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**BOSNIA AND HERZEGOVINA  
2013 PROGRESS REPORT**

*Accompanying the document*

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

**Enlargement Strategy and Main Challenges 2013-2014**

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## 1. INTRODUCTION

### 1.1. Preface

The Commission reports regularly to the Council and Parliament on the progress the countries of the Western Balkans region have made towards European integration, assessing their efforts to comply with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process.

This progress report, which largely follows the same structure as in previous years:

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

This report covers the period from October 2012 to September 2013. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures that are being prepared or awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and enables an objective assessment.

The report is based on information gathered and analysed by the Commission. Many sources have been used, including contributions from the government of Bosnia and Herzegovina, the EU Member States, European Parliament reports<sup>1</sup> and information from various international and non-governmental organisations.

The Commission has drawn detailed conclusions regarding Bosnia and Herzegovina in its separate communication on enlargement,<sup>2</sup> based on the technical analysis in this report.

### 1.2. Context

Bosnia and Herzegovina is a potential candidate for EU membership. The Stabilisation and Association Agreement between Bosnia and Herzegovina and the EU was ratified in 2011 but has not yet entered into force.

The country's Constitution was drawn up as part of the internationally agreed 1995 Dayton/Paris Peace Agreement. It establishes a complex political structure that provides for governments at State, Entity and District levels. The State level comprises a tripartite rotating Presidency, a Council of Ministers (executive branch) and a bicameral Parliamentary Assembly consisting of a House of Representatives (lower chamber) and a House of Peoples (upper chamber). The judicial branch established by Dayton consists of a State-level Constitutional Court. The High Judicial and Prosecutorial Council, as well as a State Court and Prosecutor Office, were established later.

An international presence under UN auspices— the Office of the High Representative (OHR) — has been in place in Bosnia and Herzegovina since 1995. The Peace Implementation Council Steering Board has set objectives and conditions to be met for the closure of the OHR.<sup>3</sup>

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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 2013-2014, COM(2013) 700.

<sup>3</sup> See details on the OHR website ([www.ohr.int](http://www.ohr.int)) under '5+2 Agenda'.

Since the decoupling of the European Union Special Representative's mandate from the OHR, the EU has reinforced its role in the country in line with the relevant Council Conclusions. The enhanced presence of the combined EU Special Representative and the EU Delegation in Bosnia and Herzegovina have continued to be instrumental in communicating EU priorities to citizens and in implementing the objectives of the EU agenda in key areas.

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

Bosnia and Herzegovina participates in the **Stabilisation and Association Process**.

All EU Member States have ratified the **Stabilisation and Association Agreement (SAA)** signed in June 2008, but the Council has refrained from taking a decision on its entering into force due to the country's failure to implement the Sejdic-Finci ruling of the European Court of Human Rights (ECtHR).<sup>4</sup>

The Interim Agreement (IA) has been in force since July 2008. Regarding obligations on state aid, the State Aid Council has been established, but is not functioning properly. The country is still in breach of the IA, due to non-compliance with the European Convention on Human Rights. Bosnia and Herzegovina has refused to accept the well-established methodology for the technical adaptation of the IA/SAA in order to take into account its bilateral traditional trade with Croatia. The trade part of the SAA/IA could therefore not be adapted yet following Croatia's accession to the EU.

Bosnia and Herzegovina has continued to engage with the EU on a Structured Dialogue on Justice, with plenary meetings held in April and July. The process was established with the aim of further consolidating the judicial system to ensure it is independent, effective, impartial and accountable, in line with the relevant EU standards and *acquis*.

The second meeting of the EU-Bosnia and Herzegovina High Level Dialogue on the Accession Process was held in November. The country's authorities delivered replies to two lists of questions on public procurement and the environment under the June 2012 Roadmap on Bosnia and Herzegovina's EU membership application.

The commitment to implement the Sejdic-Finci judgment by 30 November 2012 was not respected. Despite intensive facilitation efforts by the EU, Bosnia and Herzegovina's political leaders have not been able to reach agreement on how to address this case regarding discrimination against citizens on the grounds of ethnicity. Furthermore, the requirement to establish an effective EU coordination mechanism has not been met. With regard to implementation of the Sejdic-Finci judgment, some positive engagement was registered during the mid-term review in February, but political leaders did not keep up the momentum and no tangible result was achieved by the end of March, as requested in a joint letter of the EU High Representative for Foreign Affairs and Security Policy and the Commissioner for Enlargement and European Neighbourhood Policy. The Commission therefore cancelled the High Level Dialogue meeting planned for April in Mostar and set up such meeting on 1 October in Brussels with a broader agenda. At this meeting the leaders of the seven main political parties, in the presence of the Chair of the Council of Ministers, the Prime Ministers of the two Entities as well as the Brčko Mayor, signed a declaration on some key principles for the solution of the Sejdic-Finci issue committing themselves to reach agreement by 10 October on Sejdic-Finci and the co-ordination mechanism on EU matters. When the High Level Dialogue resumed on 10 October, the political leaders were not able to come to full agreement but intensive consultations among the stakeholders and with the EU continue.

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4 The Sejdic-Finci vs. Bosnia and Herzegovina case, December 2009, regarding ethnic discrimination for representation in the institutions of the country for persons not belonging to one of the three constituent peoples.

The EU provides guidance to the country's authorities on reform priorities, often without response and appropriate follow-up on their side. Progress on these priorities is encouraged and monitored by the joint bodies established by the IA. The overall pace of reforms has weakened. Five sub-committee meetings and one Interim Committee meeting have been held. Due to the inability of the authorities to reach a common position on the topics to be discussed, one of the sub-committee meetings had to be cancelled, which is without precedent. This illustrates the urgent need for an effective coordination mechanism on EU matters.

An inter-parliamentary meeting between Members of the European Parliament and Members of the Bosnia and Herzegovina Parliamentary Assembly took place in October in Sarajevo and in Brussels in July. The Western Balkans Working Group of the Committee of the Regions held a meeting in Sarajevo in May. Bosnia and Herzegovina participates in the multilateral economic dialogue with the Commission and the EU Member States to prepare the country for participation in multilateral surveillance and economic policy coordination under the EU's Economic and Monetary Union.

The EU's presence in the country has been strengthened by reinforcing its offices in the Brčko District, Mostar and Banja Luka. It continues to facilitate political dialogue and the implementation of EU-related reforms. The EU has continued to deploy considerable resources in the country under the Common Foreign and Security Policy and the Common Security and Defence Policy. Following the closure of the EU Police Mission in June 2012, the EU remains committed to strengthening the rule of law in Bosnia and Herzegovina through other instruments, including the Instrument for Pre-accession Assistance (IPA) and the reinforced EUSR Office.

As regards **Common Foreign and Security Policy (CFSP)**, Bosnia and Herzegovina aligned itself, when invited, with 23 out of 35 declarations by the EU High Representative on behalf of the EU and Council decisions (66% alignment).

The EUFOR Althea military operation contributes to maintaining a safe and secure environment in the country. The UN Security Council has extended EUFOR's mandate until November 2013. The Operation was reconfigured and reduced to 600 troops in theatre, focusing on capacity building and training, while maintaining the means to contribute to the Bosnia and Herzegovina authorities' deterrence capacity.

**Visa liberalisation** for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since December 2010. In the framework of the post-visa liberalisation monitoring mechanism, the Commission regularly assesses progress made by the country in the implementation of reforms introduced under the visa roadmap. This also includes an alert mechanism to prevent abuses, coordinated by Frontex. Within this framework, the European Commission has regularly submitted its monitoring reports to the European Parliament and Council. The next report will be presented by the end of 2013. A **readmission agreement** between the European Union and Bosnia and Herzegovina has been in force since January 2008.

Bosnia and Herzegovina receives **financial assistance** under IPA. The EU Delegation to Bosnia and Herzegovina is responsible for implementing financial assistance. The country's authorities have made no progress towards establishing the necessary structure for decentralised management of EU funds. Implementation of the 2008-2012 national IPA programmes is ongoing. The multiannual indicative planning document for the period 2011-2013 has identified the following priorities for IPA support: strengthening the rule of law; improving the capacity and efficiency of the public administration and supporting social and economic development.

The IPA national allocation for 2013 is €103.5 million. It includes the draft IPA 2013 national programme (€87 million), which is to cover projects including support for the judiciary, law enforcement, transport, education, refugees and displaced persons, and demining. In the absence of an agreement on a solution to the Sejdic-Finci issue, a procedure for reducing this programme by 54%, i.e. €47 million has been launched recently.

Disputes about the division of competences between the State and the Entities continue to impede the efficiency and effectiveness of EU financial assistance to Bosnia and Herzegovina. On 10 September 2013 the Commission had to cancel two agriculture projects worth €5 million due to the failure of the authorities in Bosnia and Herzegovina to agree on the structures to channel EU agriculture and rural development assistance (IPARD). Implementation of cross-border cooperation programmes 2007-2013 between Bosnia and Herzegovina and Croatia, Montenegro and Serbia is ongoing. The government and the Commission are currently preparing a comprehensive Country Strategy Paper for the period 2014-2020, which will provide a coherent and strategic framework for financial assistance under the new Instrument for Pre-Accession Assistance (IPA II). The IPA II programming will be launched as soon as an effective coordination mechanism on EU matters is in place.

As regards participation in **EU Programmes**, Bosnia and Herzegovina continues to participate as a full member in the Seventh Framework Programme for research, technological development and demonstration activities (FP7) and in the COST and the EUREKA networks, the Culture 2007-2013 programme and the Europe for Citizens Programme. It has started to participate in the MEDIA 2007 programme.

## **2. POLITICAL CRITERIA**

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

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

#### *Constitution*

The Dayton/Paris Peace Agreement put an end to the 1992-1995 war and brought peace to Bosnia and Herzegovina. The country's Constitution, which is Annex 4 to the Agreement, established a complex institutional architecture that remains inefficient and is subject to different interpretations.

