliance with the Dayton Peace Agreement remain outstanding requirements for the transition. These issues need to be urgently addressed in

order for Bosnia and Herzegovina to make further progress on its European Integration path. The proper implementation of the other objectives needs also to be ensured.

The Entities have not yet finished making their Constitutions compliant with the March 2006 ruling of the Constitutional Court of Bosnia and Herzegovina that the Entity coats of arms, flags and anthems are not in line with the State-level Constitution of Bosnia and Herzegovina.

*Overall*, there has been little progress in addressing the key European partnership priority of more functional and sustainable state structures and better respect for human rights and fundamental freedoms, including by agreeing and adopting the necessary constitutional changes. Constitutional reform has been limited to the amendment concerning the Brčko District.

### *Parliament*

The Parliamentary Assembly's legislative work has continued to be adversely affected by intransigent and ethnically oriented positions taken by the country's political leaders. Obstructions towards State-level laws, including European Partnership requirements, in particular by members from the Republika Srpska, remained.

The Chairmanship of the Parliamentary Assembly continues, in line with the Constitution of Bosnia and Herzegovina, to rotate on an eight-monthly basis which hinders efficiency. The Assembly is still hampered by inadequate technical and human resources. Cooperation between the Parliamentary Assembly and the Council of Ministers remained weak. Lack of coordination in the legislative process, in particular between the State and the Entity parliaments, also continued to be a problem. The work of the various Parliamentary committees has been affected by inter-ethnic divergences. Entity voting has often prevented swift adoption of legislation.

*Overall*, the work of the Parliamentary Assembly of Bosnia and Herzegovina continued to be adversely affected by the unstable political climate and insufficient administrative resources.

### *Government*

The Presidency of Bosnia and Herzegovina is responsible for foreign policy, proposing annual budgets and representing Bosnia and Herzegovina in international organisations. In line with the Constitution of Bosnia and Herzegovina, the Presidency members continue to rotate on an eight-monthly basis, which hampers efficiency and continuity.

Members of the Presidency have continued to show their first allegiance to their Entity and their constituent people. They have invoked the 'vital national interest' on a number of occasions and have generally shown little capacity to find common positions. Presidency members have continued to represent individual positions in international fora which often did not reflect the policy of Bosnia and Herzegovina as a whole. Lack of political will and perceived diverging national interests in the government and parliament continued to delay the adoption of legislation. The State institutions made limited progress as regards EU-related reforms. The work of the Council of Ministers is also hindered by the limited powers of its Chairman. There have been delays with appointments to key positions. The post of Minister of Security has been vacant for several weeks.

The Directorate for European Integration (DEI) could not fully play its role due to the absence of a Director for most of the reporting period. Its work has also been hampered by the difficult political climate.

The Directorate for Economic Planning has continued to play its role as the primary source of policy guidelines and in setting the macroeconomic framework. Nonetheless, the Country Development Strategy and Social Inclusion Strategy have not been adopted yet. These documents are to replace the Medium-Term Development Strategy which expired in 2007. The staffing of the General Secretariat of the Council of Ministers has improved. However, it does not yet have the sufficient capacity for planning and policy coordination.

The general secretariats of the governments at the State and Entity level and in the Brčko District have signed a memorandum of understanding on mutual cooperation which should contribute to the European Partnership priority of enhancing coordination at political, legal and technical level. However, fragmented policy-making between the State and the Entities remains the main obstacle to efficient work by the State government. The Coordination Board for Economic Development and European Integration, which is designed to harmonise State and Entity agendas, does not play an effective role and has met only infrequently. Coordination between the different levels of authority has been minimal. The Council of Ministers has held specific sessions on European integration matters. Due to its limited powers the Council of Ministers has occasionally been left out of negotiations on reforms, which have been conducted by political party leaders.

A serious handicap for policy planning in Bosnia and Herzegovina as a whole is the lack of an up-to-date population census. Major reforms are still based on the 1991 census, which does not reflect the current situation on the ground. Some progress has been made as regards technical preparations for the 2011 population census. However the necessary legal framework has not yet been adopted.

The Republika Srpska government has continued to adopt legislation often without coordination with the Council of Ministers or the Federation government. The Republika Srpska government remains opposed to the transfer of competencies to the State level and often threatened to reverse previous transfers. The Federation government has been less efficient in adopting and implementing legislation, mainly due to the fragmented institutional structures. This complex organisation encourages diverging ethnic interests and makes it particularly difficult to achieve smooth governance.

Both Entities have local self-government legislation largely in line with the European Charter for Local Self-Government. However, the impact on decentralisation of powers to local self-government units has been limited, and the lack of resources in the municipalities remains an issue both in the Federation and in Republika Srpska. Harmonisation of Cantonal legislation within the Federation has been uneven. The State-level authorities have no powers over local self-government, which complicates compliance with Bosnia and Herzegovina's international obligations in this area.

The Mostar City Council has failed to elect a new mayor in accordance with the requirement of the statute of the City of Mostar, due to a power struggle between ethnic groups. The failure to elect a mayor meant that the city risked serious financial difficulties, since the annual budget could not be adopted and the city's temporary financing expired in March 2009. The High Representative issued a decision extending the period of temporary financing of the City of Mostar until the end of September 2009.

*Overall*, Bosnia and Herzegovina has made very limited progress on making the State-level government structures more functional and efficient. Lack of coordination, ethnic tensions and lack of resources continue to delay reform. Fragmented policy-making between the State and the Entities remains the main obstacle to efficient work by the State government. The frequent duplication of competencies leads to increased administrative costs.

#### *Public administration*

There has been some progress in the area of public administration reform, which is a key European Partnership priority.

The Public Administration Reform (PAR) Coordination Office has maintained its increased staffing levels and can be considered to have sufficient human and material resources to carry out its task of coordinating and monitoring implementation of the PAR Strategy and the accompanying Action Plan. The implementation rate of the Strategy and the Action Plan reached 36% as of July 2009. Operational cooperation with the coordinators for public administration reform appointed for the Federation government, the government of Republika Srpska and the government of the Brčko District is satisfactory. Management of the fund established to support public administration reform has been good. Almost two thirds of the resources have been committed and several projects deployed. All the implementing legislation for the fund is in place. Donor coordination is also fully managed by the PAR Coordination Office.

However, Bosnia and Herzegovina's administrative structures remain cumbersome, and in some cases fragmented, and prone to duplication and unclear division of powers, both between institutions at the same level and, vertically, between different levels of government. Further efforts are needed to make the recruitment procedures for civil servants more efficient. Civil service laws at all levels have been amended or replaced by new legislation. This should bring some improvements as regards efficiency of the public administration. However, consultation of stakeholders in the process of preparation of the amendments has been insufficient. Lack of convergence of the legislation at the different levels so as to enable better mobility of civil servants from one level of administration to another is of concern.

The civil service is still highly politicised and in need of professionalisation, transparent and efficient recruitment procedures and modern career development. Little progress has been made in preventing political interference and limiting the role played by ethnic identity and party membership in public administration, as demonstrated during the harsh and lengthy processes to appoint new directors in a number of key institutions (Directorate for European Integration, Indirect Taxation Authority, Communications Regulatory Authority, etc). Little progress has also been made in modernising procedures and in ensuring closer cooperation between the various administrations within the country.

Action by Bosnia and Herzegovina towards finding an acceptable and sustainable resolution of the State property apportionment issue has been very limited. In view of the considerable delays incurred in the preparation of a comprehensive inventory of State property, the High Representative decided in August that his office will prepare such inventory.

The new State Ombudsmen have, after long delays, been appointed. However, the delays in phasing out the Entity Ombudsman offices hamper full implementation of the 2006 Ombudsman Law. These delays have been due, in particular, to the outstanding adoption of legislation closing down the Ombudsman's office in Republika Srpska

*Overall*, there has been some progress in the area of public administration in terms of coordination and capacity. However, the reform efforts need to be intensified. The country's complex and cumbersome institutional structure continues to undermine efficiency. Significant further efforts towards an efficient, professional, stable, accountable and transparent civil service are needed at all levels of government.

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

The committee of the Parliamentary Assembly of Bosnia and Herzegovina in charge of overseeing the Intelligence-Security Agency (OSA) continued its practice of inspecting the OSA's regional centres, which is a positive element. The amendments to the Law on the OSA and the amendments to the Law on Protection of Secret Data came into force in February 2009. The former contributed to enhancing the planning and reporting obligations between the OSA and the State's executive and parliamentary bodies. The amendments to the Law on Protection of Secret Data broadened the scope of data protection in Bosnia and Herzegovina with regulations on industrial security that were also in line with NATO standards. The process of Bosnia and Herzegovina's accession to NATO will further reinforce civilian oversight of the country's security forces.

#### *Judicial system*

Progress in the area of judicial reform has been limited on the whole.

Positive developments have taken place as regards development of Information and Communication Technology in courts and prosecutor's offices. Almost all courts and a few prosecutors' offices in Bosnia and Herzegovina are connected to a nationwide area network. Training courses have been provided to facilitate the usage of the new Case Management System supported by this network. Local area networks have been installed in all courts and prosecutor's offices. This should contribute to further improving the efficiency and transparency of the work of the courts and prosecutor's offices in Bosnia and Herzegovina.

The Judicial and Prosecutorial Training Centres in the Entities continued their training activities in line with the training strategy. Nonetheless, the staffing of the Centres needs to be reinforced in order to ensure sustained and adequate implementation.

Regarding the backlog of court cases, various projects are underway with the aim of introducing systemic solutions. There has been some improvement in this regard, even though a high number of cases are still to be resolved and further efforts are necessary.

However, the complex structure of the judiciary and the absence of a single budget continue to be a major obstacle to reform. No progress has been made towards establishing a Supreme Court that could harmonise application of legislation across the four internal jurisdictions: the State level, the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District. Bosnia and Herzegovina has been unable to agree on the prolongation of the mandate of international judges and prosecutors. Political interference in the judicial system continues to be a cause for concern. The challenges to the jurisdiction and the competences of the State-level judicial agencies by the Republika Srpska government are unacceptable and deeply worrying. Political interference during the process of appointing new judges at the Federation Constitutional Court has also been of concern.

Implementation of the Justice Sector Reform Strategy has not progressed in accordance with the agreed timelines. This was due mainly to the complicated structure of the judicial system and the limited contribution by the Entity Ministries of Justice to the work of the implementation working groups. Material conditions for the improvement of judicial capacities remained very limited.

Limited progress has been made in the area of juvenile justice. One of the main priority areas for the implementation of the Juvenile Justice Strategy is the adoption of a Juvenile Justice Law in line with international standards. However, a State-level Juvenile Justice Law has not been adopted. Republika Srpska has prepared a Juvenile Code. However, there is no such initiative in the Federation and the Brčko District. As regards support for legal provisions on the application of alternative measures, which is another priority area for the implementation of the Juvenile Justice Strategy, a by-law on such measures has been adopted by the Federation. However, only limited steps have been taken for its implementation. Despite some improvements, there continues to be a lack of appropriate and well-regulated juvenile correctional facilities.

Protection of child witnesses in legal proceedings and child victims is insufficient. The awareness of judges and prosecutors about children's rights remains lacking, and priority to hearing juvenile cases in order to reduce the detention periods is not ensured.

As regards local prosecution of war crimes, both the War Crimes Chamber of the Court of Bosnia and Herzegovina and the Special Department for War Crimes of the Prosecutor's Office of Bosnia and Herzegovina continued to operate with efficiency and in compliance with internationally recognised fair trial standards. Strategies on public information and outreach of the Court of Bosnia and Herzegovina have been adopted. However, despite some improvements, the outreach of the Court continues to be insufficient. Raising the currently low level of public awareness is important also because lack of knowledge about the War Crimes chamber has undermined public confidence in its work.

Some limited progress has been registered as regards prosecution of cases before cantonal and district courts, especially in the Federation. However, the lack of witness protection capabilities and witness support, insufficient staffing and lack of specialisation among cantonal and district prosecutors continue to be major obstacles to effective prosecution of war crimes. The lack of harmonisation of the legal codes used in war crime trials at State and Entity level, and in particular the fact that the Criminal Code of former Yugoslavia can still be applied at the Entity level, is of concern. The cooperation between prosecutors and police and between police across Entity lines needs to be stepped up.

The number of prosecuted war crime cases involving sexual violence remains low. More efforts are needed to investigate and prosecute such cases and to provide witnesses with sufficient protection and psychological support.

A National War Crimes Strategy, providing for a systematic approach for dealing with the large volume of war crimes cases, was adopted in December 2008. However, only limited progress has been made in its implementation, mainly due to insufficient coordination between the various justice sector institutions at the State level, in the Entities and the Brčko District. Sufficient funds need also to be made available for the implementation of the strategy. The substantial reduction of the budget of the State Court for 2009 is of concern, as it may put its functioning under considerable strain. The workflow on the processing of serious war crime and organised crime cases as undertaken by the office of the Chief

Prosecutor and the Court President has been negatively affected by the delays in clarifying the position for an extension of the international presence in State judicial institutions after 2009.

*Overall*, preparations by Bosnia and Herzegovina to develop an effective and efficient judiciary remain at an early stage. Significant efforts are needed to ensure implementation of the Justice Sector Reform Strategy and the National War Crimes Strategy, including by ensuring adequate financial resources. The fragmented legal and structural framework across the country and the absence of a single budget impede efficiency. Political interference in the judicial system continues to be a cause for concern.

#### *Anti-corruption policy*

Bosnia and Herzegovina has made little progress in fighting corruption. A positive development has been the adoption of a new Strategy for fight against corruption 2009-2014 and the related Action Plan. Furthermore, a draft Law on Agency for prevention of corruption and on cooperation in fight against corruption has been prepared and is under adoption.

However, considerable further efforts remain necessary in this area. The implementation of the corruption-related aspects of the 2006-2009 Strategy for the fight against organised crime and corruption has shown very limited results. Insufficient implementation of the legal framework and problems in coordination between the Entities constitute an issue of concern.

Bosnia and Herzegovina has not yet signed the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. It still needs to harmonise its legislation with the Council of Europe Civil Law Convention on Corruption. Implementation of the Group of States against Corruption (GRECO) recommendations, among others as regards the management of confiscated assets, remains incomplete.

Following the rejection of the amendments to the State-level Law on Financing of Political Parties aimed at increasing transparency, no new proposal has been presented. Elected public officials at State and Entity level and their relatives are required to submit information on their involvement in other institutions. However, there is no effective monitoring of declarations of assets and no effective sanctions are provided for.

Implementation of the Freedom of Access to Information Act is insufficient with respect to anti-corruption. Threats to non-governmental organisations and media investigating corruption cases continued. Adequate legal provisions for the protection of civil servants reporting corruption are not in place.

There is no effective investigation, prosecution and conviction of suspects of high-level cases of corruption. Weak coordination of anti-corruption efforts at the State level remains a problem. No overall survey and analysis of statistics on anti-corruption cases is available. The special investigative means applicable for corruption cases are not effectively used, and cooperation between police and prosecutors needs to be strengthened. The judicial follow-up of cases of corruption is slow. The persistent lack of final convictions is a matter of serious concern. In some cases, it was attributed to the low quality of evidence presented before the court.

*Overall*, corruption in Bosnia and Herzegovina is prevalent in many areas and continues to be a serious problem, especially within government and other State and Entity structures, linked

to public procurement, business licensing, in the health, energy, transportation infrastructure and education sectors. Private sector corruption is also prevalent. The establishment of an anti-corruption body, the implementation of the updated Strategy and Action Plan, as well as consequent investigation and prosecution of corruption cases, need to be ensured.

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

### *Observance of international human rights law*

As regards **ratification of human rights instruments**, Bosnia and Herzegovina has ratified the major UN and international human rights conventions. In 2008 it ratified the Optional Protocol to the Convention against Torture (OPCAT). The Constitution includes most of the principles of the human rights conventions and guarantees that they supersede national legislation. However, implementation remains uneven and delays in meeting reporting obligations have continued. Further steps need to be taken to improve the implementation of these conventions.

There have still been several cases where enforcement of the decisions of the Constitutional Court of Bosnia and Herzegovina has not been ensured. This has led to cases being lodged before the **European Court of Human Rights** (ECtHR). During the reporting period, the ECtHR issued three judgments finding that Bosnia and Herzegovina had violated the European Convention on Human Rights (ECHR). A total of 634 new applications were made to the ECtHR since October 2008. As of September 2009, nearly 2000 cases against Bosnia and Herzegovina were pending before the Court. Most of these cases relate to old foreign-currency savings. Around 15% of these cases relate to non-enforcement of judgments ordering the payment of war-related damages.

Limited progress has been made as regards the **promotion and enforcement of human rights**. The competence to monitor the implementation of legal provisions on human rights lies within the Ministry of Human Rights and Refugees. However, effective monitoring has not been ensured in all human rights-related areas. The mechanisms to provide a safe environment for human rights activists also need to be improved.

Incompatibilities between Bosnia and Herzegovina's constitutional framework and the ECHR need to be addressed in order to ensure improved elections in 2010 elections and full compliance with the SAA requirements.

Following a decision of the US Supreme Court, five of the six citizens and residents of Bosnia and Herzegovina who were held in Guantanamo Bay have been released. Three of the five released returned to Bosnia and Herzegovina. Bosnia and Herzegovina needs to take action to have the remaining person released and accept responsibility for the return of these persons.

*Overall*, the main elements of international human rights law are part of Bosnia and Herzegovina's legal system, but implementation and enforcement needs to improve. Full compliance with the ECHR is necessary.

### *Civil and political rights*

Civil and political rights are broadly respected, but there is room for improvement.

**Torture and ill-treatment** are prohibited by the State and Entity Constitutions. Bosnia and Herzegovina is a party to the Council of Europe Convention for the Prevention of Torture.

However, it has repeatedly failed to appoint a representative in the Anti-Torture Committee. Ill treatment of detainees continues to be a matter of concern. Little progress has been made to improve the mechanisms for investigation of cases of alleged torture and ill-treatment.

Bosnia and Herzegovina still did not provide adequate safeguards so that people facing deportation following a negative citizenship review are protected from persecution, including torture and ill-treatment, upon return.

The death penalty is prohibited by the Constitution of Bosnia and Herzegovina and by the Constitution of the Federation. However, Republika Srpska has not yet repealed the death penalty provisions from its Constitution.

Limited progress has been made to enhance **access to justice** in civil and criminal trials and to ensure that equality before the law is guaranteed. A State-level law on legal aid in criminal proceedings has been adopted. However, legal aid in civil cases continues to be primarily provided on an ad hoc basis by privately funded NGOs. The budget of the defence counsel continues to fall short of the needs. Equality before the law is formally guaranteed. In practice the presumption of innocence and equal treatment are not always ensured during the legal proceedings. The right to a fair trial is incorporated in the five criminal procedure codes of Bosnia and Herzegovina. However, court proceedings remain generally long, especially for appeal cases, and the case backlog reduction programmes launched in a number of district and cantonal courts are yet to produce tangible results.