The complicated decision-making process has continued to have a negative impact on structural reforms and the country's capacity to make progress towards the EU. Efforts led by the Council of Ministers to define an effective coordination mechanism between various levels of government for the transposition, implementation and enforcement of EU laws have not yielded results. Some political representatives have questioned Bosnia and Herzegovina's capacity to function as a country and have called for an Entity-level EU agenda separate from the Bosnia and Herzegovina State.

An expert working group was set up in February with support from the US and the EU and drafted recommendations for reform of the Federation's Constitution. The Group's recommendations were presented to civil society and international community at a conference in May and discussed in June in the Federation House of Representatives. The recommendations also aim to address the costly and complex governance structures with certain overlapping competences between the Federation, the Cantons and the municipalities as currently entailed in the Federation Constitution. On 26 August, the Federation

Government decided to form a high-level working group dealing with the constitutional reform in cooperation with the experts. No draft amendments have yet been put into the legislative procedure.

The Constitution of Bosnia and Herzegovina prevents citizens who do not declare themselves as belonging to one of the three constituent peoples (Bosniak, Serb and Croat) from standing as candidates for the Presidency or the House of Peoples of the Parliamentary Assembly. This has been declared in breach of the European Convention of Human Rights in the Sejdić-Finci judgement. In February, the EU launched a facilitation process to assist the country's political representatives in reaching a compromise agreement to implement the Sejdic-Finci judgment and to bring the Constitution and the Election Law into compliance with the European Convention on Human Rights.

This facilitation process entailed a number of meetings with representatives of the main political parties, representatives of the country's authorities, civil society and other stakeholders. The EU invested significant efforts and resources into this process, but representatives of political parties were not able to compromise. Due to a lack of a political agreement on addressing the implementation of the judgment, the Commission cancelled the third meeting of the High Level Dialogue originally scheduled for April. Conditions for the entry into force of the SAA and for a credible EU membership application have not been met.

On the basis of the Dayton Agreement, the Office of the High Representative (OHR) continued to maintain a presence in Bosnia and Herzegovina. The High Representative used the Bonn Powers<sup>5</sup> to issue three decisions that lifted earlier bans on individuals. With regard to meeting the outstanding objectives and conditions for closure of the OHR, no progress has been made in implementing a Constitutional Court decision regulating property distribution. To follow up the high-level political agreement on the principles for distributing defence and state property from March 2012, the Council of Ministers of Bosnia and Herzegovina established a working group at ministerial level to define such principles. The working group has met twice, but has failed to address the issue.

*Overall*, there has been no progress in ensuring compliance with the Sejdic-Finci judgment and in establishing functional and sustainable institutions. Establishing an effective coordination mechanism between various levels of government for the transposition, implementation and enforcement of EU laws needs to be addressed as a matter of priority to enable the country to speak to the EU with one voice.

### *Parliament*

Legislative activities have continued to be hampered by political disagreements. The Parliamentary Assembly of Bosnia and Herzegovina has adopted only two new laws and 23 sets of amendments to existing legislation. It has rejected seven laws and five sets of amendments to existing laws, some of them because of the Entity veto. The Assembly has adopted amendments to the Law on Household and Population Census, delaying the census for six months to October 2013, in line with the International Monitoring Operation's recommendation. The Joint Committee for European Integration has held regular sessions focusing on IPA programming and the implications of Croatia's EU accession.

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<sup>5</sup> The Peace Implementation Council Conference in Bonn in December 1997 decided to 'give to the High Representative the power to remove from office public officials not complying with the Dayton Peace Agreement, and to impose laws which he considers necessary if Bosnia and Herzegovina's legislative bodies fail to do so'.



The leaders of the SDP and SNSD political parties signed a coalition agreement in October. This was later endorsed by HDZ BiH, HDZ 1990, SDS and SBB BiH,<sup>6</sup> providing a basis for a new parliamentary majority at State level. A cooperation agreement between SDP and SNSD envisaged a wide-ranging legislative agenda, including some draft laws that would entail a step backwards. Part of the package went into the legislative process. Cooperation between the Council of Ministers and the Parliamentary Assembly remains insufficient.

The Parliamentary Assembly of Bosnia and Herzegovina failed to adopt amendments to the Law on a Single Reference Number on time, due to political divergences.<sup>7</sup> This has prevented several thousand newborn children from obtaining health and social benefits and travel documents and has led to large demonstrations. The suspension of the work of the Assembly in June due to perceived lack of security further weakened its functioning. The amendments on the Single-Reference Number were eventually adopted by the House of Representatives but not by the House of Peoples where the Bosniak Caucus initiated a motion for the protection of the Vital National Interest. This motion has been forwarded to the Constitutional Court of Bosnia and Herzegovina.

At Entity level, the functioning of the Parliamentary Assembly in the Federation was seriously hampered by an attempted government reshuffle at Federation level leading to a severe political crisis and a temporary standstill of parliamentary activities. The lack of systematic coordination with cantonal assemblies has had a negative impact on approximation with EU-related legislation. The work of parliamentary committees has continued to be affected by a frequent lack of quorum and inadequate premises.

In Republika Srpska, the National Assembly's EU Integration Committee has cooperated closely with the government in assessing the level of compliance of proposed legislation with the *acquis*. The Assembly has developed a strategic plan for administrative services covering the period 2013-2017 and started with its implementation, with the aim of improving the quality of its work and cooperation with other institutions.

There has been some improvement in parliamentary cooperation at committee level between State, Entity and Brčko District parliaments which needs to be formalised to improve country-wide planning. Three joint meetings of the State-level and Entities' parliamentary committees for European integration have taken place without coordination of their respective legislative work in substance

*Overall*, the Parliamentary Assembly of Bosnia and Herzegovina has made only very limited progress in adopting EU-related legislation. Political disagreements have continued to have a negative impact on the functioning of the Assembly, which was further weakened by the suspension of its work after demonstrations in June. The functioning of the Federation's Assembly has been seriously hampered by an attempted government reshuffle.

### *Government*

The tripartite Presidency of Bosnia and Herzegovina has continued to meet regularly. The formulation of foreign policy has remained subject to divergent positions within the Presidency on some key issues, including on agreements with the EU.

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<sup>6</sup> SDP (Social Democratic Party), SNSD (Alliance of Independent Social Democrats), HDZ BiH (Croat Democratic Union for Bosnia and Herzegovina), HDZ 1990 (Croat Democratic Union 1990), SDS (Serb Democratic Party) and SBB BiH (Union for a Better Future of Bosnia and Herzegovina).

<sup>7</sup> The Constitutional Court of Bosnia and Herzegovina ruled in May 2011 that the Law on Single Reference Number was not in compliance with the Constitution due to the use of inaccurate names of some municipalities which were not in line with the Law on Territorial Organisation of Republika Srpska. The Court ordered the Parliamentary Assembly to harmonise the law with the Constitution. The former law expired in February 2013.

In November, the new parliamentary majority at State level endorsed reshuffling of the Council of Ministers by appointing two new ministers and one deputy minister. The Council of Ministers adopted the 2013 State budget and the Global Fiscal Framework 2013-2015. It has met regularly, though not in June, when its work was suspended after big demonstrations in Sarajevo. It has held several thematic sessions on EU-related issues. A number of important pieces of EU-related legislation that had been drafted with substantial EU support have not been put into the legislative process due to a lack of political will. This has substantially reduced the legislative output of the parliament.

Regarding policy planning, the development strategy and the social inclusion strategy at State level and in Republika Srpska have not yet been adopted. Policy planning in Bosnia and Herzegovina continues to be hampered by the lack of up-to-date economic and social data.

The role of the Directorate for European Integration to coordinate EU matters among all levels of authorities needs to be strengthened. The Directorate's capacity to assess compliance with the IA/SAA continues to be weak, notably because its mandate is limited to the State level and does not include amendments introduced during the legislative process. The late submission of discussion papers for the IA/SAA sub-committee meetings on a number of occasions has negatively affected the quality of dialogue on sectoral policy issues.

The Republika Srpska National Assembly accepted the resignation of the Government of Republika Srpska following a request from the Entity's President in February. There was a government reshuffle and a new prime minister and six ministers were appointed in March. The new prime minister has expressed her commitment to the EU integration agenda.

The Government of Republika Srpska has remained engaged in approximation of draft legislation with the *acquis*. Its administrative capacity to monitor EU-related legislation remains satisfactory. There has been little improvement in coordination and cooperation with the State-level Council of Ministers and the Federation Government on harmonising legislation with EU standards.

In the Federation, the new parliamentary majority<sup>8</sup> has still not succeeded in reshuffling the Entity's government after almost a year. This has resulted in a lengthy political stalemate and has hampered the functioning of the Federation Government and other institutions. The new parliamentary majority passed a no-confidence motion in February and adopted conclusions unilaterally restricting the activities of the government to the necessary minimum regarding international obligations.

In May, the Federation's Constitutional Court issued an opinion finding these conclusions not in line with the Constitution. The Bosniak caucus of the House of Peoples invoked the Vital National Interest (VNI) procedure over the vote of no confidence. The result of the no-confidence vote is pending until the Constitutional Court's VNI panel decides on the admissibility and merits of the case. The judges for the quorum of the Court's VNI panel were appointed only in July. This situation has paralysed the functioning of the Federation. The arrest of the President of the Federation for alleged criminal offences of organised crime in connection with abuse of office and acceptance of bribes has further complicated the situation.

The Federation Government has strengthened horizontal coordination of EU-related matters and introduced monthly meetings between EU coordinators in the line ministries. It has appointed a temporary coordinator for EU integration issues, who has limited administrative resources. The government proposed a draft memorandum of understanding on cooperation

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<sup>8</sup> HDZ BiH (Croat Democratic Union for Bosnia and Herzegovina), HDZ 1990 (Croat Democratic Union 1990), SDP (Social Democratic Party) and SBB BiH (Union for a Better Future of Bosnia and Herzegovina).

on EU integration issues to the Cantons to enhance mutual co-operation in the EU integration process. The text was signed by eight Cantons out of ten.

The Decree on the government's General Secretariat has been adopted; however, the adoption of the new rulebook on the internal organisation of the General Secretariat defining the competencies of the EU integration unit is pending. The legislative offices of the different governments in the Federation have not been cooperating systemically in harmonising legislation or approximating it to the *acquis*.

In the Brčko District, the Office for European Integration remains understaffed. The newly elected government and assembly have consulted the Entities closely on EU-related legislation. The District adopted the 2013 budget in time, but the opposition challenged the adoption procedure and the case is pending in Court

Entity legislation is largely in line with the European Charter on *Local Self-Government*. There is a lack of clarity in the apportionment of powers between the Entities, Cantons and municipalities, with a relatively low level of financial autonomy at municipal level. The Government of Republika Srpska has proposed amendments to the law on local self-government that decrease the power of the municipal councils which have not yet been adopted by the National Assembly. The Cantons have started harmonising their legislation with Federation law on principles of local self-government, but progress is slow.

The municipal elections of October 2012 were found to be in line with international standards overall. The Congress of Local and Regional Authorities of the Council of Europe identified a number of issues concerning the voter registration system that should be addressed. Elections were not held in Mostar City due to the non-implementation of the 2010 Constitutional Court decision on Mostar's statute. OHR efforts to facilitate a comprehensive solution for Mostar City have not brought results.

The formation of the city council in Sarajevo and the election of a new mayor were delayed until the end of March. The results of municipal elections in Srebrenica were resolved only after legal challenges in the courts, following a campaign asking voters to register their residence in Srebrenica even if they were not actually living there. Amendments to the law on residence updating the legal framework were adopted by the House of Representatives, but not the House of Peoples where the Bosniak caucus initiated a motion on the protection of Vital National Interest which is pending with the Constitutional Court of Bosnia and Herzegovina.

*Overall*, Bosnia and Herzegovina has made no progress in improving the functionality and efficiency of all levels of government. The failure to reshuffle the government in the Federation has negatively affected its functionality and contributed to fragmentation of policy-making at all levels. The lack of an EU coordination mechanism between the State, the Entities and Brčko District for the transposition, implementation and enforcement of EU laws prevents the country to speak with one voice and puts the EU's financial assistance (IPA) at risk. The principles of local self-government need to be implemented.

#### *Public administration*

The Public Administration Reform Coordinator's Office has continued to coordinate the work on implementing the revised 2006 action plan under the public administration reform strategy. The issue of financial sustainability of public administration at all levels needs to be addressed.

Administrative capacity for legal harmonisation or implementation of the *acquis* remains weak. The complex division of competencies among administrative structures across various levels of government continues to have a negative impact on the provision of efficient services and the functional division of roles in the EU integration process.

There is little communication between the State, the Entities and Brčko District when preparing amendments to their respective legislation to ensure a harmonised and EU-compatible approach. This means that sector reform continues to be fragmented. There have been attempts to politicise the managerial staff of the civil service at State level. Draft amendments to the Law on Civil Servants and Public Employees in the civil service institutions of Federation are in parliamentary procedure. A new Law on Employees in the Bodies of Local Administrations, which intended to bring some harmonisation of the Cantonal legislation, was rejected in the Federation Parliament.

Regarding appointments to State-level bodies, members of the State Aid Council have been appointed, but due to a lack of budget, the Council is only partially operational and its chairman has resigned. Appointments to some other key agencies are pending. This is the case for the Communications Regulatory Agency, the electricity transmission company TRANSCO and the Administrative Board of the Insurance Agency.

Bosnia and Herzegovina has three supreme audit institutions at State and Entity levels. They each have about the same number of staff and cooperate through a Coordination Board with which the audit institution of the Brčko District of Bosnia and Herzegovina is also associated. The board has ceased to meet regularly. In recent years, the institutions have been developing sustainable performance auditing functions with the support of bilateral assistance. The four institutions need to resume their coordination through the Board to carry out actions set out in the Strategic Development Plan, to improve consistency and to ensure development of the audit system and standards in the country. Measures need to be taken at all level of government to ensure an appropriate follow-up to audit reports.

*Overall*, very limited progress has been made in reforming public administration. The process lacks the necessary political support. The issue of financial sustainability of public administration at all levels needs to be addressed. Continued fragmentation and politicisation of the civil service system remain an issue of concern. The development of a professional, accountable, transparent and efficient civil service based on merit and competence requires further attention at all levels of government. The supreme audit institutions should resume cooperation.

#### *Ombudsman*

The Human Rights Ombudsman of Bosnia and Herzegovina, composed of three members, has jurisdiction over the whole country following the merger in 2010 of three separate institutions. It has a wide remit for which the human and financial resources are insufficient. The UN has accredited the institution as a National Human Rights Institution with ‘A’ status. The Ombudsman has presented an initiative for amendments to the Law on the Ombudsman to the Parliamentary Assembly. The amendments aim to ensure adequate financing and the independence of the institution. Implementation of recommendations by the Ombudsman remains low in the absence of countrywide, cross-partisan political support.

#### *Civil society*

Cooperation with civil society at local level has improved. At the State, Entity and Cantonal levels, cooperation remains weak. Institutional mechanisms for cooperation with civil society are not fully operational at Entity level and are lacking at State level. Transparency in the allocation of funds for civil society organisations needs to improve.

Civil society is becoming increasingly assertive in expressing dissatisfaction with political developments, such as delays in adopting the law on a Single Reference Number (*See section on Parliament*).

### *Judicial system*

The EU-Bosnia and Herzegovina Structured Dialogue on Justice has delivered concrete results with an increasing number of recommendations being either fully implemented or on the right track. Implementation of the Justice Sector Reform Strategy 2009-2013 remains limited. Overall, political support for the follow-up strategy 2014-2018 and action plan has increased.

Some political parties proposed to increase the role of the executive and legislative branches in appointments of prosecutors, while limiting the role of the High Judicial and Prosecutorial Council (HJPC). This proposal for the politicisation of appointments gives rise to concerns. A draft Law on the Courts of Bosnia and Herzegovina has been prepared and submitted for public consultation by the State-level Ministry of Justice. The text provides for the establishment of a State-level Appellate Court, separated from the court of first instance, in line with the recommendations of the European Commission and the Council of Europe's Venice Commission. Consistency in the application of substantive criminal law at State-level judiciary and other instances throughout the country needs to be improved. Amendments to the Law on Courts of Republika Srpska, ensuring consistency with the prerogatives of the HJPC, based on clarifications in the framework of the Structured Dialogue on Justice, are still pending the final parliamentary adoption.

Shortcomings remain in relation to **independence and impartiality**. Political attacks on the judiciary have continued during the reporting period. Financial restrictions and excessive fragmentation of budgetary responsibilities also continue to undermine independence. The process of streamlining budgetary competences initiated via the Justice Sector Reform Strategy, particularly relevant for the Federation, has not yet produced results. HJPC recommendations have only been partially followed in the process of opening additional courts in the country. The sustainability of this process needs to be ensured.

As regards **accountability**, the number of complaints filed against those holding judicial offices has gone up. Between September 2012 and March 2013, the Office of the Disciplinary Council received 669 complaints and resolved 655. The number of disciplinary procedures initiated by the Office has gone up, but its ability to prosecute cases effectively and apply appropriate sanctions remained limited. The average time needed to resolve a complaint during the reporting period has decreased. It took 240 days during the reporting period, an improvement of 22%, against 306 days on average to close complaints between September 2011 and March 2012. Positions for three judges within the Federation Constitutional Court remain vacant.

As regards **efficiency**, measures introduced by the HJPC and relevant stakeholders have progressively reduced the backlog of cases. Each court has developed a plan to reduce backlogs in line with the judicial quotas adopted. The growing number of cases regarding unpaid utility bills continues to place a significant burden on the judiciary. This now accounts for almost 80% of the backlog throughout the country, 1.8 out of 2.3 million cases.

The judicial information and communication system is fully functional. The case management system in courts and prosecutors' offices includes over 3.4 million registered cases, and now produces automated reports on judicial performances, which contribute to policy and strategic planning decisions. Access to the judicial web portal has substantially increased, as well as access to case information by parties to proceedings or their lawyers. The Judicial Documentation Centre has also registered a significant rise in online visits.

A uniform human resources (HR) management information system for courts and prosecutor offices has been established, enabling greater efficiency in the appointment, management and planning of HR resources. HJPC decisions approving the appointment of regular and reserve

judges has not yet been duly followed up by the government due to budgetary restraints. The government however approved 13 additional prosecutors for war crimes in the Prosecutor's Office of Bosnia and Herzegovina. The physical conditions in several court buildings at both State and Entity level have improved, but there is a need for further improvements in infrastructure.

The Judicial and Prosecutorial Training Centres of the two Entities provide training for the judiciary. In an effort to improve and increase capacity building, both centres are introducing distance learning.

Stakeholders are discussing diverging practices on the applicability of different criminal codes between courts at different levels with a view to guaranteeing the equality of citizens before the law, particularly following the ECtHR ruling in the case *Maktouf and Damjanović vs. Bosnia and Herzegovina*. The ECtHR recognised that, given the type of offences and the seriousness of the crimes, there has been a real possibility that the retroactive application of the 2003 Criminal Code operated to the applicants' disadvantage. The judgement underscores the importance of harmonization of Court practice between various judicial instances, in line with the Structured Dialogue recommendations, as well as the relevant Venice Commission findings, including discussions leading to a Joint panel of the highest judicial instances. Furthermore, the application of different criminal codes in war crimes cases continues to result in uneven sentencing.

The large backlog of **war crimes** cases has been reduced. The implementation of the National War Crimes Strategy has reached a turning point, with Entities and the Brčko District judiciary progressively processing cases referred from the State level. Adequate staffing, financial resources and facilities, particularly in capacities for witness care, support and protection, still need to be addressed to ensure timely and effective processing of cases transferred. Witness protection remains the weak link in securing reliable evidence. There have been efforts to refurbish courtrooms for protected witness testimony, but comprehensive protection before and after proceedings is not in place. The draft State-level Law on Witness Protection Programme was approved by the Council of Ministers of Bosnia and Herzegovina and sent to parliamentary procedure.