Limited progress has been made to improve the **prison system** in Bosnia and Herzegovina. Prison capacity has been increased, in particular by opening a new prison in Tuzla in line with European standards and refurbishing a number of existing prison facilities. However, the overall standard of prison facilities remains low. Limited progress has been made in addressing the problem of overcrowding, poor living conditions and inadequate medical treatment. Ad hoc solutions in this regard prevent the rapid imprisonment of individuals convicted by serious cases. The lack of special correctional/reform institutions for women, juveniles, persons with mental health problems, persons with disabilities and seniors continues to be a problem. A new juvenile prison was opened in East Sarajevo, but staff does not have sufficient training and experience. There have been training programmes, but staff awareness of human rights and treatment of vulnerable groups such as women, juveniles and psychiatric inmates needs to improve further. Adequate medical facilities, separation of vulnerable groups and prison inspections remain insufficient.

The State prison construction project has continued to experience delays, thereby running the risk that some bilateral funding could be lost. The Bosnia and Herzegovina Ministry of Justice continues to oversee the project, including the ongoing technical review needed by the Council of Europe Development Bank before confirming its final approval for the loan.

The absence of a harmonised legislative framework and the fragmented management system remain the key obstacles to progress. There is no enforcement administration unit in the State Ministry of Justice. The lack of unified practice for criminal sanctions still remains a problem. The 15 competent prison administrations face challenges in coordination. Cases of mismanagement, combined with inappropriate provisions in the Criminal Procedure Code of Bosnia and Herzegovina, have led to the escape of individuals imprisoned for serious crimes, including war crimes. On the other hand, the use of appropriate alternative sanctions remains low. Conditional release for low-risk detainees is gradually being introduced in a small number of cases.

All the country's Constitutions provide for **freedom of expression**. However, this constitutional right has not always been fully implemented. The number of cases of physical violence and threats to journalists and editors continued to increase, which is a matter of serious concern. The action taken by law enforcement and judicial authorities to investigate and prosecute these cases has been insufficient. Ethnic orientation of media is increasing.

The attempts to undermine the independence of the Communications Regulatory Authority are worrying. Although the mandate of the existing Board of the Communications Regulatory Authority has long expired, the authorities of Bosnia and Herzegovina have repeatedly failed to proceed with the appointment of a new Board and a new Director General, thus hampering the Authority's day-to-day functioning and its performance in supporting the communication and broadcasting sector.

The reform of Bosnia and Herzegovina's public broadcasting sector progresses slowly. The Federation's Law on the Public Broadcasting Service is not yet fully aligned with the Public Broadcasting System Law of Bosnia and Herzegovina. Proper implementation of the whole legal framework for public broadcasting is not yet ensured. The relevant key European Partnership priority has not been fully met.

**Freedom of assembly and association** are entrenched in the Constitution of Bosnia and Herzegovina. However, problems remain with actual implementation. The increasing number of cases of intimidation and violence against human rights defenders and civil society organisations are of serious concern. The police needs to respond promptly in such cases, providing protection and bringing to justice those responsible for such threats and violence. Action is also needed to ensure freedom of assembly and association for lesbian, gay, bisexual and transgender (LGBT) communities.

As regards **civil society organisations**, very limited progress has been made in implementing the Agreement on cooperation between the civil society sector and the Council of Ministers of Bosnia and Herzegovina. As a result, the role of the Civil Society Board has been rather limited. There continues to be a lack of transparency in the allocation of State funds to civil society organisations.

The Constitution of Bosnia and Herzegovina provides for **freedom of religion**, and a State-level law on freedom of confession and providing an appropriate legal status for churches and religious communities is in place. However, religious intolerance continues to be present in the country and there have been a number of cases of physical attacks against places of worship. Police investigations in such cases have been launched, but some perpetrators of these attacks still continue to escape justice.

*Overall*, Bosnia and Herzegovina has made very limited additional progress in the area of civil and political rights. A State-level law on legal aid in criminal proceedings has been adopted but access to justice remains a matter of concern. The prison capacity has slightly increased. However, overcrowding, poor living conditions and inadequate medical treatment in prisons remain a problem. The absence of a harmonised legislative framework and the fragmented management system need to be addressed. The increasing number of cases of physical violence and threats against journalists and editors, the continuing challenges to the independence of the Communications Regulatory Authority and the slow pace in the implementation of the public broadcasting reform are matters of serious concern.

*Economic and social rights*

Little additional progress has been achieved in the field of **women's rights**. Laws on protection against domestic violence have been adopted. However, there is a lack of harmonisation of legislation for combating family violence at Entity and State level, as well as between existing laws and action plans. This results in differing judicial interpretations and inconsistent application of penalties. Despite some progress, there continue to be gaps in anti-discrimination policy in relation to the alignment of State labour laws, health policies and other relevant laws with the gender equality law. Implementation of the 2006 Gender Action Plan needs to improve. The Gender Equality Agency of Bosnia and Herzegovina has not yet been equipped with the financial and human resources necessary to effectively supervise and monitor implementation of the Gender Action Plan. The Agency has failed to carry out quality assessments of the legislative and regulatory measures adopted by the Council of Ministers, as envisaged in its role.

Domestic violence against women remains widespread and under-reported. Bosnia and Herzegovina continues to be a country of origin, transit and destination for trafficking in women and girls. Women continue to be underrepresented in political and economic life. They are still excluded from high-ranking and decision making positions. Their representation in the Parliament is about 14%. The collection of gender-disaggregated data and gender analysis needs to improve in order to facilitate evidence-based policy making, with a view to incorporating gender in budget processes and supporting the implementation of gender-relevant policies.

Very limited progress has been made in the area of **children's rights**. Some improvements have occurred in securing housing for single parents but a systematic approach is still lacking. A Framework Law mandating one year of pre-school education for every child has been adopted and is being gradually endorsed by Entities and the Cantons. Implementation is constrained by a lack of resources. An Action Plan for children is in place and pending revision. However, problems due to insufficient State action in the fields of health, social protection, education and domestic violence against children remain. Divisions in the education system through continuous development of mono-ethnic schools in both entities are still a matter of concern and result in de facto segregation of pupils from the very beginning of their schooling. As regards early childhood development, the declining immunisation rates constitute a threat to current and future public health. Pre-school attendance, at 6%, is among the lowest in Europe. Little has been done to improve the implementation of the 2006 Strategy on combating violence against children. Statistics on child victims of violence is lacking. Institutional care is often preferred over alternative community-based options for children without parental care or with special needs.

Little additional progress has been made as regards discrimination against **socially vulnerable people and people with disabilities**. The legal framework is in place. A positive development has been the signature of the UN Convention on the Rights of Persons with Disabilities, which now needs to be ratified. However, the fragmented legal and financial framework does not provide the same social protection for all citizens throughout the country. Many groups of the population continue to be excluded from social protection and assistance benefits. The preferential treatment of war veterans in terms of social benefits continued to have adverse effects on other socially vulnerable persons and persons with disabilities, who often lack access to health protection and the labour market. The inadequacies in the social welfare systems continue to adversely affect the conditions of the persons with disabilities, including the mentally ill, who remain particularly vulnerable to social exclusion. The Council for Disabled Persons has not yet been established.

As regards **labour rights and trade unions**, the complex system of government and the fragmentation of legislation continue to hamper social dialogue across the country. The ratification of the revised European Social Charter was a positive step but the legislation of Bosnia and Herzegovina has not been yet fully aligned with the Charter. Limited progress has been made in clarifying the rules for registration and recognition of trade unions. No progress has been made in establishing the trade union confederation (KSBiH) at State level, and as a result the trade unions continue to be based on the Entity structure. Republika Srpska continued to hinder the establishment of a country-wide Economic and Social Council. The practice of disregarding employees' entitlement to social security, in particular during maternity leave for employed mothers and maternity for the unemployed, has remained widespread. No steps have been taken to harmonise the legislative frameworks. The lack of a unified pension structure continued to be a problem.

With regard to **anti-discrimination policies**, the State and Entity Constitutions guarantee equal treatment of all people, and anti-discrimination provisions are included in several laws. After long delays, a comprehensive State-level anti-discrimination law has been adopted. The law represents a positive step towards uniform protection across Bosnia and Herzegovina. However, it exempts religious groups and provides only limited protection to several groups of vulnerable individuals. Social discrimination and exclusion of lesbian, gay bisexual and transgender (LGBT) people remain widespread. Physical attacks, ill-treatment and acts of intimidation against these groups have continued. There has been no official condemnation of such acts by government authorities. Effective investigation and prosecution need to be ensured.

Bosnia and Herzegovina has continued its good progress in relation to **property rights**. The vast majority of cases of property repossession requests have been resolved. The remaining cases are either being dealt with by the relevant courts or still pending, mainly due to the unclear status of possession. The mandate of the Commission for Property Claims of Displaced Persons and Refugees has been extended.

*Overall*, little progress has been made in the area of economic and social rights. Bosnia and Herzegovina has acceded to the UN Convention on the Rights of Persons with Disabilities. A comprehensive State-level anti-discrimination law has been adopted. However, its scope is rather limited. Implementation of legal provisions needs to improve. Domestic violence remains a serious concern. The protection of women against all forms of violence needs to be considerably strengthened. More decisive steps are required as regards discrimination of vulnerable persons and persons with disabilities and to secure rights of children. Labour rights, the role of trade unions and the mechanisms for social dialogue need to be enhanced.

#### *Minority rights, cultural rights and protection of minorities<sup>5</sup>*

As regards minority rights, cultural rights and the protection of minorities, the legal framework is largely in place but implementation needs to improve. Bosnia and Herzegovina is party to the Council of Europe Framework Convention for National Minorities. Despite some steps, the ratification of the European Charter for Regional or Minority Languages is still pending. A National Minority Council is operational at State level and in Republika

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<sup>5</sup> According to the Law on the Protection of Rights of Persons Belonging to National Minorities, there are 17 national minorities in Bosnia and Herzegovina. The three constituent peoples – Bosniaks, Croats and Serbs – do not constitute national minorities.

Srpska. In the Federation, a National Minority Council has been established but is not yet fully operational. The implementation of the laws on national minorities at the State and Entity level needs to improve further, in particular to ensure better access to education and employment for national minorities.

No progress has been made on reforming the Bosnia and Herzegovina Constitution, and minorities therefore continue to be excluded from the House of Peoples and the tripartite Presidency. As regards political participation of national minorities, the 2008 amendments to the Election Law have given the opportunity to national minorities to have their own list of representatives. However, the amendments were adopted rather late and less than one quarter of municipalities adapted their statute to the amended election law on time. National minorities remain under-represented at local level.

Some progress has been made in preventing prejudice against the Roma and other minorities. The Communications Regulatory Authority adopted the Code of Good Practice for Television Broadcasters. However, implementation of the Law on Protection of National Minorities concerning the presentation and representation of national minorities in the media remains uneven and minority issues still receive little coverage.

Some limited progress has been made as regards **refugees and internally displaced persons**. The revised strategy for the implementation of Annex VII of the Dayton/Paris Peace Agreement, covering the period until 2014, has not been adopted yet. Officially, there are still some 125,000 persons who wish to return to their original place of residence. Despite some improvements, the supply of reconstructed housing falls short of the demand. The distribution of assistance to refugees and displaced persons lacks transparency and accountability. Returnees still face discrimination in employment, access to health care, education, pensions and social rights — especially when returning to areas where they are in a minority position. This remains the biggest obstacle to a sustainable return.

The process of de-mining in Bosnia and Herzegovina continued. De-mining is important to facilitate the return of refugees and displaced persons and is a precondition for the development of a number of sectors of the economy, such as transport, agriculture, forestry or water management. The Strategy for Anti-mine Action for 2009-2019 was being implemented but the lack of funds remains the main obstacle to faster progress with de-mining. As regards missing persons, the operations of the Bosnia and Herzegovina Institute for Missing Persons are still affected by the lack of support from the authorities of Republika Srpska.

A review of citizenship granted during and after the war was carried out during the reporting period. The State Commission for the Review of Decisions on Naturalisation of Foreign Nationals in Bosnia and Herzegovina continued its work until February 2009, when its mandate expired. The conducting of citizenship reviews has been transferred to the Ministry of Civil Affairs of Bosnia and Herzegovina.

There has been some progress as regards the **Roma minority**. The financial resources for implementing the Roma Strategy in the context of the Decade for Roma Inclusion were increased considerably. These funds have been earmarked in particular for implementing the Action plan on housing, health and employment. The 2004 Action plan on the educational needs of Roma and members of other national minorities is under revision. The revision needs to be finalised without delay. Coordination between all the administrative bodies involved needs to be improved and sufficient financial resources secured for effective implementation of this action plan. The situation is particularly serious in employment with extremely low

figures of employed Roma. The enrolment of Roma children in school is slowly increasing as a result of positive measures. However, the drop out rate from the education system of Roma children, particularly girls, remains very high. The preparation of a Roma census is a positive step. The census should address the problem of the lack of civil registration of Roma, which results in the fact that many Roma families have no health insurance and cannot benefit from social services. However, despite these efforts Roma continue to be the most vulnerable minority.

*Overall*, there has been some progress in the area of minority rights, cultural rights and protection of minorities. However, implementation of the laws on national minorities at the State and Entity level needs to improve. National minorities remain under-represented in political life. The revised strategy to address sustainable return of refugees has not been adopted yet. Returnees continue to face serious difficulties in employment, access to health care, education, pensions and social rights. The financial resources for the implementation of the Roma Strategy have been significantly increased. However, Roma still face very difficult living conditions and discrimination.

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

Implementation of the **Dayton/Paris Peace Agreement** has continued, but nationalistic rhetoric by political leaders challenging the Agreement and the constitutional order remained frequent (*see also section 2.1 Constitution for further details*).

Bosnia and Herzegovina's cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)**, which is a key European Partnership priority, has continued to be satisfactory. Cooperation between ICTY and the State-level and Entity authorities is adequate at operational level, and access to witnesses and archives remains good. However, Bosnia and Herzegovina needs to further step up its efforts and take the necessary measures against persons engaged in helping the remaining fugitives evade justice or otherwise obstructing the effective implementation of ICTY's mandate. The arrest of Ratko Mladić and Goran Hadžić remains the Tribunal's priority. The authorities of Republika Srpska have repeatedly failed to take appropriate action to have Radovan Stanković re-arrested after his escape from prison there in 2007 and to establish responsibility for his escape. Statements by Republika Srpska's political leadership challenging the veracity of war-time massacres involving civilian population are unacceptable and deeply worrying.

The number of untried **war crimes** cases remains high, with estimates varying between 10,000 and 16,000 cases. The adoption of a National War Crimes Strategy, providing a systematic approach for dealing with the large volume of war crimes cases, has been a positive step. Efforts need to focus on its implementation, including by ensuring adequate financial resources

The State Court has continued to perform its duties well. Ten accused have been transferred from The Hague to the Special War Crimes Chamber of the State Court under the 11bis<sup>6</sup> rule, and six of these trials have been completed. A significant number of other war crimes indictments and trials have been launched by prosecutors in Bosnia and Herzegovina. As of August 2009, there were 80 ongoing war crimes cases, of which 46 were at State level, 16 in the Federation, 17 in Republika Srpska and one in the Brčko District.

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<sup>6</sup> These are cases transferred by the ICTY for local prosecution.

However, the authorities of Bosnia and Herzegovina failed to enact a change to the Criminal Procedural Code of Bosnia and Herzegovina regulating the duration of custody for persons convicted of war crimes. Such an amendment was therefore adopted through a Decision by the High Representative. The High Representative also acted to stop the practice in the Federation prisons whereby war criminals convicted by the Court of Bosnia and Herzegovina were granted unsupervised leave from prison.

There has been improved cooperation on the exchange of evidence and the transfer of some war crimes cases between the prosecutors from Bosnia and Herzegovina, Croatia and Serbia. However, obstacles to the extradition of suspects in cases of war crimes and crimes against humanity between the countries of the region continue to exist. This exacerbates the problem of impunity, as has been demonstrated in one high-profile case where a convicted war criminal was able to escape from Croatia to Bosnia and Herzegovina on the basis of having previously acquired citizenship of the latter, from where he cannot be extradited. As regards the possibility of serving the sentence in Bosnia and Herzegovina, the existing agreement on mutual recognition of sentences requires the convicted person's consent for the sentencing to be served in the other countries. Bosnia and Herzegovina, together with its neighbours, should address the regional impunity gap, including by taking steps towards extradition agreements covering war crimes cases.

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

Bosnia and Herzegovina is still subject to the monitoring procedure of the Parliamentary Assembly of the **Council of Europe (CoE)** on verifying the obligations and commitments relating to its membership of the Council of Europe. There has been no improvement in addressing the outstanding issues. Bosnia and Herzegovina has made no progress as regards the appointment of members or candidates to several Council of Europe monitoring mechanisms and advisory bodies. Overall, implementation of Council of Europe Conventions and related requirements is weak.

There has been little progress in the **Sarajevo Declaration** process which aimed to finalise the regional refugee return process by the end of 2006. While Bosnia and Herzegovina continued to work to a greater or lesser extent on its roadmap, there has been limited discussion on implementation issues on either a bilateral or a regional basis. More than 7,000 refugees, primarily from the Republic of Croatia, and some 1,500 refugees from Kosovo<sup>7</sup> are still residing in the territory of Bosnia and Herzegovina. Moreover, no progress has been made to resolve the issue of compensation claims for those who lost occupancy and tenancy rights.

**Regional cooperation** and good neighbourly relations are an essential part of Bosnia and Herzegovina's progress towards the European Union. Bosnia and Herzegovina continues to be an active participant in regional initiatives, such as the South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty and the European Common Aviation

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<sup>7</sup> Under UNSCR 1244/1999.

Area Agreement (ECAA). Sarajevo hosts the RCC Secretariat. However, only after pressure by the international community did the Council of Ministers of Bosnia and Herzegovina adopt a decision to allow the granting, on a *case-by-case* basis, of visas to Kosovans travelling with Kosovo passports in order to participate in RCC meetings. A permanent solution, that would also address participation in other international meetings, needs to be found.

Bosnia and Herzegovina has been implementing CEFTA. However, a law protecting the domestic production of agricultural and related products through the reintroduction of customs duties — contrary to CEFTA and to provisions of the Stabilisation and Association Agreement (SAA) — was adopted in June 2009. It is currently suspended until the Constitutional Court rules on it. This law, if implemented, risks damaging relations with Croatia and Serbia, and would represent a breach of the SAA once it enters into force.