The prosecution of war crimes cases involving sexual violence has improved both at the State and Entity level, but efforts to investigate and prosecute these crimes need to be stepped up further. The preparedness of relevant staff and the availability of adequate infrastructure at courts throughout the country remain uneven and need to be urgently addressed. A comprehensive approach to improving the status of victims of rape and sexual violence is still to be achieved. The adoption of a State-level programme for improving the status of victims of war crimes involving sexual violence is pending.

Concerning **access to justice** in civil and administrative trials, wide access to the web-based free legal aid providers' network has been provided. Free legal aid agencies have been set up in three more Cantons of the Federation, bringing the total to seven. The system of free legal aid remains fragmented and unregulated in three Cantons. The adoption of a State-level Law on Free Legal Aid remains pending. Free legal aid in civil cases continues to be provided, mainly by privately-funded NGOs. Free legal aid in administrative cases remains insufficient.

*Overall*, there has been limited progress in reform of the judicial system reform. The Structured Dialogue on Justice has led to a number of concrete positive outcomes. However, some political initiatives to reform judicial institutions outside this framework, such as a proposal for the politicisation of appointments, have caused concern. There has been an agreement to revise the Justice Sector Reform Strategy to strengthen its implementation.

Measures to reduce the backlog of cases are now being implemented with success, but the backlog still remains very high. The positive trend in solving the backlog of war crime cases is hampered by the lack of human and financial resources at all levels. Harmonisation of different criminal law jurisprudence and reduction of budgetary fragmentation are still at an early stage. Independence and accountability of the judiciary remain vulnerable due to political parties attempting to exercise influence. The fragmentation of the legal and institutional framework in the area of access to justice needs to be addressed.

### *Fight against corruption*

Complex connections between political actors, business and the media are putting democratic institutions and procedures at risk and making the detection of corrupt practices more difficult.

The implementation of the State-level anti-corruption strategy and action plan 2009-2014 has been significantly delayed. The Entities and the Brčko District, as well as three Cantons, are implementing strategies and action plans at their levels.

Amendments to the Law on the Agency for prevention of corruption and coordination of the fight against corruption, regulating the status and competences of the parliamentary commission monitoring the agency were adopted and entered into force. The agency has secured its premises and a minimum staffing level: 13 people support the activities of the Director and the two deputies. Effectiveness of the agency depends on more adequate staffing, particularly in policy posts, at the department for Coordination and the department for Prevention. At Entity level, inter-ministerial boards are monitoring the implementation of anti-corruption strategies and plans. The Brčko District's government decided to entrust the Mayor's Office with an anti-corruption coordination function.

Amendments to the Law on Conflict of Interests at the State level and in Republika Srpska entered the legislative procedure. These are designed to place responsibility for the management of conflicts of interest and asset declaration to a commission that includes parliamentarians. These amendments do not guarantee impartiality and effective prevention of conflicts of interest.

A new law on financing political parties has been adopted. Few of the recommendations of the Group of States against Corruption are reflected in the new law, which does not remedy the fragmented structure of the legislation on financing of political parties. It raises the threshold for donations and fails to address the lack of clear, proportionate sanctions. There have been attempts to change the Law on access to information, limiting the scope and purpose of the law. Amendments to the Criminal Procedure Code to improve the legal framework for the use of special investigative measures in the investigation of corruption are pending adoption. There are no adequate provisions to protect whistle blowers in relevant legislations.

Some high profile cases involving public officials are being investigated and prosecuted. Yet the overall level of effective investigation, prosecution and conviction of corruption cases remains low. Joint investigation teams and mechanisms to detect corruption have still to be developed. There is 48% increase of corruption reports filed with the prosecutors' offices throughout Bosnia and Herzegovina, 3 174 reports were filed in 2012 compared to 2142 from the previous year. The number of indictments confirmed is still modest and final verdicts issued remain low. Despite availability of compiled statistical data, there is no analysis of corruption cases. Capacity to investigate economic, financial, public procurement and fraud-related crimes is weak. There is still no effective criminal justice policy to fight against corruption.

Political patronage networks and extensive political parties' control of their members are affecting the integrity of parliamentarians at all levels, throughout the country.

*Overall*, Bosnia and Herzegovina is at an early stage in the fight against corruption. The implementation of the State-level anti-corruption strategy and action plan needs to be stepped up. Key pieces of legislation regarding the financing of political parties, conflicts of interest and access to information have been amended in ways that undermine previous achievements. Corruption remains widespread, with an insufficient track record of investigation and prosecution in high-profile cases that have a negative impact on society and the economy.

#### *Fight against organised crime*

Bosnia and Herzegovina has made limited progress in the fight against organised crime and terrorism. Cooperation among law enforcement agencies continues, but a more systematic exchange of information intelligence remains to be consolidated, and coordination mechanisms need to be set up. A number of successful large-scale joint police operations have taken place, some of them in coordination with the authorities from neighbouring countries. However, at domestic level, cooperation between police and prosecutors' offices requires structural improvements to guarantee more effective judicial follow-up.

The fight against organised crime that is operating within the territory of Bosnia and Herzegovina as well as on transnational networks remains a crucial challenge. Bosnia and Herzegovina is a source of arms and ammunitions for criminal groups operating locally, in the Western Balkans region and in the EU. Illicit drugs trafficking, with Bosnia and Herzegovina acting mostly as a transit country, and trafficking in human beings are also significant problems. The domestic authorities' preparedness to deal with money laundering and economic crimes is still in its early stages, and requires more effort.

For a detailed analysis of developments in the fight against organised crime, *see* 4.3 — *Justice, Freedom and Security*.

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

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

In a number of cases, decisions of the Constitutional Court of Bosnia and Herzegovina have not been enforced, which has led to cases being lodged before the **European Court of Human Rights**. During the reporting period, the Court delivered judgments on 24 applications finding that Bosnia and Herzegovina had violated rights guaranteed by the Convention. These cases relate inter alia to non-payment for war damage and non-possibility to withdraw foreign-currency savings deposited before the dissolution of former Yugoslavia. A total of 822 new applications have been submitted to the Court since September 2012, bringing the total number of applications pending to 1662. The country has made some progress in implementing the Court's judgments, but the judgment in the Sejdic-Finci case has yet to be addressed.

As regards the **promotion and enforcement of human rights**, there have been a number of activities to promote respect for human rights, such as training courses for judges, prosecutors, prison officers and police officers.

The **death penalty** is prohibited by the Constitution of Bosnia and Herzegovina and by the Constitution of the Federation. Although there is a moratorium, the death penalty provision in the Constitution of Republika Srpska remains in place. The relevant Article 11(2) of the



Constitution of Republika Srpska has to be repealed in line with key principles of the EU human rights policy.

The legal framework on the **prevention of torture and ill-treatment** and the fight against impunity is in place and is generally respected. Ill-treatment of suspects by police officers, particularly in the Central Police Station in Banja Luka, mainly for the purpose of trying to extort a confession has persisted. Cases of ill-treatment of remand and sentenced prisoners by prison staff occurred in some detention facilities. This is of serious concern.

As regards the **prison system**, a new draft law on execution of criminal sanctions has been adopted in the Federation to ensure harmonisation with State-level law and with international standards. The country has made good efforts to reduce the overcrowding of prisons by investing in infrastructure and promoting alternative sanctions. Delays in the construction of a high-security State prison have persisted, affecting the country's capacity to deal with high-security prisoners. The backlog in execution criminal sanctions remains a matter of concern, particularly in the Federation, where there is a lack of prison capacity. The last steps required to render the Sokolac psychiatric hospital fully operational are under way. Prison inspections need to be reinforced. Bosnia and Herzegovina still lacks an effective coordination mechanism among its 15 prison administrations.

Legal provisions guaranteeing **freedom of expression** are in place. Political and financial pressure on the media has increased. A recent decision by the Communication Regulatory Agency (CRA) to limit advertising time of public broadcasters could endanger their financing. Intimidation and threats against journalists and editors and polarisation of the media along political and ethnic lines remain an issue of concern. The political, institutional and financial independence of the Communication Regulatory Agency remains to be secured. The Agency's managing structures still have only a technical mandate, which hampers decision-making. The legal provisions regulating the appointment of the Agency's Council have been amended. An ad hoc Committee for selecting members of the Agency's Council launched a selection process. (*See 4.2.6 — Information society and media*). The independence of the three public broadcasters within the country's Public Broadcasting System needs to be ensured. The Federation Parliament has continued attempts to appoint a provisional steering board for the Entity's public service broadcaster, interfering with the independence of the media. In Republika Srpska, legislative amendments were adopted in October 2013, changing the procedure for the selection of the steering board members of the public broadcaster RTRS and introducing a possibility for its co-financing from the RS government budget. This risks undermining the public broadcaster's financial and editorial independence. The statute of the public broadcaster BHRT has not been amended. Its steering board has been appointed, but has yet to deliver results by reforming and strengthening the broadcaster. Public broadcasters that are not a part of the system are financed from municipal and cantonal budgets and remain under political influence.

The Entity laws on public broadcasting services remain to be harmonised with State-level law. The adoption of the Public Broadcasting Corporation's statute is pending. Only limited efforts have been made to finalise the reform of the system and to establish the corporation, which continues to prevent progress in digitalisation throughout the country (*See 4.2.6 — Information society and media*).

The Press Council has continued its cooperation with judicial institutions and journalists' associations to improve the quality of reporting and to raise the public's awareness of legal rights. The implementation of the Freedom of Access of Information Act remains uneven among the public institutions.

With regard to freedom of **assembly and freedom of association**, there have been some cases of intimidation and violence against human rights advocates. Effective investigation and prosecution of such cases needs to be ensured.

The constitutional and legal guarantees of **freedom of thought, conscience and religion** are generally respected. Cases of discrimination on religious grounds continue to be reported. Incidents targeting religious symbols, clerics, believers and property continue to be reported and particularly affect religious minorities in certain communities.

Legal provisions guaranteeing **women's rights and gender equality** are in place. There has been an improvement in Republika Srpska, but women's political participation across the country remains low. The resources of the institutional mechanisms for ensuring gender equality and the availability of statistical data remain insufficient. Implementation of the Action Plan on the UN Security Council Resolution 1325 on Women, Peace and Security has continued, but awareness and financial resources for its implementation need to be improved. There is still a low level of participation of women in the workforce. There is still discrimination in employment with regard to maternity rights.

On 27 July, Bosnia and Herzegovina has ratified the Council of Europe Convention on preventing and combatting violence against women and domestic violence. A law on protection against family violence has been adopted in Republika Srpska, as has a strategy for preventing and combating family violence 2013-2017 in the Federation, but their harmonisation has not been ensured. There has been more financing of shelters for victims of domestic violence, but it still remains insufficient.

As regards **children's rights**, a revised State-level strategy to combat violence against children has been adopted. Additional legislation has been adopted in the field of early childhood development, but implementation needs to be improved. Use of foster care for children has slightly increased, but institutionalisation remains the primary response. Child allowances are not based on needs, and continue to vary between the Entities and Cantons. The percentage of children immunised against preventable diseases remains low. Domestic violence against children, trafficking and organised child begging remain issues to be addressed. Bosnia and Herzegovina ratified on 20 October 2012 the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance, which has entered into force on 1 February 2013.

Delays in adopting amendments to the Law on a Single Reference Number, in line with the relevant ruling of the Constitutional Court of Bosnia and Herzegovina, have prevented many newborn children from gaining access to health and social benefits and travel documents for several weeks. The Council of Ministers of Bosnia and Herzegovina adopted a temporary decision on this matter in June, expiring on 6 December. Adoption of the amendments by the parliament remains outstanding. (*See 2.1 – Parliament*)

The continuing existence of divided schools ('two schools under one roof') in some Cantons of the Federation and mono-ethnic schools across the country do not foster the development of an inclusive multi-cultural society. *De facto* ethnic-based separation and discrimination in some public schools in the Federation remain a serious concern. In June, the Cantonal Court reversed the first instance decision of the Municipal Court in Mostar<sup>9</sup> against school segregation for purely procedural reasons. It decided that the plaintiff submitted its legal action untimely and reasoned that it did not have active legitimacy to file a suit.

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<sup>9</sup> The Mostar Municipal Court ruled in May 2012 that two schools in the Herzegovina-Neretva Canton breached the anti-discrimination law by dividing children based on their ethnicity. The first-instance ruling obliged the defendants to take specific measures and actions to end discrimination.

In a similar case in October 2012, the Travnik Municipal Court rejected the active legitimacy of the plaintiff. These judgments do not solve the substance of the underlying issue which still needs to be addressed politically. The Conference of Ministers of Education in Bosnia and Herzegovina, established to improve coordination among the 14 ministries of education, convened only twice. There is no efficient coordination mechanism on education between the Cantonal governments in the Federation. The establishment of the Coordination Body of Ministers of Education of the Croat majority Cantons has brought even deeper fragmentation and division of education policy and decision-making along ethnic lines.

Laws on juvenile justice have been adopted in the Brčko District but not yet in the Federation. The revised State-level strategy has not yet been adopted. Enforcement of the juvenile justice law in Republika Srpska remains weak.

As regards the **socially vulnerable and/or people with disabilities**, some limited steps have been taken to harmonise the social protection systems of the Cantons, introducing a social minimum for financial benefits. Entitlement to rights and benefits for the disabled is still based on status, not on needs. As a result, some categories of persons with disabilities do not receive adequate benefits. The implementation of the social protection legislative framework remains weak in both Entities.

An **anti-discrimination** law is in place, but the exclusion of age and disability as categories on the grounds of which there should not be discrimination and the broad range of exceptions have not been addressed. A State-level database of discrimination cases has been set up, but overall, implementation of the law remains weak. This is largely due to low public awareness of legal remedies, and the limited capacities of relevant institutions to implement the law. This includes the Ombudsman of Bosnia and Herzegovina.

There is no comprehensive mechanism for collecting data on hate crimes. Identification, investigation and reporting by the police and cooperation between the police and prosecutors remain insufficient.

Concerning rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, the Blood Transfusion Institute of the Federation has amended its blood donation regulations and deleted discriminatory provisions. The law enforcement body in the Sarajevo Canton has shown willingness to appoint a direct contact in every police station for LGBTI persons. Discrimination against LGBTI persons remains widespread. LGBTI activists continue to be subject to threats and harassment. The adoption of amendments to the Federation criminal law including for the first time hate crime, amongst others on the grounds of sexual orientation and gender identity, failed due to the lack of support in the Federation House of Peoples. Hate speech and intolerance remain an issue of concern.

With regard to **labour and trade union rights**, the fragmentation of the legal framework for social benefits and pension rights continues to be of concern. A State-level Economic and Social Council has not been set up. The criteria or legal framework for the recognition of social partners at State level has not yet been established (*see 4.1.8 - Employment and social policies, public health policy*).

As regards **property rights**, the vast majority of property repossession requests have been resolved. The new members of the Commission for Real Property Claims of Displaced Persons and Refugees were appointed in December, but the Commission has not yet resumed its work. There are still over 110 unresolved cases and approximately 300 cases pending before the Court of Bosnia and Herzegovina in which the Commission is a respondent party in administrative dispute procedures. A database on outstanding claims and property registers has still to be set up.

*Overall*, the legal and institutional framework for the observance of human rights is in place and the main elements of international human rights laws have been incorporated into the legal system. Fragmentation across the country remains an issue, notably regarding economic and social rights. The implementation of human rights instruments needs to improve. Implementation of the judgment in the Sejdic-Finci case remains essential (*See 2.1 – Constitution*). Prison conditions have improved, but a comprehensive reform of the prison system is still needed. Appropriate action needs to be taken to prevent ill-treatment of suspects by police officers. Increased political and financial pressure on the media and intimidation and threats against journalists and editors remain of concern. There needs to be more effort to make schools more inclusive and to address the continuing existence of ‘two schools under one roof’ in the Federation. Implementation of the anti-discrimination law needs to be stepped up, and the institutions responsible need sufficient capacity to implement it. Effective investigation of cases of hate speech and violence against LGBTI persons needs to be ensured. Discrimination against persons with disabilities in the social protection system remains of concern.

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

The legal framework for the protection of **minorities** is largely in place, but implementation needs to improve. The influence of the State-level and Entity National Minority Councils over policy-making remains weak. After local elections in 2012, there are now fewer members belonging to national minorities in municipal councils than after the 2008 elections. Cultural rights need to be strengthened, including those relevant to the participation of national minorities in public life.

As the constitutional amendments to comply with the European Court of Human Rights ruling in the Sejdic-Finci case are still pending, minorities continue to be excluded from representation in the House of Peoples and the Presidency of Bosnia and Herzegovina (*see 2.1 – Constitution*). Implementation of the European Charter for Regional or Minority Languages is weak. Representation of minorities in the media remains limited.

Members have been appointed to the advisory **Roma** Board to the State-level Council of Ministers. There are four action plans under the Roma Strategy. Those on health, employment and housing have been revised in line with the recommendations of the Roma Inclusion Seminar of July 2011 but they have not yet been adopted.[ There has been some progress with regard to implementation of an action plan on housing, partly because additional financial resources have been allocated. On health, employment and education, progress has been very limited. The Roma minority continue to live in very vulnerable conditions.

Coordination among authorities at all levels remains insufficient. Participation by Roma representatives in the decision-making process continues to be very low. Roma women and children continue to be subject to discrimination and domestic violence. The low registration rate of Roma children at birth means they have no health insurance and no possibility of attending school, which remain causes for concern. Dropout rates from primary and secondary schools are high, especially among Roma girls. A number of Roma remain at risk of statelessness.

As regards **refugees and internally displaced persons** (IDPs), there are still 103 449 IDPs, of whom approximately 8 580 live in collective centres, and 6 927 refugees. Efforts to implement the revised Strategy under Annex 7 to the Dayton Agreement mainly focused on the reconstruction of housing units. Recommendations on creating conditions for sustainable return remain largely unaddressed.

The State Commission for Refugees and Displaced Persons has become operational, but its effective functioning is undermined by the lack of financial resources. The country still lacks

a coordinated consultation and policy formulation mechanism to address legislative gaps, which hampers sustainable return and local integration. Access to employment, healthcare and pension rights remains an issue of concern.

With regard to landmines from the 1992-1995 conflict, the implementation of the Mine Action Strategy is behind schedule. Only half the demining targets set for the last three years have been met. Since September 2012, five persons have been killed in landmine accidents. The law on anti-mines actions still needs to be adopted. To meet the goal of clearing the country of mines by 2019, fundraising responsibilities, administrative and management capacity and coordination of demining measures need to be addressed.

*Overall*, the implementation of the Roma action plan on housing has brought some results, but in health, employment and education, progress has been very limited. The Roma continue to be the most vulnerable minority in the country. Actions at legislative and institutional level need to be taken to address the low registration rate of Roma children at birth. Improving access to employment, healthcare and pension rights of refugees and internally displaced persons is essential for sustainable return and local integration.

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

The Parliamentary Assembly of the Council of Europe continues to monitor Bosnia and Herzegovina's progress in fulfilling its obligations and commitments as a member. The country has appointed its judge to the European Court for Human Rights. It has yet to appoint the Chair of its Delegation to the Parliamentary Assembly and representatives to a number of advisory bodies. Implementation of the requirements stemming from the Council of Europe's Conventions remains uneven.

Implementation of the **Dayton/Paris Peace Agreement** continued. Under the Agreement on Special Parallel Relations, a joint session of the Governments of Republika Srpska and Serbia and a session of the Cooperation Council have been held.

Cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)** is assessed as satisfactory in most areas. Efforts are still necessary to guarantee successful handling of all Category II **war crimes** cases<sup>10</sup> that the Tribunal transferred to Bosnia and Herzegovina. Access to the Tribunal's databases and collection of information and evidence by prosecutors throughout the country has been unevenly used.

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

Progress has been made as regards the **Sarajevo Declaration Process**, which brings together Bosnia and Herzegovina, Croatia, Montenegro and Serbia and aims at finding sustainable solutions for the refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. The implementation of the Regional Housing Programme, which aims at providing housing solutions for the most vulnerable refugees and displaced persons in the four countries and is extensively supported with EU financial assistance, has started with the approval of the first round projects by the international donors in April. Joint regional information campaigns on the programme have been carried out throughout the region. However, the implementing capacities of the partner countries need to be further improved and a series of documents and procedures need to be finalised in order for the

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<sup>10</sup> Cases for which evidence was collected during the investigations by the Tribunal's Office of Prosecutor, later transferred for further investigation and possible prosecution to the prosecutor's offices in the countries of former Yugoslavia.

approved country projects to start. Efficient project implementation units and rigorous beneficiary selection procedures as well as beneficiary data cross checking remain to be established. The good cooperation overall between the partner countries on the process and the housing programme needs to continue.

The unresolved fate of **missing persons** from the conflicts in the 1990s is still an issue of humanitarian concern in the Western Balkans. As of July 2013, a total of 11 859 persons were still missing as a result of the conflicts in the region, according to International Committee of the Red Cross (ICRC) figures. Of these, 7 886 cases relate to the conflict in Bosnia and Herzegovina, 2 246 to the conflict in Croatia and 1 727 to the conflict in Kosovo.

Since the State Prosecutor's Office took over responsibility from local prosecutors for conducting exhumations of mass graves, efficiency in the excavation process has improved significantly, and there has been a decrease in the backlog of cases. In all, 283 exhumations took place over the reporting period, resulting in a recovery of 179 cases. Approximately 3 270 sets of unidentified remains are being stored in identification facilities throughout Bosnia and Herzegovina and need to be inspected by the Prosecutor's Office.

Adequate funds have been allocated to support the work of the Missing Persons Institute, but political pressure and attempts to undermine the Institute's work have persisted. Implementation of the Law on Missing Persons remains insufficient. Access to economic and social benefits and the creation of a financial support fund for families of missing persons need to be addressed.

**Regional cooperation and good neighbourly relations** form an essential part of Bosnia and Herzegovina's process of moving towards the EU. The country has continued its active involvement in regional initiatives, including the South East European Cooperation Process, the Regional Cooperation Council, the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty and the European Common Aviation Area Agreement. In January, Bosnia and Herzegovina took over the Presidency of CEFTA. Bosnia and Herzegovina continues to actively support the Igman initiative on reconciliation and the RECOM initiative.

Bosnia and Herzegovina has further developed its **bilateral relations with other enlargement countries and neighbouring EU Member States**. In April, the Chairman of the Council of Ministers of Bosnia and Herzegovina and the Prime Ministers of Croatia, Montenegro and Serbia confirmed commitment to enhanced cooperation at their meeting in Mostar. In May, the Presidents of Bosnia and Herzegovina, Serbia and Turkey, met in Ankara and adopted a Declaration committing them to mutual support on the road to EU membership. The Ministers of Economy and Trade of the three countries signed a Declaration on economic and trade cooperation. Bosnia and Herzegovina, Albania, Montenegro and Croatia signed a memorandum of understanding for support and cooperation in both the Trans Adriatic Pipeline and Ionian Adriatic Pipeline projects.

A Protocol on cooperation between the Ministries of Justice of Bosnia and Herzegovina and *Albania* has been signed, enabling better exchange of information related to legal issues and enforcement of legal reforms.

An Agreement amending the existing Treaty on extradition with *the former Yugoslav Republic of Macedonia* was signed. Agreements on double taxation and on cooperation in the field of health and medical sciences were also signed. A Treaty on extradition with *Montenegro* was ratified in March. Border demarcation remains pending. Negotiations to finalise a border agreement have continued.

Relations with *Serbia* have improved. In April, the Serbian President publicly asked for forgiveness for crimes that had been committed by any individual in the name of Serbia and the Serbian people, including in Srebrenica. A key development was the signing of a Protocol

on cooperation in prosecution of perpetrators of war crimes, crimes against humanity and genocide. An Agreement on extradition has been signed. An agreement on readmission with shortened procedure and several implementing protocols were signed between Bosnia and Herzegovina and Serbia, replacing the existing one. There were many high level reciprocal visits, a Joint Commission for Economic Cooperation was inaugurated and a memorandum of understanding for cooperation in the EU integration process was signed in December. Border demarcation remains to be addressed.

There are no official relations with *Kosovo\**, as Bosnia and Herzegovina has not recognised Kosovo as an independent state. The Ministry of Foreign Affairs of Bosnia and Herzegovina is issuing individual short-term visas to citizens of Kosovo. Agreements on cooperation in the defence industry and on military training have been signed with *Turkey*.

Relations with *Croatia* have intensified. An important development has been the signature of the Protocol on cooperation in the prosecution of perpetrators of war crimes, crimes against humanity and genocide. A Treaty with the Republic of Croatia on extradition and an Agreement on cooperation in the field of defence has been ratified. Several meetings at ministerial and technical level have taken place to address the implications of Croatia's accession (*See also chapter 1.3. Relations between the EU and Bosnia and Herzegovina*).

Bilateral agreements on local border traffic and border crossing points have been concluded, bringing previous agreements into line with the *acquis*. A joint interpretative note has been signed on transit through the Neum corridor and the use of the Croat Port of Ploce for the export of agricultural goods of animal origin from Bosnia and Herzegovina, for which the EU granted related derogations. Limited progress has been made in resolving outstanding bilateral issues, including property issues and border demarcation.

*Overall*, there has been very good progress in the field of judicial cooperation with the other countries of the region. Bosnia and Herzegovina has continued to participate actively in regional cooperation and to maintain good neighbourly relations. As regards cooperation with the International Criminal Tribunal for the former Yugoslavia, handling of Category II cases needs more efforts. Good cooperation between partner countries in the framework of the Sarajevo Process on refugees and internally displaced persons needs to continue. Political support for the work of the Missing Persons Institute needs to be ensured and the implementation of the Law on Missing Persons stepped up. Remaining border and property issues with neighbouring countries and legal obstacles to extradition with regard to war crimes need to be addressed.

### **3. ECONOMIC CRITERIA**

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

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

##### *Economic policy essentials*

The consensus between the authorities at different government levels on the economic policy essentials has somewhat strengthened following the agreement on a medium-term countrywide fiscal framework. The performance under the International Monetary Fund (IMF) Stand-By Arrangement remained broadly satisfactory until June 2013 when the IMF

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

Board approved the third review. The scope of the budgetary support operation planned by the World Bank has been narrowed due to the slow implementation and lack of tangible outcomes of legislated reforms in the area of cash transfers. A loan totalling €100 million under the EU macro-financial assistance instrument has been disbursed in two equal tranches in February and September, respectively, after a delay of one year and following a satisfactory compliance with the attached economic policy conditions. In January 2013, the authorities submitted their seventh Economic and Fiscal Programme, covering the period 2013-2015, which foresees gradual economic recovery and simultaneous fiscal consolidation. Its macroeconomic scenario appears optimistic, while the fiscal and structural reform strategies remain fragmented and do not present a coherent nation-wide formulation of economic and fiscal policies. *Overall*, despite some slight improvement, the consensus on economic and fiscal policy essentials remains weak.

#### *Macroeconomic stability*

In 2012, the economy contracted by an estimated 1.1%, following a mild recovery in the previous two years. The deterioration was due to negative developments in both domestic and external demand. Private consumption fell in 2012 due to falling real wages and employment and decelerating growth of retail lending. At the same time, the worsened external environment resulted in falling exports, which combined with stagnating imports led to a negative contribution of net exports to growth. Industrial production fell by 5.3% in 2012, compared with 5.9% expansion in the previous year. A mild economic recovery started in early 2013. Industrial output growth in the first seven months of 2013 averaged 6.8% year-on-year and merchandise exports rebounded markedly by close to 8.5%, reflecting stronger economic activity, but also base effects. Per capita income, measured in purchasing power standards (PPS), decreased in year on year comparison at 28% of the EU-27 average in 2012 from 30% in 2011. *Overall*, following a slight contraction in 2012, the economy started to recover in early-2013.

After a significant deterioration in 2011, the current account deficit grew only marginally by 0.9% year on year, reaching 9.5% of GDP in 2012. The trade deficit increased by 1.2% and reached 32.7% of GDP, as exports fell by 1.9%, while imports stagnated. The surplus in services fell slightly for a second consecutive year, thus contributing once again to a higher current account deficit. At the same time, the surpluses in the net current transfers and income accounts increased by 2.3% and 8.1%, respectively, thus partially offsetting the negative developments in the goods and services balances. In the first half of 2013, rather favourable trade developments supported a further narrowing of the current account balance.

The current account deficit in 2012 was financed mainly by external borrowing and, to a lesser extent, by foreign direct investment (FDI). As a share of GDP, net FDI increased to 3.5% in 2012, but remained well below pre-crisis levels. In the first six months of 2013 net FDI almost tripled compared to the same period a year before. Following a significant decline in the first half of 2012, the net foreign exchange reserves recovered in the second half of the year, positively influenced also by the drawing of two tranches under the Stand-By Arrangement with the International Monetary Fund. The stock of official foreign exchange reserves increased slightly by 0.6% in 2012 and rose further by 6.6% year on year in the first seven months of 2013, covering around six months of imports. Bosnia and Herzegovina's external public debt increased by 7.4% to 27.5% of GDP in 2012, while external private debt fell slightly over the year and reached 32.2% of GDP. In the first half of 2013, the external public debt rose further by 5.8% year on year. The World Bank group remains the largest creditor, while public international creditors account for over 90% of the country's external public debt. A large part of the debt is contracted on concessional terms with the average interest rate of all debt being at only 1.44%. *Overall*, despite some improvements in 2012 and



the first half of 2013, external imbalances still remain elevated. The financing of the deficit increasingly relied on foreign loans, leading to an increase in public gross external debt.