In the first half of 2009, Bosnia and Herzegovina held the Presidency of the Energy Community. However, Bosnia and Herzegovina continues to lag behind in meeting its obligations under the Treaty, especially in the gas sector.

**Bilateral relations with other enlargement countries** have continued to be stable. However, there has been very little progress in resolving outstanding issues and in promoting reconciliation, which is a key European Partnership priority. The adoption of a new Law on international agreements, which will make the procedure for conducting bilateral or multilateral agreements clearer and more efficient, has been a positive development.

Relations with *Albania* have intensified. Agreements on cooperation in fighting organised crime, corruption, illegal migration and drugs trafficking and in the area of customs have been concluded. An agreement facilitating travel and a readmission agreement have also been signed.

Relations with *Croatia* have remained stable, although they were strained due to various trade disputes, in particular following the imposition by Bosnia and Herzegovina of import restrictions on agricultural products which are contrary to CEFTA regulations. The four protocols linked to the implementation of the 2007 Agreement on Border Control between Bosnia and Herzegovina and Croatia have been ratified. However, there has been no progress on addressing the open border issues with Croatia. The 2005 Agreement between Bosnia and Herzegovina and Croatia on Demarcation of the Land and River Borders has not yet been ratified. Moreover, the dispute over two islands — Veliki Skoj and Mali Skoj — remains unresolved, as does the issue of the border along the River Una. No progress has been made regarding the agreement on use of the Port of Ploče and Croatia's plans to construct a bridge on the Peljesac peninsula. Other unresolved issues include property and refugees. The Interstate Cooperation Council has not met over the reporting period. Bosnia and Herzegovina has not yet ratified the agreement on dual citizenship.

Relations with *the former Yugoslav Republic of Macedonia* remained good. An Agreement on cooperation in security matters and a new readmission agreement were ratified.

Relations with *Montenegro* have further intensified. An Agreement on joint border patrols, regular meetings between border police and on joint border controls and joint border crossings was concluded in March 2009. Agreements on cooperation in the areas of culture, education and science as well as a readmission agreement have been signed.

Relations with *Serbia* have remained stable overall. The provision of assistance by Serbia to Bosnia and Herzegovina during the gas crisis and the high-level visits by Serbian officials have been positive. However, no meetings of the Interstate Cooperation Council have taken place and no progress on addressing issues related to property has been registered. No border agreement between Bosnia and Herzegovina and Serbia has been signed yet. In the meantime, Republika Srpska has continued to cooperate closely with Serbia on the basis of the Special Parallel Relations Agreement and the related Protocol on Cooperation. An Agreement on economic cooperation between Serbia and Republika Srpska has been signed. As part of the implementation of the 2008 Protocol on inter-parliamentary cooperation, a delegation from the Serbian Parliament visited Republika Srpska in April 2009.

Relations with *Turkey* have remained good. A readmission agreement has not been signed, despite repeated requests by Bosnia and Herzegovina.

*Overall*, Bosnia and Herzegovina's cooperation with ICTY has remained good. The country has continued to participate actively in regional cooperation. Good neighbourly relations have prevailed, but there has been little progress on addressing the outstanding issues, notably relating to the settlement of border disputes and property.

### **3. ECONOMIC CRITERIA**

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

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

##### *Economic policy essentials*

In January 2009 the authorities submitted their third Economic and Fiscal Programme for 2009-2011. However, in view of large uncertainties concerning the global economic situation and its impact on Bosnia and Herzegovina at the time of drafting, it retains only limited relevance as a core document for economic policy making. Faced with the economic crisis and the legacy of poor fiscal policies, the authorities, represented by the National Fiscal Council, concluded in early May 2009 negotiations with the International Monetary Fund on a Stand-By Arrangement that comprised commitments to a number of structural reforms and fiscal adjustment measures. Subsequently, the National Fiscal Council approved a three-year budget framework for 2009-2012 in June. Following the fulfilment of further agreed prior actions, the IMF board approved in July 2009 the € 1.15 billion loan for a three-year period. In general, differences between the entities on economic and fiscal policy essentials continue to exist. The commitment to pursue structural reforms has remained weak, particularly in the Federation. The quality of public spending has deteriorated in both entities. *Overall*, the commitment to structural reforms and sound public finances remained uneven across the country. The coordinating and decision-making role of the National Fiscal Council was however somewhat strengthened and the general consensus on a market-based economy was kept.

##### *Macroeconomic stability*

In 2008, real GDP growth fell to 5.4% from 6.8% recorded in 2007. The recovery of the electricity sector contributed largely to growth. The country's growth model was characterised by high domestic demand, fed by rapid credit growth, external financing and expansionary fiscal policies that fuelled macroeconomic imbalances, not least a widening current account deficit. The global economic and financial crisis started to reveal its impact on Bosnia and Herzegovina in the last quarter 2008. Economic activity decelerated and unemployment picked up. Trade dynamics slowed drastically because of reduced demand and financial stability was threatened in October 2008 when more than 6% of deposits were withdrawn. Per capita income, measured in purchasing power standards (PPS), was 30% of the EU-27 average in 2008, up by one percentage point compared to the previous year. While the situation in the domestic financial market stabilised quickly due to an appropriate, quick and flexible reaction of the Central Bank, the slowdown of economic activity continued in 2009 as a result of lower domestic and external demand, reduced financing and falling foreign direct investments. The Federation registered a drop of industrial production of 10.5% annually in the first eight months. In Republika Srpska, however, it increased by 16.7% which is to a large extent due to the re-opening of an oil refinery in December 2008. In an attempt to mitigate the effects of the economic crisis on the budgets, the National Fiscal Council unblocked some € 90 million in the first quarter of 2009 from succession funds of former Yugoslavia's assets. Nonetheless, this proved to be insufficient as public finances increasingly came under stress as the result of falling revenues and high spending commitments. Therefore, the authorities finally turned to the IMF for external support. *Overall*, with the crisis unfurling economic growth declined towards the end of 2008 and this trend continued in 2009, leading the country into recession.

The current account deficit widened to 14.7% of GDP in 2008, up from 12.7% in 2007, driven by worsening terms of trade and developments of global prices and internal demand during the first half of 2008. It was financed more or less equally by foreign direct investments and drawings of new loans from abroad. The already very high trade deficit still slightly grew to 38.1% of GDP in 2008 (goods only), up from 37.4% of GDP in 2007. The development of other components of the current account showed reversing trends as compared to previous years: The income balance increased by only 3.5% (24% in 2007) and current transfers fell by 6.7% (after an increase of 11.3% in 2007), mainly because of remittances falling by 4%. Nevertheless, transfers still represent the major offset to trade within the current account. The monthly trade deficit improved for the first time in more than two years in November 2008. This trend continued as in the first half of 2009 the drop in imports (25.3%) exceeded that in exports (23.4%), resulting in an improvement of the trade deficit by 26.7% year-on-year. The current account deficit more than halved year-on-year in the first quarter. This drop was mainly due to developments in trade, but also a slightly rising current transfer balance contributed to it. Bosnia and Herzegovina's external public debt increased by 5.5% in 2008 and by a further 1.4% in the first half of 2009, but still stands at a relatively low level of 17.5% of estimated GDP. Private external debt reached 27.4% of GDP in 2008. Official foreign exchange reserves declined by 16.8% up to June 2009 from their peak in September 2008, before they recovered again as a result of the first tranche of the IMF support being disbursed in July. They cover more than five months of imports. *Overall*, external imbalances are adjusting in the context of the crisis, characterised by a rapid narrowing of the current account deficit towards a more sustainable level.

The already high rate of registered unemployment further increased in the first half of 2009 to 41.6% in June from 40.6% at end-2008. Sectors with the highest annual growth of employment were financial intermediation, public administration, health and education, while

employment decreased in manufacturing, mining, agriculture and trade. According to the Labour Force Survey following ILO methodology, unemployment increased to 24.1% in 2009 from 23.4% in 2008. The discrepancy between the two measurement methods points to a high importance of informal activities. Slow expansion of productive capacities and structural rigidities – high rates of social contributions, distorted wage-setting mechanisms, high and poorly targeted social transfers and low labour mobility – continue to hamper job creation and labour market participation. The corresponding key European Partnership priority has not been addressed. *Overall*, unemployment remains very high and slight improvements recorded throughout 2008 have started to be offset by negative developments since the beginning of the economic downturn.

Annual inflation became negative in May 2009 and stood at -1.2% in July, down from its peak of nearly 10% a year earlier. The 12-month moving average inflation rate fell to 2.9% in July, compared to 7.4% in 2008. The monetary policy of the Central Bank continued to be conducted under a currency board arrangement, with the euro as the anchor currency. In response to the turmoil on financial markets in the fourth quarter 2008 the Central Bank increased the liquidity of the banking system in several consecutive steps by lowering the minimum reserve requirement rate, with the aim of strengthening and restoring confidence in national financial markets and of stimulating credit activities. As of November 2008 all new credit lines from abroad by commercial banks ceased to enter into the basis for required reserves calculation and the minimum rate was set at 14%, down from 18%. As of January 2009, the required reserve ratio on term deposits with a remaining maturity of more than one year was further lowered to 10% and to 7% in April. In line with reduced demand, the monetary aggregate M2<sup>8</sup> declined by 6.7% between September 2008 and July 2009, showing positive trends in recent months. *Overall*, the currency board has continued to function well and proved its stability under difficult circumstances.

The share of general government in GDP remains high with 2008 revenues at 46% of GDP and expenditures at 50% of GDP, thus creating a budget deficit of 4% of GDP in 2008, down from near-balance in 2007. Revenue weakened in 2008, while expenditure rose sharply, driven by increases in wages and social benefits. The increase in the public sector wage bill – which stood at 12% of GDP in 2008 on a consolidated basis – was high, particularly in Republika Srpska where it reached 36.4% in 2008 (16.4% in the Federation). Social benefits increased by 26.5% in Republika Srpska and 30.4% in the Federation and stood at a consolidated 10% of GDP in 2008. In the Federation, transfers to households almost doubled in nominal terms. Bosnia and Herzegovina spends a very high share of 4% of GDP on non-insurance social protection cash transfers. At the same time, there was a slowdown of investment expenditure to 6% of GDP in 2008 from 6.7% in 2007. The Federation introduced a 10% flat personal income tax rate as of 1 January 2009. In the context of the IMF programme, some excise taxes were increased as of 1 July 2009. The system of generous non-targeted benefits for war veterans, demobilised soldiers and other social groups and their wide-spread misuse continued to be a drag on the budget, especially in the Federation where they absorb approximately one third of the budget. In the context of the IMF programme it was agreed to replace this highly inefficient system by a means-tested scheme over the medium-term. The lack of progress with the privatisation agenda in the Federation – receipts amounted to only € 1.5 million in 2008 and € 0.6 million in the first half of 2009 – further undermined the entity's financial health. In April 2009, the Federation rebalanced the budget

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<sup>8</sup> M2 comprises currency outside banks and demand and time and savings deposits in both domestic and foreign currency.

upward, increasing its volume by 19% in order to reflect the planned borrowing for the coverage of the 2008 budget deficit. A second rebalance in July included the adjustment measures agreed with the IMF, such as the Intervention Law cutting wages and social transfers by 10%. Following the agreement with the IMF, Republika Srpska rebalanced its budget and lowered its volume by 4.2%. In the first half of 2009 consolidated revenues of entities and state level decreased by 9.8% compared to the same period of the previous year, mainly as the result of falling custom duties and VAT revenues. Despite the agreements reached on coefficients for re-distribution, the allocation of indirect tax revenues to the state, entities and the Brčko District remains a controversial issue. *Overall*, the quality and sustainability of public finances has further deteriorated, especially in the Federation.

General government debt comprising all levels of government stood at 27.8% of GDP in 2008, down from 29.8% in 2007. In the course of 2009, public debt has increased substantially due to significant budget deficits and the loan agreement with the IMF. In 2008 internal public debt managed and served by the entities amounted to about 11% of GDP. Both entities and the Brčko District have issued bonds in order to repay these claims. With the Law on Debt, Borrowing and Guarantees in the Federation the legal framework has improved and the limitation of debt service in relation to revenues in the Federation contributes to the long-term sustainability of public finances, similar to provisions in place in Republika Srpska and at state level. However, the institutional capacity for debt management remains weak. *Overall*, while public debt remained at acceptable levels and even decreased in 2008 it has substantially increased in 2009.

Improvements in the overall macroeconomic policy mix are still needed. On the one hand, the currency board arrangement enjoys a high level of confidence and credibility. In addition, the economic downturn has resulted in the necessary adjustments of external imbalances. On the other hand, the actual fiscal situation has worsened and adjustment efforts are uneven across the country. *Overall*, the viability of macroeconomic policies suffered from worsening public finances which finally led to the need for an IMF programme, even though external imbalances have started to improve in the context of the global economic crisis and financial and monetary stability has been preserved.

#### *Interplay of market forces*

The private sector's share in GDP remained stable at around 60% in 2008. After the large privatisations in Republika Srpska in 2007, the pace slowed and only ten smaller enterprises and one strategic enterprise were privatised between April 2008 and May 2009 in this entity. So far, around 69% of the initial stock of state-owned capital intended for privatisation has been sold, one percentage point up compared to the previous year. The privatisation process in the Federation continues to proceed very slowly as the privatisation strategy of the government has still not been fully adopted. The sale of the aluminium company Aluminij d.d. Mostar, one of the largest enterprises in the country and a key source of export revenue, remains blocked because of the inability of the Federation government and the winning bidder to agree on a long-term electricity price contract. Also the Federation's two telecom companies still await their privatisation. *Overall*, the privatisation process did not advance.

#### *Market entry and exit*

Bosnia and Herzegovina has undertaken some limited reforms in order to improve the business environment. Obtaining a construction permit was simplified by facilitating the registration of new buildings in the land and property registries, reducing the average time to

obtain a permit from 296 to 255 days. Transferring property also became more efficient thanks to the computerisation of the land registry. Despite some improvements in court registration the average time to start a business remained at 60 days. A new Law on Business Companies came into effect in Republika Srpska on 1 July 2009, simplifying the business start-up process, whereby certain inspections are now conducted after the business has started its operations. Concerning the closure of businesses, professional requirements for trustees were tightened, reducing the time needed in bankruptcy procedures. The "Legislative Guillotine" project to reduce administrative burdens is completed in Republika Srpska. In the Federation, it was launched in mid-2009. Businesses continue to suffer from political instability, the high tax burden, and slow contract enforcement and business registration procedures. *Overall*, some limited improvements in the business environment can be recorded, but reforms are not sufficient to substantially foster private sector developments.

### *The legal system*

The poor quality of public services and prevalent corruption negatively affect the business climate and the attractiveness of Bosnia and Herzegovina for investors. The large informal sector is fuelled by weaknesses in tax and expenditure policies, as well as in law enforcement, including the fight against corruption and organised crime. The backlog of cases remains a major problem for judiciary. Various activities aimed at introducing systemic solutions for reducing delays in courts are underway, and a database has been created at the Sarajevo municipal court, where the vast majority of the backlog exists. Almost all courts in the country have now been connected to a nation-wide area network and the new Case Management System has been introduced. *Overall*, the operation of the judicial system has slightly improved; however, the existing backlog of unsolved cases, unreliable contract enforcement and slow processing times are hampering the business environment. The informal sector remains an important challenge, as it reduces the tax base and the efficiency of economic policies.

### *Financial sector development*

Tensions on the global financial markets spilled over to the country and resulted in a "mini bank-run" in October when some €420 million of deposits (some 6.4% of the stock of deposits) were withdrawn. Foreign parent banks injected liquidity to their local subsidiaries and the Central Bank of Bosnia and Herzegovina reacted firmly and adequately so that the situation stabilised quickly. The limit on guaranteed bank deposits was almost tripled in a first step to around € 10,000 in early 2009. In the context of the IMF programme, the six EU parent banks that have subsidiaries in Bosnia and Herzegovina have committed to keep the level of their exposures to the country at least at the level of 31 December 2008.

Despite the repercussions of the global financial crisis on Bosnia and Herzegovina, the financial sector remained sound and well-capitalised and its liquidity position was not seriously undermined. The sector is dominated by banks which are based on a conservative business model. The share of claims to the private sector in relation to GDP remained relatively constant between 2008 and early 2009 at about 54%. 30 banks operate in the country, one less than in the previous year, of which 21 are in foreign ownership, seven in domestic private ownership and two are majority state-owned. The capital adequacy ratio stood at 16.3%, around one percentage point lower than in the previous year, but significantly higher than the legal minimum of 12%, which itself is significantly higher than the 8% required in the Basel II accord. The share of non-performing loans to total loans increased from 3.1% at end-2008 to 4% at the end of the first half 2009. The return on average equity

halved in 2008 to 4.4% and decreased further to 1.3% at the end of the first half 2009, the return on average assets declined to 0.4% and further to 0.1%. Liquidity indicators deteriorated with the rate of liquid to total assets falling from 32.2% at mid-2008 to 28.5% a year later, and liquid assets to short-term financial liabilities from 53.5% to 49.5%. However, the liquidity situation of banks remained overall favourable. Financial market supervision remains mostly in the competence of the entities. In early 2009, Republika Srpska established a system to improve coordination between its own supervisory agencies. The analytical capacity of the Central Bank was further strengthened and it carried out stress tests for the banking sector in spring 2009. *Overall*, the expansion of financial intermediation has slowed down and the banks' profitability has suffered, but the financial sector has weathered well the impact of the global crisis and the stability of the financial system remains satisfactory.

Credit growth has come down significantly from the excessive annual rates of between 25% and 30% recorded until July 2008. Since September 2008 the stock of loans has been virtually unchanged. Restrictions came from both the demand and supply side. Deposits decreased by 9.8% from their peak in September 2008 until June 2009, and slightly picked up after that. As a consequence, the loans to deposit ratio increased from 110% in September to 119% in July. After it had followed a downward trend over the period 2004-2007, the spread between average loan and deposit interest rates of commercial banks increased and amounted to 7.81 percentage points at the end of the first quarter 2009. The widening of the spread was mainly caused by rising interest rates on loans, reflecting the higher uncertainty and risk faced by the financial sector. *Overall*, the difficult economic environment has caused market agents to become more risk-averse, but the fears of a massive bank-run and major liquidity problems emerging in autumn 2008 did not materialise.

After their major correction throughout 2007 and 2008, stock market indices continued to decline in the first quarter 2009, but afterwards picked up again. The main index of the Sarajevo Stock Exchange lost 12.8% in 2009 until mid-September; that of the Banja Luka Stock Exchange fell by 3.3%. Monthly average turnover at Sarajevo plummeted by 60% in the first half 2009 compared to 2008; at Banja Luka the drop was 45%. The combined market capitalisation declined to below 50% of GDP from rates at around 100% in 2008. The insurance sector remained small and relatively weak. Its growth lost pace in the first half of 2009 when it decelerated to 3.3% in the Federation and 2.6% in Republika Srpska (annual growth of premiums). Non-life insurance dominates the market. There are 24 insurance companies active in the country. *Overall*, financial intermediation by the non-banking sector remained shallow and stock markets experienced significant losses.

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

#### *Existence of a functioning market economy*

In the context of the crisis, external imbalances are decreasing, while fiscal imbalances are rising. The adjustment process is harsh and accompanied by rising unemployment. The slow pace of economic restructuring, especially in the Federation, prevailing obstacles to private sector development and the excessive influence of the public sector in the economy continue to undermine a more growth-oriented allocation of resources. *Overall*, the functioning of market mechanisms remained hampered by distortions, excessive state intervention and lack of competition. Progress towards creating a single economic space within the country – a key European Partnership priority – has been limited.

### *Human and physical capital*

In general, information on the endowment of human capital remains scarce. Enrolment rates in higher education are slightly increasing. A curriculum for a nine-year education in all schools is to be implemented as of the school year 2009-2010. However, the proper implementation of framework laws for higher, pre-school and vocational education has not been ensured. Participation in the labour market is poor. *Overall*, structural rigidities and the weak performance of the education system continue to contribute to the skills mismatch hampering the proper functioning of the labour market.

The level of investment decreased slightly in 2008 to 24.4% of GDP, down from 25% in 2007. Some projects of upgrading road and railway infrastructure are ongoing. Foreign direct investments (FDI) accounted for 5.5% of GDP in 2008, declining sharply (by 55%) compared to 2007, mainly as a result of the high base due to major privatisation deals implemented in 2007. 46% of FDI were directed towards industrial production and 21% to transport and communications. In the first half of 2009, FDI shrank by 32% year-on-year as a result of worsened investors' sentiments in the context of the global economic crisis. *Overall*, the pace of upgrading of physical infrastructure slowed down.

### *Sectoral and enterprise structure*

The restructuring and liquidation of socially-owned enterprises (SOEs) has made only slow progress. In the communication sector, few new entrants have become operational since liberalisation and only one new licence for fixed telephony services has been granted. So far two licences have been issued to internet service providers, two to network operators and three for Universal Mobile Telecommunications Services (UMTS). New rules on the compensation for licences of mobile telecommunications operators have been adopted. The utility sector remains exempted from privatisation. In May, the government of the Federation approved the merger of the country's biggest power utility company with seven local coal mining firms, but the deal is yet to be completed. Shortcomings in administration, technology and metering continue to hinder the development of the electricity market. Consumers have little incentive to change suppliers due to persisting differences between regulated and market prices. *Overall*, little progress was achieved in the liberalisation of network industries.

There were no major shifts in the sectoral structure of the economy in 2008. Services accounted for 54% of GDP, industry for 23% and agriculture for 7%. The contribution of public administration, education and health to gross value added in the economy remains fairly large at 18%. Small and medium-sized enterprises (SMEs) further consolidated their contribution to employment and economic growth and the first countrywide SME strategy has been adopted by the Council of Ministers. *Overall*, there have been no major changes in the structure of the economy.

### *State influence on competitiveness*

Limited progress has been made in reducing state influence in the economy. Legislation to ensure the transparent monitoring of state aid has not been adopted and the establishment of an operationally independent, public state aid authority – as required by the Interim Agreement to the SAA – is pending. In 2008, direct budget subsidies to industry and agriculture slightly declined to a consolidated 1.5% of GDP from 1.6% in 2007. They are still mainly allocated to loss-making SOEs in an ad-hoc and non-transparent manner. *Overall*,

state intervention in the economy is still high and initiatives to improve transparency are blocked in the complex decision-making procedures of the country.

### *Economic integration with the EU*

Bosnia and Herzegovina is an open economy with total trade equivalent to around 94% of GDP in 2008 (93% in 2007). The country has constantly gained market shares in the EU during the past decade, not the least benefitting from a relatively stable CPI-based real effective exchange rate (REER) over that period. However, due to the high wage increases above productivity gains of recent years, both in the public and private sector, Bosnia and Herzegovina has lost competitiveness since 2007, as signalled by an increasing unit-labour-cost-based REER. The EU continues to be the largest trading partner with shares of around 55% of total exports and 49% of total imports in the first half of 2009. While the share of exports to the EU has slightly decreased, the share of imports has slightly increased. The other main trading partners remain the countries of the CEFTA region, accounting for 36% of exports and 26% of imports in the first half of 2009. The share of FDI inflows from the EU to total FDI inflows increased in 2008 as compared to 2007, when it was exceptionally low due to the major privatisations in Republika Srpska with non-EU buyers. *Overall*, the level of integration of trade and investment with the EU remained fairly high.

## **4. EUROPEAN STANDARDS**

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

### **4.1. Internal market**

#### *4.1.1. Free movement of goods*

Limited progress has been made in the area of free movement of goods.

Some progress has been made as regards **standardisation**. So far, the Institute for Standardisation of Bosnia and Herzegovina (BAS) has adopted 9,653 European standards (ENs) as national standards. Of these 9,653 standards, 4,177 are harmonised European standards in the fields of the New Approach *acquis*. The Institute has 45 Technical Committees in which some 600 experts are involved. In December 2008, the Council for Standardisation was formed as an expert advisory body for standards work. It has signed agreements on professional and technical cooperation with the Institutes for Standardisation of Montenegro, Serbia and the former Yugoslav Republic of Macedonia. The Institute has increased its human resources and now has 32 employees.

No progress has been made on **conformity assessment**. With a few exceptions, conformity assessment procedures are not performed on either locally manufactured or imported products before they are released onto the market. There is no clear and coherent system for verifying the conformity of products. No technical regulations based on the product-specific *acquis*, including relevant conformity assessment procedures, have been adopted. Proper conformity

assessment infrastructure (testing and calibration laboratories, certification and inspection bodies) is not yet in place.

Limited progress has been made as regards **accreditation**. The accreditation system in Bosnia and Herzegovina is based on the principles and requirements of the European standards EN 45000 and ISO/IEC 17000 series as well as on the recommendations and guidelines of European Cooperation for Accreditation (EA), the International Accreditation Forum (IAF) and the International Laboratory Accreditation Cooperation (ILAC). The Institute for Accreditation of Bosnia and Herzegovina (BATA) has so far granted 35 accreditations: 16 testing laboratories, 6 calibration laboratories, 2 certification bodies and 11 inspection bodies have been accredited. The accreditation process is carried out by assessors who are selected and appointed in accordance with EU requirements. 50 assessors and technical experts are currently available in Bosnia and Herzegovina. Further human resources are necessary to enable BATA to respond to future policies and to develop accreditation schemes in the areas where BATA is not yet active.

Bosnia and Herzegovina needs to further establish the conditions for future international recognition of its tests, calibration results and certifications and prepare the country's Accreditation Institute for signing multilateral agreements with the European cooperation for Accreditation.

Limited progress has been made as regards **metrology**. The Institute for Metrology of Bosnia and Herzegovina has increased the number of its staff to 44. In May 2009, the Institute became an associate member of European Cooperation in Legal Metrology (WELMEC). The planned strategy for the development of the metrology system has however not yet been adopted. The metrology infrastructure has to be further developed and the legislation harmonised with the European standards. . Increased cooperation and coordination is needed between the Institute for Metrology of Bosnia and Herzegovina and the Metrology Institutes of the Entities in order to avoid duplication of efforts and costs, and to create a harmonised approach to the competence criteria for laboratories dealing with verifications.

There has been some progress in the area of **market surveillance**. The Council of Ministers has adopted decisions on the content of notices for magnetic toys and on the form and content of notifications of harmful products for non-food consumer products. The market surveillance system in Bosnia and Herzegovina is ensured by the State-level Market Surveillance Agency and by inspectorates and other administrative bodies of the Federation, Republika Srpska and Brčko District. The Entity-level bodies carry out actual market surveillance activities. Three main inspectorates exist in Bosnia and Herzegovina: the Inspectorate of the Federation (includes 10 cantonal inspection bodies), the Inspectorate of Republika Srpska (includes 5 regional inspection bodies) and the Inspectorate of Brčko District. Administrative capacity of the Market Surveillance Agency has been strengthened to the current 17 employees. In November 2008, the Market Surveillance Agency became a full member of PROSAFE (Product Safety Enforcement Forum of Europe).

The market surveillance system still remains largely based on mandatory standards and pre-market control. Further development of a proper market surveillance system is needed, based on appropriate horizontal and product-specific legislation, and on adequate administrative capacities.

No progress has been made as regards either the **New** or the **Old Approach** *acquis*. The Ministry of Foreign Trade and Economic Relations (MoFTER) established in May 2009 the

Department of Technical Regulations in order to increase the efficiency of transposition of EU technical regulations. In addition, strengthening the administrative capacity of the ministries and institutions involved in this task, and especially reinforcements of staff, is essential. A proper mechanism is needed for internal consultation and notification of new technical regulations prior to adoption of measures with an impact on trade.

As regards **consumer protection**, some progress has been made. The Council of Ministers adopted the 2009 State annual programme on protection of consumers. The aim of this programme is to create a consumer protection policy that clearly identifies priorities and provides guidance for their implementation. It includes more than 100 measures to be implemented by competent State, Entity and Brčko District bodies. The programme provides, among other things, for the amendment of current regulations, the improvement of information instruments on consumers' rights and measures for the adoption and implementation of EU standards in the area.

The Office of the State Ombudsman for Consumer Protection enacted criteria and instructions on decision-making procedures and the handling of disputes. In April 2009, guidelines and recommendations were issued in the consumer credit sector. The Office adopted its annual report in May 2009. The efficiency of the Ombudsman's office increased in comparison with previous years due to an increase in its staff. In 2008 the Office dealt with 147 cases and 138 were resolved.

*Overall*, Bosnia and Herzegovina's preparations in the fields of standardisation, accreditation, conformity assessment, metrology, market surveillance and consumer protection are advancing slowly and remain at a rather early stage. The Office of the Consumer Ombudsman has been set up and needs strengthening. Continued efforts are necessary in order to further approximate the legal framework to the Community legislation on free movement of goods and to implement and enforce it effectively. The product-specific *acquis* needs to be progressively transposed. Further strengthening of institutional and administrative capacity and closer cooperation and coordination between the relevant institutions is necessary in order to create conditions favourable to the internal market and to foreign trade.

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

Little progress has been made regarding **movement of persons**. In January 2009 the Council of Ministers decided on an annual quota of work permits for the employment of foreigners. However, movement of persons within the country still remains constrained by the fragmented nature of the internal labour legislation and the social security systems. The country is lagging behind in the field of movement of persons.

Limited progress has been made in institutional, legislative and administrative reform of the *social security* system and its *coordination* between Entities. Inequities amongst Entities are made worse in the Federation, by inequities amongst cantons and amongst municipalities within cantons. Nevertheless, in the Federation the Law on a single system of registration, collection and control of contributions in social security was adopted. No steps have been taken towards granting social security benefits for resident family members of foreign nationals working in Bosnia and Herzegovina. Bilateral agreements on social insurance and social security have been signed with Austria, Turkey, Croatia, Serbia, Slovenia, Belgium, Hungary and the former Yugoslav Republic of Macedonia.

Concerning **provision of services**, limited progress has been made. No work has been undertaken with regard to establishing a clear distinction between the regime applicable to the cross-border provision of services by EU operators and the rules applicable to service providers established in the country.

As regards financial services, the banking sector has remained central to the country's economy. However, no progress has been made with regard to approximation with the EU banking *acquis* and the establishment of a single State-level agency for banking. The system of host supervision for branches is being applied between both Entities. The Law amending the Law on Deposit Insurance in Banks in Bosnia and Herzegovina increased the insured deposit in banks almost by three, to approximately € 10,000. The Entities' banking agencies adopted a strategy and set up a technical group for progressively adopting the Basel II capital measurement rules and capital standards, and work has started. However, implementation of this strategy, scheduled throughout a long period (2009-2018), will be carried out separately by the Entities, with capital requirements imposed by the banking supervisors of the Entities. Cooperation with home banking sector supervisors of foreign banks operating in the country has improved, but a Memorandum of Understanding with Austria — the major stakeholder in the sector — is missing.

In various non-banking fields, the Entities have moved unilaterally and at different speeds to develop their regulatory frameworks. The State Insurance Agency has observer status in the International Association of Insurance Supervisors (IASA) and is a member of the International Insurance Foundation (IIF). However, the role of the agency is still limited, with licensing and supervision remaining the responsibility of the Entity agencies. Little action has been taken to upgrade the supervisory enforcement capacity in this sector. A working group for the harmonisation of the Entities' and Brčko District insurance laws is in place, but results are still to be seen. The Insurance Ombudsman has been appointed, but the legal framework for his activities is still to be finalised.

As regards leasing, a new law was passed by the Federation and the respective laws of both Entities have been harmonised. Nonetheless, Entity legislation continues to regulate the sector, and it is uncertain whether identical methods and provisions will be applied. All operations of the micro-credit sector are supervised by the existing banking supervision agencies. State-level legislation on obligations has not been adopted.

As far as capital markets are concerned, both Entities have continued to develop their legal and procedural framework through new laws, by-laws and administrative procedures, but little has been done to ensure that the sector's development proceeds in a harmonised way throughout the whole country. Oversight remains fragmented between the two Entity-level securities commissions. The institutional arrangements for coordination of capital markets policies and regulation between the two Entities are not in place.

The creation of a 'single economic space' in the financial sector is, in addition, hampered by the fact that financial sector companies registered in one Entity can only operate in the other by establishing a branch there. This constitutes a major additional administrative burden and requires very close cooperation between the supervisory authorities.

There has been limited progress with respect to **postal services** and there continues to be a discrimination against foreign operators, as the new State-level Law on Post Offices, which is expected to contribute to the liberalisation of the market in postal services in the country, has not yet been adopted.

According to the current legislative framework, postal services are organised at Entity level, and separate licences for the provision of postal services are required for each Entity, which represents a major administrative burden for postal service providers. At the same time the scope of the monopoly (reserved area) is very broad, and there are only limited moves to further, gradually open up the market. The current legal framework does not provide sufficient legal certainty for the provision of express postal services in a free competitive environment. Even if these services differ significantly from universal postal services, they remain subject to the monopoly reservation.

No significant developments have been reported in relation to the **right of establishment** for companies. EU companies can establish their operations in Bosnia and Herzegovina with the same rights and obligations as local firms. Nevertheless, local and foreign businesses and self-employed individuals continue to be burdened with rather cumbersome administrative procedures for licensing and business permits. Companies wishing to operate in both Entities need to register in each Entity. A single registration valid for the whole country does not exist. As regards the recognition of EU professional qualifications by Bosnia and Herzegovina, no progress can be reported.

Limited progress can be noted on developing **company law**. Further work to fully meet international accounting and audit standards and to ensure a harmonised framework across the country is necessary. The current State and Entity level accounting and auditing laws are based on the International Financial Reporting Standards (IFRS) and International Standards of Auditing (ISA). Both Entities have recently adopted new legislation. However, further harmonisation to fully meet international accounting and audit standards is still required. Co-ordination and harmonisation between Entities needs to be strengthened.

*Overall*, Bosnia and Herzegovina's preparations in the area of services, establishment and company law remain at an early stage. Little efforts have been made towards ensuring a single economic space within the country. An increased role of the State level and improved inter-Entity coordination are necessary.

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

There have been no significant developments in the area of **movement of capital**.

Bosnia and Herzegovina has continued to apply relatively liberal rules on inward capital flows. However, no further steps have been taken to remove the existing restrictions on outward transfers by individual residents and non-residents. Restrictions also remain with regard to the holding of foreign accounts by resident entities. In Republika Srpska, the National Assembly adopted the Law amending the Law on Foreign Currency Operations with a view to liberalising current and capital transactions with foreign countries. The Federation is drafting a new Law on Foreign Currency Operations. There is a need to ensure that legislation concerning foreign currency operations is compatible with EU legislation and is arrived at in a coordinated manner between Entities.

Restrictions on foreign direct investment continue to apply to the armament and media sectors, where the foreign capital stake is limited to 49%. Transfers and repatriation of profits and remittances, along with foreign currency transfers by domestic and foreign companies, are liberalised. The Law on the Central Bank of Bosnia and Herzegovina stipulates that the authorities must not set any restrictions on payments and international transactions unless this is necessary in the light of possible international obligations.

There is no restriction to free movement of capital between the Entities.

With regard to **payment systems**, Bosnia and Herzegovina has a modern payment system for giro clearing and real-time gross settlement operations. This system is placed within the Payment Systems Department of the Central Bank of Bosnia and Herzegovina. Giro clearing and real-time gross settlement operations represent 31% of the number of transactions and 42% of the value of internal traffic in the country. They represent 69% of the number of transactions and 58% of the value within commercial banks' transactions between clients that have accounts in the same bank.

*Overall*, Bosnia and Herzegovina's preparations in the area of free movement of capital remain on track. However, further legislative initiatives are needed in order to approximate the legal framework to the *acquis*, to ensure countrywide harmonisation and to achieve further liberalisation.

#### 4.1.4. *Customs and taxation*

Bosnia and Herzegovina has made some progress in the field of **customs**. The implementation of customs-related provisions following the entry into force of the SAA Interim Agreement (IA) on 1 July 2008 has been overall adequate. However, the current ban on the import of used motor vehicles is contrary to the IA and needs to be removed.

Bosnia and Herzegovina's nomenclature for the classification of goods has been aligned with the EU Combined Nomenclature. Regular updating has now to be ensured. The customs valuation rules are in line with WTO rules and reference prices are no longer used. The rules of origin as provided for in the IA are respected, including the no-drawback rule.

Four free trade zones exist in Bosnia and Herzegovina and operational surveillance of these zones falls under the competence of the Indirect Taxation Authority's (ITA) Customs Department. Bosnia and Herzegovina has signed the Convention on the International Transport of Goods under cover of TIR carnets. The convention is now operational. No progress has been made on accession to the Istanbul Convention on the ATA carnet for temporary admission of goods.

Some progress has been made on cooperation with economic operators in the country. The ITA has issued two new instructions on simplified customs procedures, subject to pre-authorisation audits: local clearance at export; and incomplete declarations. Approved exporter status has been introduced, eliminating the need to request EUR.1 certificates from customs offices under certain circumstances. Furthermore ITA has started with issuing authorisations for simplified procedure for local export customs clearance.

Little progress has been made with regard to protection of intellectual property rights. The enforcement of customs rules is still weak, therefore progress needs to be made on producing appropriate operational guidelines.

Preparations in the field of customs have been advancing, but significant efforts are needed on approximation to ensure the correct implementation of the IA obligations and further alignment to the EU standards and practices. Administrative and operational capacity needs to be significantly strengthened.