Unemployment remains very high and reached 28.6% in 2012 from 28% a year earlier. Total employment levels stagnated through 2012 and marginally decreased (- 0.6%) year on year in the first half of 2013. Some employment gains in services and in the public sector could not compensate for continued labour shedding in large parts of the private sector, in particular in construction, mining and agriculture. The number of employees in the public administration continued to rise throughout 2012 and the first half of 2013, thus further increasing the size of the already large public sector. . Unemployment was particularly high among the young population (63.1% for people aged between 15 and 24). The very high unemployment rate and the sizeable difference between the registered and survey-based labour figures suggest the existence of a fairly large informal labour market and significant structural rigidities, such as high rates of social security contributions, high labour taxes, and poorly targeted right-based benefits. Adjusted for inflation, the average gross wage fell by 0.5% in 2012 and dropped further by 1.7% in the first half of 2013. *Overall*, labour market conditions have remained difficult and structural rigidities have continued to hamper job creation.

Inflation pressure eased in 2012 and early-2013. Average annual consumer inflation moderated to 2.1% in 2012, as compared with 3.7% in 2011. The main factors behind the lower inflation were the decelerating food and transport prices, reflecting international price developments. The disinflationary trend continued in 2013, with annual inflation reaching 0.5% in July, mainly driven by price moderation in food, housing and transport. Price decreases were recorded in clothing and footwear and health, while on the other hand, the new hike of excises on tobacco, effective from the beginning of 2013, resulted in an 8.2% rise in tobacco prices. The monetary policy of the central bank continued to be conducted under a currency board arrangement -with the euro as the anchor currency- enjoying a high level of confidence and credibility. Monetary policy settings have remained unchanged. The growth of money supply moderated in the course of 2012 and monetary aggregate M2 increased by 3.4% at end of the year, as compared with a 5.8% rise in 2011. *Overall*, the currency board has continued to function well and monetary and financial stability have been preserved while inflation has moderated.

Following several consecutive years of fiscal consolidation, fiscal imbalances have grown again in 2012 and 2013, in parallel with the worsened external environment and the downturn in economic activity. The consolidated budget deficit increased to 2.1% of GDP -as compared with 1.3% in 2011-, due to higher expenditure growth (2.4%) which outstripped the rise of total revenue (0.9%). The share of general government in GDP remained relatively high, with government expenditure at approximately 45% of GDP and revenue at about 44% of GDP. Social security contributions – accounting for over 1/3 of the overall revenues – stagnated in year on year comparison. In the meantime, all main expenditure categories increased during the year indicating some loosening of the fiscal policy. Purchases of goods and services grew by 3.2%, while expenditures on social benefits increased by 1.5% and on wages declined by 0.4%, thus marginally decreasing their very high shares in overall expenditure. The composition of public spending remained highly unfavourable as current expenditure represented a very high 95% of total expenditures, while capital spending remained extremely low despite a 22% nominal increase over the previous year. Fiscal imbalances widened in the first quarter of 2013 mainly on the back of lower than budgeted revenues from indirect taxes, largely due to unexpectedly high VAT refunds. Lower revenues were partly compensated for by lower current spending (e.g. on wages) and by delays in the implementation of some public investment projects. The rebound of economic activity was felt in the public finances in the second quarter of 2013. On the other hand, the highway and road funds of both entities increased capital spending. The general government balance in the first six months of 2013

turned positive and amounted to 0.4% of annual GDP. *Overall*, the fiscal situation worsened in 2012 but improved slightly in the first half of 2013, amid a persistently low quality of public finances. The composition of public spending remains a concern. Public finance management has been somewhat strengthened and important long-delayed reforms have been initiated. The adoption of the Global Frameworks for Fiscal Policies 2013-2015 and 2014-2016 and despite a certain delay of the approval of the latter -after the lack of a medium-term fiscal programme at country level for a couple of years- improved fiscal coordination. The State and the Entities adopted their 2013 budgets before the expiration of the previous budget year. This was a welcome improvement compared with previous practices of late budget laws endorsement and temporary fiscal arrangements, which weakened the reliability of public finances and the planning and decision-making of economic agents. Some steps have been taken towards strengthening the sustainability of public finances in the Federation of Bosnia and Herzegovina. The Entity government has adopted in June 2013 a new organic budget law, introducing fiscal rules and providing for the establishment of a fiscal coordination body. The Federation Parliament endorsed in April 2013 a new law on privileged pensions providing for a comprehensive system that is financially sustainable and socially fair. Aiming to improve the long-term sustainability of the Entity's public finances, the Federation government has endorsed in September 2013 a strategy for contributory pension system reform. However, the quality of fiscal reporting remains low, thus impeding proper analysis and policy design. *Overall*, the sustainability and credibility of fiscal policy in Bosnia and Herzegovina have been somewhat strengthened but significant further efforts are still needed.

General government debt, albeit still at a relatively moderate level, kept on growing. After rising for a fourth consecutive year already, it exceeded 44% of GDP at end-2012 as compared with 40.9% of GDP a year ago. This was entirely due to external public debt, expanding by 7.4% to a total of 27.9% of GDP, while domestic debt fell slightly in the course of 2012. Both Republika Srpska and the Federation continued issuing short-term treasury bills and long-term government bonds to finance budget deficits and debt repayment obligations. In most occasions, the offers have met relatively high demand and secured relatively favourable conditions. Public debt servicing soared over twofold in recent years and reached over 3% of GDP in 2012. *Overall*, even though the debt-to-GDP ratio is still relatively moderate, its upward trend needs to be monitored carefully.

*Overall*, financial and monetary stability have been preserved as the low inflation environment was maintained and the currency board arrangement continued to enjoy a high level of confidence and credibility. However, rising fiscal deficit, substantial external imbalances as well as very high unemployment continue challenging the overall macroeconomic stability.

#### *Interplay of market forces*

The private sector's share in GDP is estimated to have remained broadly unchanged at around 60% of GDP in 2012. There has been no further progress with the privatisation agenda for a fifth consecutive year. In Republika Srpska, about 2/3 of the enterprises intended for privatisation have been sold already prior to the crisis, while some of the companies that were previously offered for sale and were not privatised were forced to declare bankruptcy. In the Federation, slightly over 40% of the initial stock of state-owned capital intended for privatisation had been sold by May 2013, unchanged from a year earlier. Most prices are liberalised, even though a number of regulated prices remain (e.g. for utilities). *Overall*, the privatisation process which has stalled during the crisis period has not advanced in 2013.

#### *Market entry and exit*

Companies are still required to register in both Entities before they can do business in the whole country. In Republika Srpska an ambitious reform -embracing amendments to 20 legal

acts in the entity- introducing a one-stop-shop business registration system has been launched targeting significant reduction of registration time (from 23 to 3 days), number of required procedures (from 11 to 5) and business start-up costs (from €500-750 to €200). In the Federation, a new Law on Companies -enabling simplification and improvement of the business registration process in terms of reduction of time and streamlined processes and lowering the level of establishing capital- has been adopted in September 2013. In the first half of 2013, alongside the improved external environment and increased economic activity, the number of newly registered companies increased by 3.7% year-on-year. Slow contract enforcement, limited access to financing, and political instability are considered to be among the most problematic factors for doing business in the country. No progress has been made in the field of market exit. *Overall*, business registration system has been somewhat simplified but significant administrative barriers remain for private-sector development.

#### *The legal system*

No substantial improvements can be reported as regards the legal system in Bosnia and Herzegovina, which remains complex and challenging. The standard of legislation is relatively high in some areas; nevertheless the practical implementation of laws is often poor due to the weak enforcement capacity of key institutions. The judicial system often does not function efficiently and does not cover commercial activities adequately. Enforcement of commercial contracts remains a lengthy process, which involves 37 procedures and takes an average of 595 days, unchanged from the previous year. *Overall*, a weak rule of law, corruption, and unreliable contract enforcement continue to hamper the business environment.

#### *Financial sector development*

The financial system of Bosnia and Herzegovina remained dominated by the banking sector holding about 84% of total assets in 2012. The share of claims on the private sector in relation to GDP decreased marginally year on year to about 56% in July 2013. Twenty-eight banks are operating in the country in 2013, compared with twenty-nine a year ago, as one bank's license was revoked in early-2013. There is one majority State-owned bank, while the rest are privately owned. Nineteen banks are under foreign ownership, accounting for slightly below 90% of the total banking system assets in 2012. Banking sector assets rose by 2.8% (July 2013 compared with July 2012), accounting for approximately 88% of GDP.

The financial position of domestic banks has improved. The total net revenues of the banking sector surged to €91.8 million in 2012. However, banking profitability remained broadly unchanged in the first half of 2013 with the return on average equity and the return on average assets staying at 4.2% and 0.5%, respectively as of end-June 2013. The quality of the loan portfolio deteriorated further reaching alarmingly high levels. The share of non-performing loans soared by 1.6 percentage points year on year to 14.3% in the second quarter of 2013. The capital adequacy ratio increased to 17.7% in the second quarter of 2013 up from 16.7% a year earlier, comfortably above the legal minimum of 12%. Liquidity indicators deteriorated during the same period with the ratios of liquid to total assets falling from 24.8% to 24.1% and of liquid assets to short-term financial liabilities from 43.5% to 42.2%. Twenty-six banks are participating in the deposit guarantee scheme. Its coverage level remained unchanged at around €18 000. *Overall*, despite the elevated and further rising non-performing loan ratio, financial stability was safeguarded.