Some progress can be reported in the area of **taxation**. The country's VAT legislation is largely in line with the *acquis*. A working group has been established to further align

legislation with the relevant EU Directives. Future legislative amendments in this area should not undermine the achievements made so far. To ensure proper VAT enforcement, ITA is currently using a risk analysis system, based on which the selection of taxpayers is made. However, the VAT registration system (single indirect taxpayer register) requires modern information technologies in order to be effective.

A new Law on Excise Duties was adopted in June 2009. This law constitutes a positive step in terms of approximation to the *acquis*, even if full alignment has not been achieved.

Tax policy is being coordinated through the Fiscal Council. Redistribution to the Entities and Brčko District of revenue collected has been working well and has proven to be an element of stability, even though the system has been occasionally challenged by political actors.

The Ministry of Finance has signed an agreement on avoidance of double taxation and income tax evasion with the following countries: Albania, Kuwait, Austria, Algeria and Lithuania.

In the area of direct taxation, the Federation of Bosnia and Herzegovina has adopted the Personal Income Tax Law, which is now in force. The law significantly simplifies the taxation of personal income. In Republika Srpska, the Law on Personal Income Tax was amended and income tax was reduced from 10% to 8%. Harmonisation between the Entities in the area of implementing rules for the direct taxation is incomplete and closer coordination is necessary. Furthermore, discrepancies with regard to double taxation persist between the tax laws of Republika Srpska and the Federation on the one hand, and Brčko District on the other.

In the area of business taxation, a gap analysis was carried out to identify existing measures that might be contrary to the Code of Conduct for Business Taxation. In line with the subsequent report, some measures harmful for competition have been removed. However, further follow-up of the report's findings is necessary. For example, companies in the Federation that earn more than 30% of their revenue from exports remain exempted from corporate income tax. This is not in compliance with the Code of Conduct.

Regarding **administrative and operational capacity**, ITA's training unit has been created. Progress has been very slow, however, in developing a training strategy and a training centre. The head of the training unit has been appointed along with some of the required officers. There is also a need for additional advanced training on VAT and risk analysis. Besides this development, the staffing of ITA in general has not been sufficiently reinforced. The lack of staff to work on new projects is a factor that weakens the administration. The communication within ITA needs to be improved. In addition, many border crossing points need upgrading and the efficiency of checks needs to be enhanced. Although a customs laboratory exists, its functionalities are limited and therefore only a small number of controls can be covered. A laboratory equipped with more functions is needed to allow more and better controls.

At present the IT system in Bosnia and Herzegovina is hampered by outdated software, outdated hardware platforms, inadequate information infrastructure and inadequate equipment. Information technology modernisation is needed.

Efforts to improve ITA's capacity to implement customs and tax legislation and, together with other law enforcement bodies, to make it more effective in fighting corruption, cross-border crime and tax evasion, need to continue.

An overall training strategy is yet to be presented and an IT strategy is yet to be defined. A business strategy and an investment plan are also needed.

*Overall*, preparations in the areas of customs and taxation are progressing. Bosnia and Herzegovina needs to continue its efforts to align its customs legislation with the *acquis*, especially with respect to the EU Customs Code. Proper enforcement of legislation needs to be ensured. Further efforts to strengthen ITA's administrative capacity are necessary, in particular as regards internal audit, risk analysis and intelligence/investigation. Furthermore, a customs strategy dealing with business, human resources management, information technology and training has to be developed. The performance and efficiency of controls needs to be improved.

The country's tax legislation is aligned to a large extent with the *acquis*, especially in the field of VAT. It is necessary to ensure that any possible amendments to existing legislation remain in line with EU provisions. Significant efforts are also needed to reinforce the administrative capacity of ITA. The Authority's capacities to collect tax, reduce the size of the informal economy, fight corruption, and carry out risk analyses and internal audits needs to be further improved.

A sound and sustainable human resources management strategy as well as a training strategy needs to be developed.

#### 4.1.5. *Competition*

Progress in the field of **antitrust** has continued and preparations in this area are moderately advanced. The Competition Council, currently with a total of 25 employees, has taken the initiative of amending the Competition Law by introducing amendments that have been adopted by the Council of Ministers.

The Competition Council's activities have mainly focused on mergers, concentrations of business and abuse of dominant positions. So far, the Competition Council has initiated 118 procedures and has issued 50 opinions. It collected around € 360,000 in fines from economic entities that were not acting in accordance with the Competition Law.

Regarding **State aid**, no progress has been made. State-level legislation has been prepared, but has not been adopted. The establishment of a State-level, operationally independent, public State aid authority is pending. Preparations need to be speeded up in order for Bosnia and Herzegovina to be able to respond to the requirements of the Stabilisation and Association Agreement.

*Overall*, Bosnia and Herzegovina's preparations in the area of antitrust continue to advance. No progress has been made as regards State aid. Preparations in the latter area remain at an early stage. Particular attention needs to be paid to the adoption of State aid legislation at the State level and the establishment of an operationally independent public State aid authority, also at the State level.

#### 4.1.6. *Public procurement*

Limited progress has been made in the area of public procurement. The basic structure of the current public procurement law is sound but its operation in daily practice needs to be improved. Simplified procedures for low-value procurement would considerably increase the efficiency of the system, as would publication of contract notices in electronic form on the

website of the Public Procurement Agency (PPA). There has been no major progress in terms of legislative alignment. The current procurement law is modelled on the previous EC directives and many of the provisions of the new EC directives have not yet been transposed. The legal framework to fight corruption in public procurement remains unclear. A new law on public procurement has been prepared, but has been rejected by the State Parliament. Some efforts have been made to increase the publicity given to notices.

The award of concessions by competent authorities is regulated by altogether 14 concessions laws and accompanying laws and decrees in force at State, Entity and cantonal levels. The vast majority of concessions and public-private partnership contracts have been awarded through the 'unsolicited proposals' procedure without applying an open, transparent and competitive process. Award procedures fail to meet the basic principles of the *acquis*. No formal cooperation has been established between the Concessions Commissions at the various levels of government. The administrative cost of the system is high and the competences of the different institutions tend to overlap.

Domestic preferential treatment remains in force, except for the electricity sector. Due to an extension adopted during 2009, such preferential treatment will not expire until 2015.

The Public Procurement Agency (PPA) now employs 19 people, 4 more than in 2008 but 12 short of the 31 posts that are to be filled by 2012.

Since May 2009, the Public Procurement Review Body (PRB) has the full quorum of six members and employs two full-time and three fixed-time employees. No further civil servants have been recruited. The filling of vacant positions at the PRB are hampering the approval of the Body's rulebook on internal organisation. Nonetheless, the PRB was able to address 1,515 complaints, which included all incoming complaints for 2008 and the backlog of cases which had built up in 2006, due to the said lack of a quorum.

The PPA and the PRB have established cooperation with EU Member States, but further improvements are needed to increase the administrative capacity of both institutions.

Proper implementation of public procurement procedures across the country needs to be consistently monitored. The administrative capacity of contracting authorities and their ability to implement the public procurement legislation needs to be ensured and improved. The provisions concerning public-private partnerships as well as services and works concessions need to be amended, uniformly for the whole country, in order to introduce competitive and transparent procedures and practice taking due account of the *acquis* and good international practices.

As regards the building of a single economic space in the field of public procurement, companies from the Entity other than that of the contracting authority are not formally discriminated against. Their chances of obtaining contracts are, however, reduced because other provisions (such as tax or social insurance provisions) are not harmonised.

Coordination mechanisms and administrative capacity of the main stakeholders in the public procurement system still need further strengthening, in particular to reduce the scope for corruption.

Overall, Bosnia and Herzegovina's preparations in the field of public procurement are continuing but greater support for strengthening the system has to be ensured. Procurement legislation needs to be amended to meet European standards.

#### 4.1.7. Intellectual property law

Limited progress has been made with regard to **intellectual, industrial and commercial property rights (IPR)**.

Bosnia and Herzegovina has ratified the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, the International Classification of Patents Treaty, the Hague Agreement concerning the International Deposit of Industrial Designs, the Geneva Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms, and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations. Attention will have to be focused on the actual implementation of these Conventions and Agreements. Bosnia and Herzegovina still needs to ratify the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

The Institute for Intellectual Property has increased its staff from 32 to 42 employees, with staff working in Mostar headquarters and in Sarajevo and Banja Luka branch offices. A number of measures have been taken to improve the functioning of the Institute and to disseminate intellectual property-related information. Some training actions have been carried out. However, the administrative and operational capacity of the central and regional offices needs to be improved and further training has to be provided. In July 2009 Bosnia and Herzegovina adopted the Strategy on Development of the Institute for Intellectual Property (2008-2015).

The draft Law on Copyright and Related Rights and the draft Law on the Collective Management of Copyright and Related Rights are still pending adoption. The overall alignment of the current legal system with the TRIPS Agreement and with the *acquis* is rather moderate but is improving.

No significant development has taken place concerning industrial property rights. According to the current legislation, the Institute for Intellectual Property grants patents without prior substantive examination of applications, shifting the burden of proof of the validity of such a patent to the patent holder. However, this patent-granting system currently reveals certain systemic problems resulting from deficiencies in the current legislation and the Institute's lack of capacities. As a consequence, there are currently 1,660 patent applications being processed or waiting to be processed. Because of this, almost five years are needed to conclude the procedure, a period which can be considered as excessive, bearing in mind that patents are granted without prior substantive examination.

Trademarks and designs are granted on the basis of prior substantive examination of applications. The constant growth in trademark applications and the limited capacity of the Institute have resulted in an extremely long waiting time, four years on average.

The current waiting time for design applications is, on the contrary, rather short (on average one year) even though the design protection is granted after an in-depth examination of the application. However, this is possible due to the relatively small number of design

applications and the limited documentary base for examination — only prior domestic applications and granted rights.

As regards geographical indications and topographies of integrated circuits, no applications for the protection of these subject matters have yet been filed with the Institute.

Little progress can be reported on enforcement. The Indirect Taxation Authority, in charge of IPR enforcement, referred seven files to the Prosecutor's Office and some items were confiscated. However, high levels of counterfeiting and piracy persist and the country remains a point of distribution to the rest of Europe. The comprehensive action plan on capacity building has not been adopted yet. No significant action has been taken in terms of awareness-raising. Coordination is severely lacking between enforcement bodies at various levels.

*Overall*, Bosnia and Herzegovina's preparations in the field of intellectual property law remain at an early stage. A number of initiatives have been launched but nothing definitive can be reported yet, not least as far as the improvement of the legislation is concerned. The strengthening of the administrative capacity of the IP Institute and its new branch offices remains a priority, as well as awareness-raising campaigns and improved cooperation among the law enforcement bodies and between all relevant stakeholders with the aim of strengthening enforcement.

#### 4.1.8. *Social policies, employment and public health policy*

Limited progress has been made in this area.

As regards **social policies** little progress has been achieved. There has been no progress in approximating *labour law*, which exists only at Entity and cantonal level. Although there is a certain degree of coordination at Entity level, further fragmentation appears at cantonal level, where local provisions regulate labour matters.

Little progress has been made regarding *health and safety at work*, which falls under the competence of the Entities. Their legislation has been further approximated to the EU requirements, even though not substantially. However, not all the cantons of the Federation have adopted the relevant legislation. The Ministry of Civil Affairs has not yet concluded the analysis of compliance with ILO conventions and the *acquis*.

Little has been achieved in the area of *social dialogue* at State level. Outstanding shortcomings remain the non-recognition of trade unions at State level, the inability to adopt the Law on Social Partners' Representativeness and the fact that there is no State-level Social and Economic Council. In the meantime, Republika Srpska has established its own Social and Economic Council. Bosnia and Herzegovina became a full member of the European Committee of Social Rights, since it ratified the European Social Charter.

Regarding *social inclusion and anti-discrimination* there has been some progress. A new comprehensive anti-discrimination law has been adopted. It covers a wide range of sectors (employment, social security, education, goods and services, housing). However, several aspects of the law remain unclear or not fully in line with the *acquis*, in particular as regards the grounds covered (age and disability are not covered) and the broad scope of exceptions to discrimination. Six strategic goals of the social inclusion strategy — relating to employment, health, education, the pension system, disabled persons and the protection of families with children — have been adopted. Nonetheless, the strategy is not yet finalised. The potential for

fighting poverty and promoting social inclusion for the national reconciliation needs to be fully recognised. The UN Convention on the Rights of Disabled Persons has been signed.

There is limited progress in relation to *social protection*, especially with regard to securing equal social rights for different marginalised groups. Public expenditure in the area of social protection of children and social sector reform needs to be more efficient and better targeted. The role of municipalities in this regard needs to be strengthened. Some municipalities, however, report increased investment in the social protection sector due to concerns over social unrest in the context of the economic crisis. However, in general, the ‘needs-based approach’ applicable to EU public welfare systems is not yet sufficiently included in the social protection system of Bosnia and Herzegovina. Abuse of social benefits is still frequent. As far as **employment policy** is concerned, no progress has been registered. Registered unemployment remained very high (*see item 3.1 Macroeconomic stability for further details*). Unemployment concentrates at both ends of the skills spectrum (people with third-level education and unskilled workers). Women represent half of the unemployed. Job creation is not sufficient to absorb the labour force. Increasing demand for social security and public health benefits by unemployed persons could cause further difficulties for Entities’ budgets. The economic crisis is underlining the deficiencies of the labour market, especially its fragmentation and the lack of countrywide coordination.

The State level remains powerless in the field of employment policy. There is no State database for employment and labour. A State-level employment strategy based on the benchmarks described in the EU Employment Guidelines has not been prepared. Employment strategies and projects for active employment measures have been developed by the two Entities and Brčko District. However, as yet there is little coordination between them. Active labour market programmes remain fragmented. They reflect the arrangements made with donors in specific areas, and do not form part of a coherent and comprehensive policy. The Federation adopted an employment strategy which has also been steered through parliament but Republika Srpska did not adopt its own strategy. Little progress has been made as regards **public health policy**. The Conference of Health Ministers meets quite regularly and has arranged for some coordination among the various Ministries of Health. There have been some attempts to improve cooperation between the Conference of Ministers and international organisations through exchange of information. However, no real step was made regarding strategic development. The relevant road map drafted in 2008 has not yet been adopted and the State-level strategic plan for the development of health has not been drafted. The Entities are still finalising their strategic plans meant to be used as a basis for the State strategy. The fragmentation of the institutional and legislative framework, the non-transferability of health funds and the inadequate coverage of health insurance are still of particular concern. The quality of the health care services has to be improved.

The Agency for Medicines and Medical Devices has become operational, after the adoption of its 2009 budget. The State-level strategy for drug control and the prevention of use and abuse of narcotics has been adopted.

Regarding international obligations, some small steps have been taken. The State-level commission for implementing WHO International Health Regulations was established, but the implementation of the regulations remains problematic. The WHO Framework Convention on Tobacco Control (FCTC) was ratified by the in March 2009.

The State Regulatory Agency for radiation protection and nuclear safety has been established.

Bosnia and Herzegovina has not yet advanced in de-institutionalisation, establishing community-based services and providing aid to dependent persons, including in the field of *mental health*. Specific focus is needed on mental health care for children and young people. Institutional capacity to produce reliable statistical data harmonised with European standards in this area has not yet been developed. A Declaration on a long-term programme for regional collaboration and development on mental health was signed by the SEE Ministers of Health. Among other things, it provides for the establishment in Bosnia and Herzegovina of a Regional Centre for Cooperation in the field of mental health, which has not been yet operational.

*Overall*, Bosnia and Herzegovina's preparations regarding social policies, employment and public health policy remain at an early stage and are undermined by the fragmentation of the relevant legislative and institutional frameworks.

#### 4.1.9. *Education and research*

Some progress has been made in the field of **education**. The Conference of Ministers of Education has met on regular basis and coordination has improved. It adopted an agreement on the establishment of the Council for General Education and an agreement on a common core curriculum for pre-school education. At institutional level, the members of the steering board of the Centre for Information and Documentation Recognition in Higher Education have been appointed, as well as the Directors of (1) the Agency for Development of Higher Education and Quality Assurance, (2) the Agency for Pre-school, Elementary and Secondary Education, and (3) the Centre for Diploma Recognition. Nevertheless, State education institutions face understaffing and limited funding.

The nine-year curriculum for primary education has not been implemented in a number of cantons. Countrywide implementation is expected during the 2009-2010 school year. The Law on Amendments to the Framework Law on higher education in Bosnia and Herzegovina was adopted. As part of the implementation of the Framework Law on Vocational Education and Training, a 'Rulebook on the establishment and organisation of a network of vocational schools in Bosnia and Herzegovina' and a 'Rulebook on the rules and methods for registration of secondary vocational school associations in Bosnia and Herzegovina' have been adopted. A common educational textbook for children from Bosnia and Herzegovina living abroad for the early years of primary education was prepared and distributed. However, the harmonisation of framework laws for higher education, pre-school education and vocational education has not been completed at the cantonal level. The implementation of these framework laws is proceeding, but slowly. There has been limited progress towards resolving the 'two schools under one roof' issue, which has already created tension at community level. There is little progress in statistical reporting according to international requirements.

Bosnia and Herzegovina needs to continue its efforts, in particular for the full implementation of the Framework Laws, establishing a National Qualification Framework and developing quality assurance, addressing the issue of education meeting the needs of the labour market, and developing the lifelong learning concept.

As regards **culture**, Bosnia and Herzegovina ratified the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions in January 2009. It also approved its first State-level strategy on cultural policy together with the statistical annex, but without providing budgetary support. The Entities reduced drastically the funds allocated for culture in their 2009 budget, with a possible effect on the implementation of the strategy. The

Law on Cultural Heritage is still pending, because of its political implications and especially its institutional chapter. Bosnia and Herzegovina participates in the efforts for the creation of a regional strategy for culture in the framework of the Euro-Mediterranean Partnership. Talks for the participation of Bosnia and Herzegovina in the Community's Culture programme have been initiated.

There has been some progress on **research**. Bosnia and Herzegovina signed the Memorandum of Understanding for the 7th Framework Programme for Research and Development (FP7) and in January 2009 became an associated country and eligible to fully participate in the programme. An FP7 national coordinator was appointed and the FP7 national contact points have improved their work and output. Bosnia and Herzegovina is a full member of the COST programme and has National Information Point status in Eureka. The State Framework Law on Scientific and Research Activities, which includes the establishment of a Science Council and a strategy for development of science, has been adopted but the Law on Science and Technology is still pending. There is no integrated research policy and relevant budget allocations are very limited. Research policy is still designed and implemented at Entity level, with no real coordination.

*Overall*, preparations in the area of education and research have started, but progress is slow and needs to be stepped up. Some progress has been made in the field of culture.

#### *4.1.10. WTO issues*

Bosnia and Herzegovina has made good progress in bringing its trade relevant legislation in line with the WTO requirements. A WTO working party meeting on the country's accession took place in March 2009. To meet its accession target, Bosnia and Herzegovina will have to intensify its market access negotiations, in particular in the agricultural sector, while continuing to bring its legislation into conformity with WTO requirements.

## **4.2. Sectoral Policies**

### *4.2.1. Industry and SMEs*

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

As regards **industrial policy**, no comprehensive industrial strategy has been drawn up. Little has been done as regards the harmonisation of Entity regulations, and the corporate governance environment remains incoherent. No corporate governance code applicable across the whole country has been developed.

Some progress has been made in the area of **SMEs**. Bosnia and Herzegovina continued to implement the European Charter for Small Enterprises, but progress was slow at the national level and was made on ad hoc basis. In April 2009, a countrywide strategy for SMEs was adopted. The strategy includes the establishment of the Council for Entrepreneurship but it does not include a State-level SME agency and an SME fund. According to the strategy, the functions of the SME agency will be incorporated within a sector in the Ministry for Foreign Trade and Economic Relations. However, no plan was presented on how this will be put into practice and how the conflict of responsibilities on elaborating the SME policy and implementing it by the same body will be resolved.

Progress has been made in engaging the range of education actors at all levels of governance within Bosnia and Herzegovina into perspective building on lifelong entrepreneurial learning.

More attention is required to address entrepreneurship particularly in early education. Lack of systematic data and more developed intelligence on enterprise skills hampers effectiveness of policy and training investment.

Action towards a simplified and more efficient business registration continued, but a single registration valid for the whole country is not yet operational. Some initiatives have been taken at Entity level to support SMEs, including amendments to their respective company laws and steps towards improving the inspection and permit processes. However, lack of coordination between the various initiatives remains an issue. Reforms have not yet caught up with the difficulties faced by businesses in the country and further efforts are required to improve the business environment.

The institutional framework for export promotion has been strengthened through the Export Promotion Council. However, its recommendations for 2008 have not been implemented, and the Council of Ministers has not yet adopted recommendations for 2009. As a consequence, the country still lacks an export promotion strategy. The institutional framework remains in the fledging stage in terms of human resources and quality infrastructure.

In February 2009, a consortium of five institutions from Bosnia and Herzegovina became partners of the Enterprise Europe Network on non-funding basis.

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

#### 4.2.2. *Agriculture and fisheries*

Some progress has been made in the field of **agriculture and rural development**. The strategic plan for the harmonisation of agriculture, food and rural development was adopted in January 2009 together with an operational programme for the period 2008-2011 with the objective of improving the competitiveness of the agricultural and food processing sectors and harmonising and implementing rural development measures throughout the country. The decision on the establishment of an Office for Payment Harmonisation was adopted in June 2009, providing the legal basis for the development of a State-level institutional structure for the harmonisation of the Entity-level support measures and gradual alignment with the *acquis*.

However, the 2008 Framework Law on Agriculture, Food and Rural Development has not been implemented in the absence of the necessary implementing legislation. There is a need for a mechanism to ensure the implementation and enforcement of adopted legislation. No progress has been made towards establishing the Ministry of Agriculture, Food and Rural Development at the State level.

A revised rulebook of the State-level sector for agriculture, food, forestry and rural development was adopted in April 2009, which provides for additional posts, improves the coordination of policies and prepares the ground for new administrative structures and international cooperation. Staffing at Entity level has further increased.

No countrywide harmonised farm and clients' register has been established although preparations have started. No progress has been made in harmonising land registration

systems in order to improve land management. There has been no increase in government support for agriculture and rural development.

Some progress has been made in improving the agriculture statistics system. A committee for coordination of agricultural information has been established in order to create systems for the provision of accurate and standardised agricultural statistics and market information. The agriculture report for 2008 has been adopted. However, due to the lack of agricultural data, it allows only limited analysis in comparison to the previous year. Collection and processing of agricultural data remains weak and the lack of reliable statistics hampers the development of agricultural policy. Preparations for the agriculture census commenced within the framework of the preparation of the housing and population census.

The lack of administrative reform, the absence of affordable rural credit schemes and the limited effectiveness of government support prevent farmers and the agri-processing industry increasing their competitiveness through restructuring and modernisation. An advisory council for agriculture, food and rural development was established in April 2009 with the aim of involving the non-government sector in policy-making. No decision has been taken as regards the future IPA rural development structures in Bosnia and Herzegovina.

Overall, there is a need for a stronger coordination mechanism between the State level and the Entities for the *acquis* approximation process in the field of agriculture and rural development.

Limited progress has been made as regards the adoption of legislation in the area of **food safety**. The Law on Genetically Modified Organisms and several pieces of implementing legislation in the areas of control of contaminants and nitrates in foodstuffs and control of honey and other bee products have been adopted. Conditions were adopted which testing laboratories must fulfil in order to be included in the national network of authorised laboratories for food control. To improve official control in the food safety area, the Food Safety Agency signed an agreement with the Entities and local inspection services on implementing the first national food monitoring programme. However, the implementing legislation on food hygiene and official control is not yet adopted and therefore enforcement capacity remains weak and not in line with EU standards. No progress can be reported as regards the upgrading of agri-food establishments.

Overall, improved coordination mechanisms between the State level and the Entities are necessary to allow progress towards creating an effective legislative and administrative food control system. The lack of progress in the food safety sector has a negative impact on trade in agricultural products.

The number of staff of the Food Safety Agency has not increased. The representatives of Bosnia and Herzegovina on the panel of high-level experts for food safety in the Food and Agriculture Organisation (FAO) have been appointed.

Limited progress has been made in the field of **veterinary and phytosanitary policies**. The Law on Animal Welfare was adopted in February 2009 but the State Veterinary Law has not yet been revised, which hampers further harmonisation with the *acquis*. Implementing legislation on the maximum level of residues in foodstuffs of animal origin and measures for the control of brucellosis have been adopted together with a number of bylaws in the area of animal welfare and animal disease control. The number of staff in the State veterinary administration has been increased but all vacancies are not yet filled.

There is no functional national animal identification scheme, which limits the effectiveness of the brucellosis control programme that has been launched. No progress has been made on national accreditation of the veterinary diagnostic laboratories according to ISO 17025 standards.

The State Plant Health Agency has become operational with the recruitment of six civil servants. Implementing legislation to prevent the spreading of harmful organisms has been adopted. Implementing legislation on mineral fertilisers and the rulebook on seed marketing have also been adopted, providing the plant health administration with reinforced competencies.

The division of competences between State and Entity administrations in the field of food safety and veterinary and phytosanitary policy impedes the proper functioning of border inspection posts.

As regards the *acquis* in **fisheries**, Bosnia and Herzegovina started exporting fish from aquaculture to the European Union. However, there is a general lack of legislation at the State level in the field of fishery *acquis*.

*Overall*, Bosnia and Herzegovina is still at an early stage of approximation with the EU *acquis* in the fields of agriculture and rural development, food safety, veterinary and phytosanitary policy, and fisheries. Preparations are slowly proceeding. The strengthening of State-level capacities in the field of agriculture and rural development continues to be necessary. Preparations towards setting up structures to implement the IPA rural development component need to be intensified. Strengthening of the laboratory and inspection capacities in the food safety, veterinary and phytosanitary sectors remains necessary.

#### 4.2.3. *Environment*

Progress in the field of the environment has continued to be limited.

Some progress has been made as regards **horizontal legislation**. Bosnia and Herzegovina has ratified the following agreements: the Cartagena Protocol on Biosafety, along with the UN Convention on Biodiversity, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Bern Convention on Conservation of European Wild Species and Habitats, the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Efforts are now necessary to ensure proper implementation. Ratification of the Espoo Convention on transboundary environmental impact assessment and the Stockholm Convention on Persistent Organic Pollutants has not yet been completed. Although no further progress is to be noted since the last report, the Directive on Environmental Impact Assessments (EIA) is almost completely transposed into Entities' laws, but attention has to be given to the transboundary dimension of this issue. No progress has been made as regards the transposition of the Directive on Strategic Environment Assessment (SEA). Transposition and implementation of the *acquis* in the field of horizontal legislation requires considerable improvement.

No developments can be reported with regard to **air quality**. Entity-level legislation has been prepared, but has not yet been adopted.

Regarding **waste management**, some progress has been made in the establishment of sanitary landfills throughout Bosnia and Herzegovina, and regulations on medical waste management

have been enacted. However, no progress has been made in relation to rules or regulations governing the system of recycling and recovery of priority waste streams, such as packaging, motor oil and tyres. Further efforts are still required to initiate management of waste streams of animal origin. Bosnia and Herzegovina is at an early stage of investment in solid waste management. Further efforts are required to prioritise and coordinate investment programmes, as financial resources are scarce.

Limited progress can be reported on **water quality**. Bosnia and Herzegovina continues to implement the requirements of the Water Framework Directive by means of the Entity Water Laws. The Water Agencies are operational in the Federation and ensuring coordination with the relevant Ministries. The establishment of Water Agencies in Republika Srpska is still in progress. The Agency for the Sava River Basin area has been set up. Further efforts are still required to ensure uniform river basin planning, proper public consultation and monitoring between the Entities. Implementing legislation has been adopted for water laws, water charges, and for harmful and dangerous substances and their maximum levels in surface waters. However, much of the implementing legislation still needs to be put in place in order to ensure further alignment with the *acquis*. Untreated discharges of waste water remain a key environmental challenge, and access to drinking water as well as wastewater treatment infrastructure requires more investments.

Apart from the national strategy and action plan for protection of the biological and landscape diversity of Bosnia and Herzegovina, no significant further progress has been made in relation to **nature protection**. No new developments have taken place in the field of **industrial pollution control and risk management**.

No progress can be reported in terms of approximation to the *acquis* as regards **chemicals** and **noise**. Some progress has been made in relation to **genetically modified organisms (GMOs)** through the adoption of a law on GMOs and a number of related bylaws.

Bosnia and Herzegovina's **administrative capacity** in the environment sector remains weak overall. A State-level Environmental Law ensuring harmonised countrywide environmental protection has not been adopted yet, and no State Environment Agency has been established. The current draft Law does not provide for the establishment of such an agency, and restricts itself to reinforcing the environment sector at the Ministry of Foreign Trade and Economic Relations. During the reporting period, this Ministry was not able to play any significant role due to the lack of an adequate legal or institutional framework. Implementation of the environmental legislation remains a concern. The human and technical capacity of the inspectorates to ensure compliance with environmental legislation at Entity, canton and local levels is insufficient. Integration of environmental concerns in other sectors remains weak. As regards investments, no significant developments have taken place. Environment-related infrastructure needs much improvement. Efforts to prioritise and coordinate investment programmes have been insufficient. The Federation's Environment Fund is not yet operational.

*Overall*, Bosnia and Herzegovina's preparations in the field of the environment remain at an early stage. Bosnia and Herzegovina needs to strengthen its environmental protection institutions, in particular at State level. It also needs to mainstream environmental concerns in other sectors. Establishment of a harmonised legal framework for environmental protection, of the State Environment Agency and of a functioning environmental monitoring system would be significant steps forward. Bosnia and Herzegovina needs to step up its efforts with regard to its obligations under international conventions.

#### 4.2.4. Transport policy

There has been slow, but continued progress on the development of the **trans-European transport networks**. Bosnia and Herzegovina has continued to actively participate in the implementation of the 2004 Memorandum of Understanding on the development of the South East Europe Core Regional Transport Network, and in the South East Europe Transport Observatory (SEETO) particularly by updating and implementing the Multi-annual Plan 2009-2013.

Upgrading of pan-European road corridor V-c is continuing. In 2009, works on the Sarajevo motorway bypass continued and the toll motorway extended to Kakanj, 40 km north of Sarajevo. Designs for the Kakanj-Zenica section, the Zenica, Doboje and Mostar bypass and the Mostar–Croatian border section have been prepared. The financing for a further 65 km of the four sections of the highway has been ensured.

Some progress can be reported in the area of **road transport**. Bosnia and Herzegovina is granting unrestricted access through its territory to Community transit traffic. Progress has been made towards the establishment of the TIR carnet system and the implementation of digital tachographs. Safety measures such as stricter technical inspections of vehicles or fixed speed control radars in the Federation have been undertaken. Republika Srpska adopted the Law on Road Transport and the programme for transport safety on Republika Srpska roads. There are ongoing activities on the improvement of road network maintenance and the reconstruction of roads; however, significant investments are required to achieve sufficient levels of safety and efficiency.

There has been limited progress in the area of **rail transport**. Railway companies are still vertically integrated and the infrastructure managers are not independent from the railways undertakings — as required by the *acquis*. The Railway Regulatory Board (RBB) has completed its recruitment and training. The ‘Railway Package II’ Directives on rail safety remain to be implemented. The need persists to accelerate rail reform in accordance with the ‘Addendum to the Memorandum of Understanding on the development of the South-East Europe Core Regional Transport Network for a South-East European railway transport area’.

As regards **maritime transport**, Bosnia and Herzegovina is not yet a party either to the SOLAS Convention (International Convention for the Safety of Life at Sea) or to the ISPS Code (International Ship and Port Facility Security Code).

Little progress has been made in the area of **inland waterways**. Preparatory activities for the re-establishment of navigation on the Sava River are in progress.

No progress has been made in the area of **combined transport**.

Progress has been made in the area of **air transport**. Bosnia and Herzegovina became a full member of the *Joint Aviation Authorities (JAA)*. Relations with the European Air Security Agency (EASA) have been put on a formal footing by a working arrangement signed on 7 July 2009. The final organisational set-ups of the air navigation provider and of the civil aviation authority have been adopted and their headquarters have been established. After the ratification of the European Common Aviation Agreement (ECAA), administrative burdens and unnecessary delays should not limit the efficiency and effectiveness of its application. An action plan for the transposition and implementation of the ECAA has been drawn up. Further efforts are necessary to complete the first transitional phase of the ECAA, including

amendments to the Aviation Law — as suggested in the ECAA Assessment Report of 2008 to establish an independent civil aviation accident investigation body and to ensure appropriate occurrence reporting in civil aviation. Substantial efforts have been made in the area of air traffic management but further efforts are still required. As a member of the ECAA agreement, Bosnia-Herzegovina participates to Single European Sky Committee (SSC) sessions with observer status. The European Commission has put in place the ISIS<sup>9</sup> Programme to assist South Eastern States to transpose EU legislation, to set up the required structures and to ensure the appropriate training of national staff. It is essential for Bosnia and Herzegovina to make best use of ISIS that should be a suitable instrument in support to its current efforts. Further alignment with European standards in the areas of aviation safety, security and air traffic management as well as further efforts in staff training are needed.

*Overall*, Bosnia and Herzegovina's preparations in the transport sector are advancing, albeit slowly. Efforts need to be stepped up, in particular as regards the road and railway sector. The upgrading of transport infrastructure remains necessary.

#### 4.2.5. Energy

There have been no developments on **oil stocks and security of supply**. The country receives all of its gas from Russia through Ukraine, Hungary and Serbia. Oil stocks remain below the 90-day level.

Concerning the **internal energy market**, the country is not yet fulfilling the obligations deriving from the Energy Community Treaty. The *acquis* on the internal electricity market has been partially transposed, but issues such as tendering procedures for new generating capacity remain to be addressed. The main problem continues to be the lack of implementation of legislation. The State level transmission company's (TRANSCO) operability is at high risk due to missing political compromise of the two Entities as the only shareholders on the company's dealings. This has led to a continued blockage of any investment for more than one year. Maintenance operation cannot be carried out. This might put at risk the security of electricity supply. The effective continuity of the business operations of this important State level company needs to remain ensured. Generation investment planning is also hampered by the lack of coordination between the two Entities. Since January 2008 there has been market opening for all non-household customers. However, consumers have little incentive to change suppliers as regulated tariffs remain below market prices.

The State Electricity Regulatory Commission (SERC) has issued new tariff rates for the independent system operator and ancillary services for 2009. The tariff rates adopted by the Entity regulatory commissions (FERC and RSERC) in 2007 remain in force to date. The independence of the regulatory commissions needs to be improved, not least in relation to tariff setting.

No progress has been made in the gas sector. Republika Srpska and the Federation of Bosnia and Herzegovina have had their own legislation since 2007, but neither a countrywide legal framework nor a national regulator has yet been developed due to the lack of agreement between the Entities.

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<sup>9</sup> Implementation of Single European Sky In South Eastern Europe

There has been limited progress on **energy efficiency and renewable energy**. Bosnia and Herzegovina has not developed any comprehensive energy strategy. There is no strategic planning for the promotion of energy efficiency and the use of renewable energy sources. In December 2008 a 50% connection fee was stipulated for facilities that use renewable energy sources for electricity generation (which does not apply to hydro power plants of over 10 MW).

As regards **nuclear safety and radiation protection**, the country has signed the Convention on Early Notification of a Nuclear Accident, the Convention on Physical Protection of Nuclear Material and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency. However, the Law on Radiation and Nuclear Safety in Bosnia and Herzegovina of 2007 is not yet implemented. In addition full compliance of the national legislation and regulations in the nuclear field with the *acquis* is far from being achieved. The State Regulatory Agency for Radiation Safety and Nuclear Safety hardly started its work in 2009, following the appointment of a director and a regional deputy director.

*Overall*, Bosnia and Herzegovina's preparations to meet EU standards in the area of energy have started, but remain at an early stage. There has been little progress over the reporting period, and the country is lagging behind in meeting the requirements of the Energy Community Treaty. The lack of cooperation and coordination between the two Entities is hampering the development of a functioning energy market and is compromising the improvement of security of supply. The development of a comprehensive energy strategy, including the promotion of energy efficiency and renewable energy sources, is crucial.

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

Bosnia and Herzegovina has made limited progress in this area.

Regarding **electronic communications and information technologies**, the regulatory framework on Electronic Communications needs further reform. The telecommunications sector policy (2008-2012) was approved in December 2008, with a one-year delay. The new policy provides for the future transition to an authorisation framework and the amendment of Reference Interconnection Offers (RIOs) to enable market entry of mobile virtual network operators (MVNOs) by the end of 2010. Since the sector policy determines the priorities and specific regulatory objectives, important regulatory decisions — such as on 3G licences, number portability and local loop unbundling — were delayed until its adoption, even if the Communications Regulatory Agency (CRA) had already adopted rules in 2008.

Few new entrant operators have become operational since the liberalisation of the market. With a total of around 15 interconnection agreements in place, many of the licensed operators or service providers are not in a position to effectively compete with the incumbent operators. The three incumbent operators still have close to 100% market share. Very few operators offer carrier selection services. In the reporting period, a new licence for fixed telephony services, two additional licences for internet service providers and two licences for network operators have been granted. The CRA issued three licences for Universal Mobile Telecommunications System (UMTS) to incumbent operators without a tender procedure.

Tariff rebalancing — a key element for creating a competitive market — is still at an early stage. The CRA adopted in March 2009 a model for the rebalancing of tariffs for telephony services until 2012, which is due to be applied as of January 2010.

The challenges to the CRA's independence have increased over the reporting period. The dialogue between the CRA and the Council of Ministers (CoM) has remained difficult. After a two-year delay, a new director general of the CRA has not been appointed. The nomination of CRA Council members, which was due to be finalised in April 2009, also remains unresolved.

Since the start of the debate on the procedure for appointing the CRA's director general, and in the absence of a sector policy, the adoption of several decisions on broadcasting and telecommunications prepared by the CRA has been delayed by the executive. This affects negatively the dynamics of competitive development, and it is not a good signal to the sector and to consumers. The overall situation at the CRA also hampers its administrative capacity. The CRA needs a duly appointed director general and Council, as well as additional human resources and expertise, to continue to perform its tasks and responsibilities and to be able to proactively support the development of the communications and broadcasting market. The Ministry in charge of communications also needs to strengthen its administrative capacity.

Little progress has been made in the area of **information society services**. With regard to the status of the citizen identification protection system (CIPS), the Law on the Agency for Identification Documents, Registers and Data Exchange (IDDEEA) provides for the establishment of an agency, which has been recently set up. The IDDEEA Agency is taking over the tasks of the CIPS Directorate and other responsibilities, such as the provision of technical support for an ID document system at the State level (central registers, data exchange, e-signature in the ID document area, central personalisation of ID documents).

The State-level law for the development of the information society has not been adopted, and no State-level agency has been established. In the meantime, Republika Srpska has set up its own information society agency following the understanding that the constitution indicates that 'information technologies' are an entity competence.

The overall implementation of the rules laid down by the e-Signature Law — adopted in November 2006 — is slow. No progress has been made in adopting legislation on conditional access services. Bylaws for the e-Business Law have not been adopted. Republika Srpska adopted its law on electronic business and developed a strategy for e-government.

Limited progress has been made on **audiovisual policy and media**.

The Unesco Convention on the Protection and Promotion of the Diversity of Cultural Expressions has been ratified. Rules on conditions for the provision and distribution of audiovisual media services and RTV programmes have been adopted and implementation has started. Preparations for the introduction of Digital Terrestrial Television (DTT) have seen some progress.

However, a deterioration of media freedoms in Bosnia and Herzegovina has been observed during the reporting period. Since January, the Free Media Helpline of the Bosnia and Herzegovina's Union of Journalists has registered 16 verbal assaults and direct physical attacks, death threats and other violations of journalists' rights. This represents an increase of 20% compared to 2008. The country is ranked in 115th place on the list of Reporters without Borders evaluating press freedom in 173 countries. There has been little cooperation between local media organisations responsible for media freedoms. In April the RTRS — the Republika Srpska public broadcaster — and the Republika Srpska daily newspaper Glas

Srpski walked out of the association Journalists of Bosnia and Herzegovina, announcing the establishment of a separate, Republika Srpska only, association of journalists.

The reform of Bosnia and Herzegovina's public broadcasting sector progresses slowly. The Federation of Bosnia and Herzegovina only appointed the Federation's TV management board in June 2009. Due to these delays, the Bosnia and Herzegovina Public Broadcasting Corporation, responsible for streamlining and modernising the activities of all three public broadcasters in the system, has not yet been registered. Moreover, the Federation's Law on the Public Broadcasting Service is not yet fully aligned with the Public Broadcasting System Law of Bosnia and Herzegovina. The public broadcasting reform is seriously delayed.

*Overall*, Bosnia and Herzegovina's preparations in the field of the information society and the media are advancing, albeit slowly. Particular efforts are necessary to implement the legal framework in the area of public broadcasting, to carry out the reform of this sector and to ensure the functional independence of the Communications Regulatory Authority.

#### 4.2.7. *Financial control*

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

Some steps have been taken in the area of **Public Internal Financial Control (PIFC)**. Laws on internal audit are being implemented at State and Entity level, but administrative capacity must be strengthened to ensure the sound management of public funds. A working group comprising representatives from all levels of government has drafted PIFC policy papers for the State-level and the two Entities. After the approval of the three policy papers, the reform will need to concentrate on developing effective managerial arrangements and a financial management and control (FMC) structure. Central Harmonisation Units (CHUs) have been created at the State level and in Republika Srpska, but are insufficiently staffed. The CHU in the Federation remains to be established.

As regards **external audits**, the four supreme audit institutions (SAIs) in the country — State, Entities (2) and Brčko District — continued to implement their common strategic development for 2007-2012 on the basis of the external audit laws. SAIs have diversified their activities to exercise performance audits, in addition to regular financial audits. Their cooperation through the Coordination Board has proved to be efficient. The parliaments have improved their capacity to deal with audit reports, but follow-up to the SAIs' reports and recommendations remains insufficient. The independence of the SAIs remains to be anchored more credibly to comply with international standards.

*Overall*, Bosnia and Herzegovina's preparations in the area of financial control are progressing, but slowly. Stronger efforts are necessary to improve public internal financial control and the follow-up of audit reports.

#### 4.2.8. *Statistics*

Some progress has been made in the area of statistics.

As regards **statistical infrastructure**, a new work plan 2009-2012 has been adopted. It provides for the development and expansion of the State Agency for Statistics (BHAS). Currently, it has 64 employees and aims to have 198 by 2015. However, cooperation between the BHAS and the Institutes for Statistics in the Entities needs further improvement. Different interpretations of the existing legislation persist. Neither the Law on Statistics of Bosnia and

Herzegovina nor the Agreement on cooperation and coordination in the area of statistics have been properly implemented. The issue of provision of VAT and other data by the Indirect Taxation Authority to the BHAS remains open. The Federation's Institute of Statistics (FIS) has not been able to fund important surveys. All these elements are detrimental to the production and development of country-wide and accurate statistics.

Regarding classifications and registers, a business register has been created but it is not yet fully operational. The BHAS has also initiated its work on approximation to NACE rev. 2 (Statistical Classification of Economic Activities in the European Community).

Some progress has been made on **sector statistics**. Preparations for a census in 2011 have started. The dates for the population and housing census (1 April 2011) and for the pilot census (1 April 2010) have been fixed. Various working groups have been set up for the census preparations and Bosnia and Herzegovina has requested international monitoring of the preparation and conduct of the census. A number of methodological documents for the census have been drafted. The preparation of maps for census enumeration areas is ongoing in discussions with the geodetic institutes in the Entities. A Census law has been approved by the Council of Ministers and is now in Parliamentary procedure.

In the field of social statistics, a Labour Force Survey (LFS) was conducted in 2008 and the results of the 2007 LFS were published. The provisional results of the 2009 LFS have also been published. The BHAS has taken initial steps towards the development of education statistics. For other social statistical domains, such as health statistics, progress has been limited.

Limited progress has been made in the area of macroeconomic statistics. An analysis of 2007 data on household consumption in Bosnia and Herzegovina was finalised. This provided useful information on the scope and structure of consumption and relative and absolute poverty in the country. The multi-annual master plan for development of national accounts is ready, but is not applied by the Statistical Office of Republika Srpska. Quarterly national accounts statistics do not yet exist.

Some action has been taken to improve the quality of business statistics, primarily concerning industrial statistics, statistics on the construction industry and structural business statistics. The preparations for a census of agriculture have started. The population census questionnaire will contain additional questions in order to identify agricultural households. In the area of energy statistics, questionnaires have been designed and harmonised for both Entities in order to collect data on the balance of electrical energy and heat. Also, pilot research is under way regarding the production of coal in both Entities as an initial step towards the establishment of an energy balance for coal.

*Overall*, Bosnia and Herzegovina's preparations in the field of statistics are slowly advancing. Some progress has been made, including as regards technical preparations for the census. However, national accounts and business and agricultural statistics need to be improved. The plan for the development of the BHAS needs to be implemented to ensure sufficient capacity. Better cooperation between the Entities and the BHAS remains essential.

### 4.3. Justice, freedom and security

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

Progress has been made by Bosnia and Herzegovina with regard to **visa policy** and in the wider framework of the visa liberalisation dialogue.

A number of bylaws were adopted to specify the procedures for the issuance of all four categories of visas provided for in the Schengen *acquis* (A, B, C and D). Currently, the positive and negative lists are not fully harmonised with the EU visa list. Bosnia and Herzegovina maintains a visa-free regime for citizens of Serbia, Montenegro, the former Yugoslav Republic of Macedonia and Turkey. In March 2009, a visa liberalisation agreement was signed with Albania.

The decrease in the number of visas issued at border crossings continued, with 684 visas issued at the border in 2008 compared to 735 in 2007. From January to August 2009, 169 visas have been issued.

The migration information system, including the visa module for electronic data storage and transfer between consular offices and the central administration in Bosnia and Herzegovina, became fully operational in September. The connection of border crossing points to the migration information system remains to be completed.

The issuance of biometric passports in line with the relevant EC and ICAO standards has only started in a test phase since July 2009 and is scheduled to be fully operational in October 2009. To ensure the integrity of the personalisation of passports and other identity documents, the Agency for Identification Documents, Data Registers and Data Exchange of Bosnia and Herzegovina (IDDEEA) has taken over exclusive competence for the electronic storage and maintenance of central registers and the personalisation of identification documents, including identity cards, conventional passports and the new biometric passports. Secure and effective management of breeder documents requires the completion of verification of all registry books and the entry of data into the central database managed by IDDEEA.

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

Bosnia and Herzegovina has made limited progress in the area of **border management**. In December 2008, a Memorandum of Understanding establishing the Integrated Border Management (IBM) Joint Risk Analysis Centre was signed between the Ministry of Security, Border Police, Indirect Taxation Authority, State Veterinary Office, State Plant Health Protection Agency and Service for Foreigners' Affairs. Once fully operational, the Centre should promote collection and exchange of information and risk analysis between the agencies concerned.

A Law on Border Control laying down competences, procedures and measures to do with crossing and control of the borderline was adopted in June 2009. The responsibility for management of border crossing points remains to be allocated. A national Coordinator for IBM was appointed in the Ministry of Security, in charge of overseeing the implementation of the IBM action plan. The Coordinator reports to the IBM Commission on implementation of the action plan. The State Border Commission has made little progress in addressing unresolved border demarcation issues.

The closure of illegal State border crossing points with Croatia has made some progress. A total of 67 illegal crossing points passable for vehicles, along the green borderline of Bosnia and Herzegovina towards Croatia have been physically blocked on the Bosnian territory side. Nonetheless, the high number of border crossing points is an obstacle to an effective allocation of Border Police staff.

Infrastructure at border crossing points (BCPs) requires further improvement, in particular as regards their delimitation, surveillance and equipment. An internal IT system for electronic transfer of data and access to central databases needs to be generalised across BCPs.

The four protocols on implementing the 2007 agreement on border control between Bosnia and Herzegovina and Croatia have entered into force.

In March 2009, Bosnia and Herzegovina signed protocols with Serbia on joint border patrols and regular meetings of border police. With Montenegro, a protocol on joint border patrols and an agreement on joint border controls were concluded in March 2009.

In April 2009 a working arrangement between the Ministry of Security and FRONTEX was signed.

Overall, Bosnia and Herzegovina's preparations in the area of border management are advancing slowly and need to be intensified. Efforts need to focus, in particular, on addressing the infrastructural deficiencies of border crossing points, the gaps in staffing levels and the still unresolved border demarcation issues.

Good progress has been made as regards **asylum**. The number of asylum applications fell from 149 in 2007 to 49 in 2008. In 2008, the sector for asylum within the Ministry of Security made 1 positive and 64 negative decisions concerning asylum requests.

The adoption of the necessary implementing legislation regarding the law on Movement and Stay of Aliens and Asylum is proceeding. A national asylum and migration strategy and action plan for 2008-2011 were adopted in November 2008. As regards the implementation of the strategy and action plan, a coordination body was appointed by the Council of Ministers.

Investments by Bosnia and Herzegovina in the asylum system have continued, and the institutional capacity of the asylum sector of the Ministry of Security and the Ministry of Human Rights and Refugees is now sufficient to handle the current caseload. There is close cooperation between the Ministry of Security and the Ministry of Human Rights and Refugees. Training activities have been organised by both institutions, in cooperation with the UNHCR, local NGOs and other relevant authorities such as the Border Police. Progress has been made towards assuming full responsibility for managing and financing the existing asylum centres. The migration information system, including its asylum module, became fully operational in September. However, the Ministry of Human Rights and Refugees remains to be connected to system. At the end of 2007, temporary protection status was withdrawn from around 3,100 persons from Kosovo. Around 870 of them applied for asylum in Bosnia and Herzegovina. Most of the applications have been rejected, while a small number received subsidiary protection status.

A temporary asylum centre located in Rakovica is operational and can accommodate over a hundred refugees. The construction of a significantly improved, permanent centre in Trnovo is in preparation. The centre is expected to be operational in 2011.

Overall, the asylum and international protection system in Bosnia and Herzegovina is largely in line with EU and international standards.

Some progress has been made on **migration**. A reception centre for irregular migrants with 40 available beds is fully operational. Between July 2008 and June 2009, some 280 illegal migrants were accommodated. An additional permanent reception centre with a maximum capacity of 80 people is under construction, and it should be operational by 2010.

The Readmission Agreement between the European Community and Bosnia and Herzegovina which entered into force in January 2008 continued to be implemented. The second Joint Committee meeting on implementation of the agreement was held in December 2008. Bosnia and Herzegovina has continued its efforts to establish readmission agreements with non-EU countries. At the moment six readmission agreements with non-EU countries are in place. Other agreements, including with Russia and Ukraine, are in preparation. No difficulties have been observed in handling cases concerning readmission of third-country nationals or citizens of Bosnia and Herzegovina. A strategy for returnee reintegration pursuant to the implementation of readmission agreements has been adopted. The number of readmitted persons increased: 459 in 2008, of which 211 were citizens of Bosnia and Herzegovina, compared with 240 in 2007, out of which 196 were nationals.

There has been a steady significant decline in the number of interceptions of people attempting to cross the border unlawfully. In 2008, 543 persons were intercepted when trying to enter or leave the territory of Bosnia and Herzegovina (851 in 2007).

Progress continued on the Service for Foreigners' Affairs (SFA) under the Ministry of Security, but the lack of human resources and budgetary problems risk hampering the full implementation of its tasks. The service has 182 employees out of the planned 320. The offer of training activities for SFA staff remains incomplete. In 2008, 3,420 requests for temporary stay and 3,435 requests for extension of temporary stay were submitted to the SFA. The total number of requests, i.e. 6,855, represents an increase of 10.4% in comparison to 2007. In this period 272 requests for permanent stay were also presented. The Service for Foreigners' Affairs issued 787 expulsion decisions in 2008; among these, 172 persons were forcefully removed, that is an increase of 28.7% in comparison with 2007.

Seven out of eight bylaws to the new Law on Movement and Stay of Aliens and Asylum are already in force. The rulebook on internal organisation of the Ministry of Security was adopted, reinforcing the migration sector with staff assigned to monitoring migration flows in Bosnia and Herzegovina and presenting the country's migration profile. A national migration strategy has been adopted.

The migration information system became fully operational in September. Its full functioning should result in significant improvements in monitoring of migration flows in Bosnia and Herzegovina. Inter-agency cooperation and the clarification of competences, in particular as regards illegal migration, need to improve.

At the end of 2008 Bosnia and Herzegovina, Albania, Croatia, Montenegro, the former Yugoslav Republic of Macedonia and Serbia signed a Memorandum of Understanding on setting up a system for sharing statistical data on illegal migration and participating in the regional system of advance notification.

Overall, Bosnia and Herzegovina's preparations in the area of migration are moderately advanced. Improved monitoring of migration flows and intensified inter-agency cooperation are necessary.

#### 4.3.2. *Money laundering*

Some progress can be reported in the field of anti-money laundering. A new Law against Money Laundering and Financing of Terrorist Activities was adopted in June 2009, with the aim of harmonising Bosnia and Herzegovina's legislation with the Financial Action Task Force (FATF) recommendations on money laundering and terrorism financing, as well as with other EU and international standards. A national strategy for the prevention and fighting of money laundering and financing of terrorist activities and the corresponding action plan have been adopted.

The Financial Intelligence Department (FID) of the State Intelligence and Protection Agency (SIPA) is not duly staffed yet, in particular as regards police officials. An electronic system for banks to report suspicious transactions is in place, although non-banking institutions that are required to report to the FID are not yet connected to the system. The number of reports of suspicious transactions increased slightly in 2008, but still remains relatively low. Some training activities were organised, but further focus is needed on enforcement capacity, in particular special investigative techniques, use of equipment and information tools. Domestic cooperation between the FID and Entity-level law enforcement agencies needs to be improved. Regarding international cooperation, the number of reported exchanges via the EGDMONT system decreased slightly in 2008 compared to 2007.

In 2008 no final convictions for money laundering have been reported, although a number of investigations have been completed. No case was filed on the financing of terrorism. Preventive and supervisory measures still have to be implemented and extended to non-banking financial institutions and intermediaries.

Bosnia and Herzegovina needs to complete the harmonisation of its legislation with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism. The management of confiscated assets is still not harmonised within the country. Legislation differs between the State and Entities, and remains to be aligned to international standards.

*Overall*, Bosnia and Herzegovina is making continued progress in the area of money laundering, but further considerable efforts are needed. Strengthening administrative capacity, effective implementation of the legal framework and awareness-raising on money laundering all need to be pursued with determination.

#### 4.3.3. *Drugs*

Bosnia and Herzegovina is at the crossroads of regional drug trafficking. Drugs-related illegal activities are still one of the most widespread forms of organised crime. Local consumption is rising, but still remains relatively low compared to other European countries.

There has been progress in the fight against drugs. The national strategy for drug control, suppression and prevention 2009-2013 was adopted in March 2009 by the Council of Ministers and parliament, and an action plan was adopted.

The Council of Ministers established a Commission for the destruction of narcotics. In accordance with the Bosnia and Herzegovina Law on Narcotics, permits for importing psychotropic substances, narcotics, precursors and narcotic plants are now issued at State level by the Bosnia and Herzegovina Ministry of Civil Affairs and the Ministry of Foreign Trade and Economic Relations.

Operational police units have received new inspection equipment. Bilateral police cooperation with countries of the region in the fight against drugs has improved. Bosnia and Herzegovina law enforcement has performed a number of operations, including via international cooperation, aimed at disrupting drugs trafficking as well as production and sales. However, compared to its importance as a transit country, the quantity of drugs seized at the border remained low. Domestic inter-agency information exchange and cooperation in the fight against drugs needs to be stepped up. Specialised law enforcement units are in need of training and equipment to make the fight against drug trafficking more effective.

A new information system monitoring the flow of goods considered as narcotics has been established. No progress was made towards the availability of drug-related information at border crossing points. A public awareness campaign was carried out aimed at preventing drug abuse among young people.

Activities aimed at improving international cooperation on drugs-related information with regard to the abuse of narcotics, and on preventive measures, have been intensified. Bosnia and Herzegovina is actively cooperating with the INCB and the UNODC, thus improving the control of international trade in psychotropic substances and precursors.

The introduction of standards for information collection set by the European Monitoring Centre for Drugs and Drug Addiction still needs to be completed.

*Overall*, Bosnia and Herzegovina's preparations in the field of drugs are advancing. However, the fragmented structure of the police and the judiciary continues to provide a favourable environment for drugs trafficking and related violations.

#### 4.3.4. *Police*

Limited progress has been made in the area of the police. The fragmentation of the police forces and the lack of systematic cooperation and information exchange remain a serious issue. The completion of the police restructuring process depends on the reform of the current constitutional framework, which is stalling. An investigation of Republika Srpska government officials led by the State Prosecutors and carried out by SIPA marked a high point in tension within the Bosnia and Herzegovina law enforcement community.

The implementation of the police reform laws adopted in 2008 has been slow. The Council of Ministers has decided on the headquarters of the agencies and budgets have been allocated. The appointment of the agencies' directors and deputy directors has made some progress, but has not yet been completed. It has been necessary to re-launch a number of selection procedures. The directorate for the coordination of police activity in Bosnia and Herzegovina still needs to be established.

An agreement on cooperation in data exchange from police and prosecutor's records has been adopted. Its implementation should contribute to improving cooperation and exchange of information among police bodies which remains a problem.

Moderate progress in cooperation with police forces of other countries has been registered. In March 2009, the Ministry of Security and Europol signed a memorandum on a mutual secure link to enable confidential information to be shared. However, the secure communication link, which is part of Europol's 'NEUS' network, is not yet operational. Progress towards the conclusion of an operational agreement with Europol has continued, albeit slowly. Effective implementation of the strategic agreement with Europol needs to be ensured.

Small arms and light weapons as well as explosives and remnants of war remain an important issue in Bosnia and Herzegovina. A Council of Ministers Decision was adopted in June 2009 mandating the harmonisation of Entity-level regulations on arms and entrusting the development of a solution for data exchange on arms/weapons to the inter-departmental working group of the Bosnia and Herzegovina Council of Ministers in charge of finding a solution for the exchange of information between police bodies.

Overall, Bosnia and Herzegovina's preparations in the police field are advancing slowly and remain in the preliminary phases, hindering effective police work. As part of the police reform process, a key priority of the European Partnership, particular efforts are necessary to fully implement the police legislation adopted in 2008 and to strengthen cooperation and information exchange among police agencies. Police reform is a key process which needs to be continued until completion, through the constructive involvement of all levels of government in Bosnia and Herzegovina.

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

There has been progress with regard to the implementation of the UN Convention on Transnational **Organised Crime** and its three protocols including the Protocol against Illicit Manufacturing and Trafficking of Firearms. Bosnia and Herzegovina is still not a party to the Council of Europe Convention on the International Validity of Criminal Judgments and the additional protocol to the Council of Europe Convention on the Transfer of Sentenced Persons. Parliament adopted the Law on Control of Movement of Weapons and Military Equipment, the Law on Weapons, and the Law on International Legal Aid in Criminal Matters. A revised Strategy to fight organised crime (2009-2012) has been adopted.

In a gap analysis, adopted in December 2008, implementation of the strategy to combat organised crime and corruption 2006-2009 was negatively assessed by the Council of Ministers. In April 2009 the Council of Ministers adopted a decision to establish a working group in order to prepare an analysis of threats of organised crime in Bosnia and Herzegovina and to draft the new strategy.

No new amendments to the Criminal Procedure Code relating to the **fight against organised crime** have been adopted.

Institutional fragmentation of the police, the lack of common threat assessments, and the lack of joint strategic planning among different police bodies remain a major obstacle to the fight against organised crime. Further institutional reform is necessary. The exchange of operational data and the implementation of joint actions need to be improved. No progress was made in improving national statistical instruments for measuring crime rates.

Overall, Bosnia and Herzegovina has started to address its organised crime-related priorities. However, organised crime remains a matter of serious concern. Sustained efforts and more

determination to fight organised crime are needed. In particular, harmonised legislation and increased cooperation of relevant actors throughout the country is necessary.

Some progress has been made in the area of **trafficking of human beings** (THB), but sustained efforts remain necessary to ensure proper investigation and prosecution of criminal activities in this area.

Bosnia and Herzegovina has started implementing the national action plan for combating trafficking in human beings for 2008-2012. Offences involving trafficking of human beings are regulated by the Criminal Code of Bosnia and Herzegovina, which is harmonised with the relevant international documents ratified by Bosnia and Herzegovina. However, Entity and Brčko District criminal codes are not harmonised with the State criminal code, which undermines proper prosecution.

The office of the national coordinator for the fight against trafficking in human beings within the Ministry of Security has been provided with sufficient financial resources to operate. Four inter-agency THB teams with geographical competence have been created, with the aim of enhancing information collection and exchange among different law enforcement and judicial bodies.

The total number of identified victims of human trafficking continued to decrease in 2008, mainly due to a reduction in the number of foreign victims. However, internal trafficking continued to increase in 2008, with a majority of the victims being children, in particular Roma children.

The national Coordinator's office has continued to implement several comprehensive anti-trafficking prevention campaigns and published various information materials. A database on victims of human trafficking within the Ministry of Human Rights and Refuges has been established and updated. However, more needs to be done in terms of investigation and prosecution of THB-related offences. The necessary amendments to the Law on the Witness Protection Programme have not yet been adopted. Witness protection remains inadequate. In addition, there is a need to take steps to reduce the number of suspended sentences given to convicted traffickers.

Overall, Bosnia and Herzegovina is at an early stage of progress in this area and efforts need to be stepped up, the issue of witness protection in particular.

There has been some progress in the fight against terrorism. Amendments to the Criminal Code of Bosnia and Herzegovina have been adopted for its harmonisation with the Council of Europe Convention on the Prevention of Terrorism, which entered into force in May 2008. Bosnia and Herzegovina still needs to harmonise its legislation with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism.

Staffing of counter-terrorism bodies is still largely incomplete. A plan for civilian-military cooperation in case of terrorist attack has been launched and envisages training activities devoted to inter-agency operations and information exchange.

*Overall*, Bosnia and Herzegovina is still at the beginning of its efforts to fight terrorism. A new strategy for the fight against terrorism (2009-2012) needs to be adopted and implemented.

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

Limited progress can be reported with regard to establishment of the Agency for Personal Data Protection as an independent public authority.

The Agency's powers are to supervise enforcement of the Law on Personal Data Protection as well as other regulations on personal data processing; to deal with complaints; to submit reports to the Parliamentary Assembly on personal data protection and to follow up the conditions of personal data protection. The Agency was established and its Director appointed in June 2008 by decision of the Council of Ministers. It recently moved into new premises. However, it still needs to become completely independent and adequately staffed: at the moment only 15 staff are employed out of 45 planned.

The existing provisions of the law on personal data protection require all public institutions to adopt sub-legal regulations in order to enforce the law and to establish a plan for personal data security. The level of actual compliance is still low, in particular with regard to law enforcement agencies.

Overall, preparations for the protection of personal data have started, but continued efforts remain necessary.

## STATISTICAL ANNEX

### STATISTICAL DATA (as of 14 September 2009) Bosnia and Herzegovina

Basic data	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Population (thousand)		3 689	3 753	3 790	3 813	3 830	3 837	3 843	3 843	3 844	3 843
Total area of the country (km <sup>2</sup> )		51 209	51 209	51 209	51 209	51 209	51 209	51 209	51 209	51 209	51 209

National accounts	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Gross domestic product (GDP) (million national currency)		:	11 689	12 565	13 821	14 505	15 786	16 927	19 121	21 759	24 716
GDP (million euro)		:	5 977	6 424	7 067	7 416	8 071	8 655	9 777	11 125	12 637
GDP (euro per capita)		:	1 581	1 691	1 846	1 935	2 103	2 252	2 544	2 896	3 290
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	:	:	:	:	:
SI: GDP (in PPS per capita, EU-27=100)		:	:	:	:	:	:	25.0	27.0	29.0	30.0
SI: Growth rate of GDP (national currency, at constant prices, % change on previous year)		:	:	:	:	:	6.3	3.9	6.9	6.0	5.4
SI: Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	:	-1.4	7.9	:
SI: Unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
SI: Labour productivity (GDP in PPS per person employed, EU-27=100)		:	:	:	:	:	:	:	:	:	:
Gross value added by main sectors (%)											
Agriculture		:	11.6	11.4	10.9	9.7	10.5	10.3	10.2	9.7	8.8
Industry		:	19.2	19.0	18.0	19.2	19.4	19.3	19.2	20.4	21.1
Construction		:	6.9	6.2	5.6	5.2	4.9	5.0	5.0	5.9	6.4
Services		:	62.3	63.4	65.6	65.9	65.2	65.4	65.6	63.9	63.6
Final consumption expenditure, as a share of GDP (%)		:	:	:	:	:	111.9	111.0	105.4	100.6	:
Gross fixed capital formation, as a share of GDP (%)		:	:	:	:	:	24.2	25.1	22.5	29.8	:
Changes in inventories, as a share of GDP (%)		:	:	:	:	:	2.9	0.1	-0.9	1.6	:
Exports of goods and services, relative to GDP (%)		:	:	:	:	:	27.8	28.6	33.1	36.7	36.1
Imports of goods and services, relative to GDP (%)		:	:	:	:	:	66.9	64.8	60.0	68.7	69.4

Industry	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Industrial production volume index (2000=100)		:	100.0	105.3	112.4	118.0	132.8	144.7	159.3	170.4	187.3

Inflation rate	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
SI: Consumer price index (CPI), (total, % change on previous year)	1)	:	4.8	3.1	0.4	0.6	0.4	3.8	6.1	1.5	7.4

Balance of payments	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Balance of payments: current account total (million euro)		-471	-429	-834	-1 253	-1 439	-1 319	-1 499	-763	-1 145	-1 871
Balance of payments current account: trade balance (million euro)		-3 095	-3 000	-3 308	-3 524	-3 671	-3 678	-3 962	-3 406	-4 142	-4 819
Balance of payments current account: net services (million euro)		168	203	254	232	297	347	447	535	627	695
Balance of payments current account: net income (million euro)		683	641	595	539	473	408	377	332	395	409
Balance of payments current account: net current transfers (million euro)		1 773	1 727	1 626	1 499	1 462	1 604	1 639	1 775	1 976	1 844
of which government transfers (million euro)		458	339	450	347	298	261	251	237	191	169

Net foreign direct investment (FDI) (million euro)		166	159	133	282	338	566	493	569	1 529	690
Foreign direct investment (FDI) abroad (million euro)		0	0	0	0	0	-1	0	-3	-17	0
of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	:	:	:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)		166	159	133	282	338	567	493	572	1 546	690
of which FDI of EU-27 countries in the reporting economy (million euro)		:	:	:	:	:	340	410	422	551	:

<b>Public finance</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
General government deficit/surplus, relative to GDP (%)		:	:	:	:	0.7	1.6	2.4	2.9	1.3	:
SI: General government debt, relative to GDP (%)		:	37.9	35.2	31.3	27.7	25.6	25.7	21.3	18.3	16.8

<b>Financial indicators</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		562	717	1 377	1 538	1 592	1 808	2 098	2 593	3 149	3 065
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		1 107	1 262	2 387	2 593	2 810	3 493	4 129	5 150	6 263	6 532
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		1 422	1 543	1 707	2 189	2 619	3 031	3 858	4 759	6 110	7 439
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	2)	:	:	:	12.6	10.9	10.3	9.6	8.0	7.2	7.0
Deposit interest rate (one year), per annum (%)	3)	:	:	:	1.4	1.1	0.9	0.7	0.5	0.4	0.4
euro exchange rates: average of period - 1 euro = ... national currency		1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956	1.956
Effective exchange rate index (2000=100)		:	:	:	:	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	4)	443	525	1 385	1 270	1 428	1 779	2 160	2 787	3 425	3 219

<b>External trade</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Value of imports: all goods, all partners (million euro)		:	:	:	:	2 928	3 966	5 670	:	:	:
Value of exports: all goods, all partners (million euro)		:	:	:	:	908	1 299	1 920	:	:	:
Trade balance: all goods, all partners (million euro)		:	:	:	:	-2 019	-2 667	-3 750	:	:	:
Terms of trade (export price index / import price index, 1998=100)		:	:	:	:	:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	53.4	54.2	53.8	:	:	:
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	58.5	53.0	51.9	:	:	:

<b>Demography</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		3.7	2.4	1.9	1.5	0.9	0.6	0.1	0.2	-0.3	:
Infant mortality rate: deaths of children under one year of age per 1000 live births		10.2	9.7	7.6	9.4	7.6	7.2	6.7	7.5	6.8	5.1
Life expectancy at birth: male (years)		70.5	71.3	71.3	71.3	71.3	71.3	72.1	72.1	72.1	:
Life expectancy at birth: female (years)		75.9	76.7	76.7	76.7	76.7	76.7	77.5	77.5	77.5	:

<b>Labour market</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		:	:	:	:	:	:	:	51.3	52.2	53.5
SI: Employment rate (15-64): share of population aged 15-64 that is in employment (%)		:	:	:	:	:	:	:	35.0	36.8	40.7
Share of male population aged 15-64 that is in employment (%)		:	:	:	:	:	:	:	46.1	48.7	52.9
Share of female population aged 15-64 that is in employment (%)		:	:	:	:	:	:	:	24.0	25.0	28.7
SI: Employment rate of older workers (55-64): share of population aged 55-64 that is in employment (%)	5)	:	:	:	:	:	:	:	30.6	31.9	34.4

Employment by main sectors (%)												
Agriculture		:	:	:	:	:	:	:	19.6	20.6	19.8	20.6
Industry	6)	:	:	:	:	:	:	:	21.4	30.7	32.6	32.5
Construction		:	:	:	:	:	:	:	4.9	:	:	:
Services		:	:	:	:	:	:	:	54.1	48.7	47.5	47.0
SI: Unemployment rate: share of labour force that is unemployed (%)	7)	39.4	39.7	40.0	41.1	41.6	41.8	43.9	31.1	29.0	23.4	
Share of male labour force that is unemployed (%)		:	:	:	:	:	:	:	28.9	26.7	21.4	
Share of female labour force that is unemployed (%)		:	:	:	:	:	:	:	34.9	32.9	26.8	
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	:	:	:	:	62.3	58.4	47.5	
SI: Long-term unemployment rate: share of labour force that is long-term unemployed (%)	7)	:	:	:	:	:	:	:	28.4	26.4	24.3	

<b>Social cohesion</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Average nominal monthly wages and salaries (national currency)	8)	343.0	372.0	408.0	446.0	484.0	505.0	538.0	:	:	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI) (2000=100)		:	:	:	:	:	:	:	:	:	:
SI: Early school-leavers: share of population aged 18-24 having not completed upper secondary education and not currently in education or training (%)		:	:	:	:	:	:	:	:	:	:

<b>Standard of living</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Number of passenger cars per 1000 population	9)	:	:	:	:	:	:	:	168.4	177.4	184.5
Number of subscriptions to cellular mobile telephone services per 1000 population		:	49,6	92,6	176,2	271.8	344.2	412.5	489.0	637.4	757.1

<b>Infrastructure</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		:	:	:	19.7	21.5	21.5	21.5	21.5	20.3	20.3
Length of motorways (thousand km)		:	:	:	:	:	:	0.0	0.0	0.0	0.0

<b>Innovation and research</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
SI: Spending on human resources (public expenditure on education) relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
SI: Gross domestic expenditure on research & development, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
SI: Percentage of households who have Internet access at home (%)		:	:	:	:	:	6.6	:	:	:	:

<b>Environment</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
SI: Total greenhouse gases emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:	:	:	:	:
SI: Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP 2004)		:	:	:	:	:	:	:	:	:	:
SI: Share of renewable energy in electricity consumption (%)		:	:	:	:	:	:	:	:	:	:
SI: Road freight transport as a share of total inland freight transport (modal split of freight transport) (%)		:	:	:	:	:	:	:	:	:	:

<b>Energy</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Primary production of all energy products (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)		:	:	:	:	214	211	230	:	:	:
Primary production of natural gas (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Net imports of all energy products (thousand TOE)		:	:	:	:	369	478	627	681	:	:
Gross inland energy consumption (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Electricity generation (thousand GWh)		:	:	:	:	:	:	:	:	:	:

<b>Agriculture</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Agricultural production volume index of goods and services (producer prices, previous year=100)		:	:	:	:	:	:	:	:	:	:
Total utilised agricultural area (thousand hectare)		:	:	2 126	2 122	2 192	2 196	2 187	2 194	2 139	2 107
Livestock: cattle (thousand heads, end of period)		:	:	:	:	:	453	460	515	468	459
Livestock: pigs (thousand heads, end of period)		:	:	:	:	:	596	654	712	535	502
Livestock: sheep and goats (thousand heads, end of period)	10)	:	:	:	:	:	893	903	1 005	1 033	1 031
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	:	580	629	662	724	737
Crop production: cereals (including rice) (thousand tonnes, harvested production)		1 369	930	1 139	1 309	793	1 439	1 350	1 341	1 000	1 329
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)		279	176	190	247	204	276	257	297	254	281

SI = Structural Indicator

: = not available

p = provisional

e = estimate

b = break in series

- 1) Until 2006, the growth rate of retail prices is presented; from 2006 onwards growth rate of the consumer price index (CPI) is used.
- 2) Short-term lending rates in national currency to private enterprises and cooperatives (weighted average).
- 3) Demand deposit rates in national currency to households (weighted average).
- 4) Data as of 31 December; reserve assets do not include gold.
- 5) For 2006-2007, population aged between 50 and 64.
- 6) For 2006-2008, including construction (sections F).
- 7) From 2005 onwards, figures include data from Brcko District. 2006 and 2007 data refer to unemployed from 24 to 59 months.
- 8) From 2005 onwards, figures include data from Brcko District.
- 9) Data refer to the Federation of Bosnia and Herzegovina only and includes total vehicle fleet (official data for the state level are not available); official data for state level delivered by the Ministry of Civil Affairs (passenger cars only).
- 10) Excluding goats.