The financial sector has not been very supportive to growth in 2012 and early-2013. Annual total credit growth moderated from 5.6% in 2011 to 4.9% at the end of 2012 and went further down to 2.5% year on year in July 2013, with total loans accounting for about 63% of GDP. Corporate lending has been stagnating throughout 2012 but there were signs of recovery in early-2013 as it grew by 2% year on year in July 2013. Retail lending has been moderating throughout the whole period and posted only a marginal growth of 1.8% in July 2013. Private

sector credit may have been negatively affected by the high financing needs of the government, even if the magnitude of the potential crowding out is likely to be rather limited, given the relatively low share of government sector in total credits. The recovery of deposits continued though at further moderating rates. Total banking deposits reached 53.1% of GDP in July 2013. Households remained the main contributors to this development, increasing their savings by 8.3% year on year. The total loans-to-deposits ratio slightly moderated to 118.4% in July 2013. *Overall*, the financial sector has not been very supportive to growth, partially due to some crowding out.

The downward correction on the two stock markets in Bosnia and Herzegovina continued. The combined turnover of the bourses soared over twofold year-on-year, mainly influenced by the placed T-bills issues of both entity governments. The combined market capitalisation inched up to approximately 33% of GDP from around 30% a year ago. The insurance sector remained small, accounting for approximately 2.1% of GDP in 2012. The annual growth of premiums accelerated slightly to 3.5% in 2012 from a 3.4% annual rise in 2011. The market was dominated by the non-life insurance segment, which accounted for 84.9% of the total. Twenty-six companies were operating on the market in 2012, up from twenty-five in the previous year. *Overall*, financial intermediation by the non-banking sector remained shallow.

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

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

The quality of public finances remains low, even though public finance management has been somewhat strengthened and some steps have been taken to improve public finances sustainability, in particular in the Federation. Unemployment remains very high. The stalled privatisation process, along with the prevailing obstacles to private-sector development and the unfavourable composition of budgetary expenditures continue to undermine a more growth-oriented allocation of resources. No progress has been made towards creating a single economic space within the country. *Overall*, the functioning of market mechanisms remains hampered by the large government sector, characterised by low spending efficiency and sizeable interference in the economy.

#### *Human and physical capital*

Information and statistics on human capital remains scattered and scarce, thus preventing effective policy-making. Although enrolment rates in higher education increased slightly in the 2012-2013 academic year, progress in the field of education has been very limited. The new coordination format for education reform, which had been agreed in 2012, is not effective as the Conference of the education ministers in Bosnia and Herzegovina, foreseen to be held every second month, met twice since March 2012. No progress has been made with regard to one of the major bottlenecks of the education system, namely the mismatch between the qualifications needed on the labour market and the profile of graduates coming out of the education and vocational training systems. Participation in the labour market is still very low, with an activity rate of 43.6% in 2013, as compared with 44% in the previous year. *Overall*, the proper functioning of the labour market continues to be hampered by structural rigidities and the weak performance of the education and training system.

The investment-to-GDP ratio remained at relatively low level of about 20.3% in 2012, slightly increasing in year on year comparison. Net FDI flows surged by 70.6% – albeit from a very low level –, reaching 3.5% of GDP. The structure of FDI inflows improved slightly with rising green-field investments in tradables (manufacturing industry, in particular) at the expense of the financial sector. Some progress, however slow, can be reported in the improvement of the road and rail infrastructure on the Pan-European corridor Vc. A number

of projects of rehabilitation of road and railway infrastructure are being implemented. Maintenance and upgrading of roads continued, but progress was slow. *Overall*, despite the difficult external environment the country seems to have gained some attractiveness towards foreign investors. Infrastructure improved slightly, but still requires repairs and modernisation.

#### *Sector and enterprise structure*

Market liberalisation remains insufficient in many sectors as most utility providers still do not apply market prices. No progress has been made on unbundling electricity networks. There was some slight progress towards a competitive telecommunications market. New licences were granted for internet services and network operators. The level of broadband internet access has increased marginally remaining at relatively low level of 11.2%. *Overall*, limited progress was achieved on liberalisation of network industries.

There were no major shifts in the sectoral structure of the economy in 2012. Services accounted for 71.2% of gross value added (*up* from 68.4% in 2011), industry for 20.1% (21.8%) and agriculture for 7.7% (8.4%). The share of construction fell for a fourth consecutive year reaching 4.9%. The traditionally high share of public administration, education and health increased slightly to 23.3%. The large informal sector which is fuelled by weaknesses in tax and expenditure policies and in law enforcement, including the fight against corruption, remains an important challenge. *Overall*, there have been no major changes in the structure of the economy. The informal sector is an important challenge.

#### *State influence on competitiveness*

No progress has been made in reducing the state's influence in the economy. Direct budget subsidies to industry and agriculture increased to 1.6% of GDP in 2012, *up* from 1.5% in the previous year. In the first quarter of 2013, they decreased 21.3% year on year. Despite the establishment of a state aid authority and the appointment of a secretariat, both are not fully operational as implementing legislation and budget remains to be adopted. Transparency of all state aid granted in Bosnia and Herzegovina is not yet ensured as the country fails to provide comprehensive state aid inventory consolidated at the country level. *Overall*, state aid remained high and the state continued to influence the economy through state-owned monopolies.

#### *Economic integration with the EU*

Bosnia and Herzegovina remains an open economy, in spite of some slight decline of trade openness in 2012. Total trade (the sum of the volume of exports and imports of goods and services) fell to 84.9% of GDP in 2012, as compared with 87% in 2011. The EU continues to be the country's largest trading partner. Its share in total exports has decreased marginally to 59.8%, while the share in imports has grown to 47.3%. The shares of the other main trading partner -the CEFTA block- fell slightly to 28.7% of total exports and 22.2% of total imports. In 2012, the real effective exchange rate based on the country's 20 largest trading partners appreciated slightly by 0.4% indicating some marginal price competitiveness losses. The share of FDI stocks from the EU to total FDI remained broadly unchanged and stood at 44.1% in 2012. *Overall*, the already high level of trade integration with the EU increased further.

## **4. EUROPEAN STANDARDS**

This section examines Bosnia and Herzegovina's capacity gradually to approximate its legislation and policies with the *acquis* in the areas of the internal market, sectoral policies and justice, freedom and security, in line with the Stabilisation and Association Agreement (SAA). 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 preparation.

## 4.1. Internal market

### 4.1.1. Free movement of goods

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

In the field of **standardisation**, the Institute for Standardisation of Bosnia and Herzegovina (BAS) has adopted 77% of the European standards (ENs) required for membership of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). The BAS adopted 2 806 European standards (ENs) as national standards, bringing the total to 16 467 ENs. The Enquiry and Notification system (ENP system) and Standards Management and Information System are established and fully operational. The technical competence of BAS personnel on standardisation and standardisation information systems has significantly improved. BAS performed the third annual supervisory check on its quality management system. BAS continues to work on raising public awareness about the importance of standardisation. No conflicting ex-Yugoslav mandatory standards were withdrawn.

There were no developments on **conformity assessment**.

In the field of **accreditation**, the Institute for Accreditation of Bosnia and Herzegovina (BATA) signed the European co-operation for Accreditation Bilateral Agreement (EA) for testing and calibration laboratories and inspection bodies. BATA became a full member of International Laboratory Accreditation Co-operation (ILAC). Following the signature of an EA Bilateral Agreement, BATA joined the ILAC Mutual Recognition Arrangement in the fields of calibration, testing, and inspection bodies.

BATA developed credible and internationally recognisable schemes in the area of accreditation of medical laboratories, product certification bodies, bodies certifying quality and environment management systems and bodies certifying persons. However, still no request for accreditation has been submitted. BATA personnel were trained in the above-mentioned fields. BATA accredited a total of 57 conformity assessment bodies. The Law on Accreditation still needs to be amended to bring it in line with the *acquis*. The role of accreditation in authorising conformity assessment bodies at both State and Entity levels still needs to be ensured.

In the field of **metrology**, the Institute of Metrology of Bosnia and Herzegovina (IMBiH) became a member of the European Metrology Research Programme and associate member of the Euro-Asian Co-operation of National Metrology Institutions (COOMET). IMBiH representatives participated in the work of European technical committees on metrology (EURAMET, WELMEC, BIPM, and IOML). The IMBiH also participated in four inter-comparisons. Its laboratory capacity was increased and its areas of measurement were extended to volume, pressure, electrical quantities, time and frequency. The IMBiH performed the third annual supervisory check on its quality management system. An external audit of the quality of the Laboratory for Mass and Related Quantities related to the technical evaluation of laboratory activities in the field of pressure was performed.

Intensive training for staff continued. IMBiH personnel upgraded their expertise by participating in European development programmes and co-operating with EU Metrology Institutes. The Institute published the first edition of the Official Gazette of the Institute and continued to raise awareness of the importance of metrology. A development strategy for the metrology system, the new Law on Metrology, merging the existing legislative framework and laying the foundation for implementation of the *acquis* and various by-laws, has yet to be

adopted. Co-operation and co-ordination between the IMBiH and the metrology institutes of the Entities need further improvement.

The Market Surveillance Agency and inspection bodies of the Entities and of the Brčko District of Bosnia and Herzegovina has initiated, implemented and coordinated the activities of proactive and reactive **market surveillance** and projects. As part of proactive surveillance, 15 projects were carried out. In reactive surveillance, 42 cases were fully completed. The Agency undertook 236 inspection controls, after which 9 494 unsafe products were withdrawn from the market and 4 447 destroyed.

Businesses have brought 1 218 products into compliance with safety requirements by order of inspections and 15 unsafe products were recalled from consumers. The Agency carried out 10 training sessions for inspectors of the Entities and the Brčko District. Co-ordination and co-operation between the Agency and Inspections of the Entities and the Brčko District continued through the regular work of the Coordination Board.

To inform the public about unsafe products on the market, the Agency published 74 internet notifications with a description of the risk and instructions for consumers. It also issued two bulletins about unsafe products found on the market and translated and published 39 weekly RAPEX notifications about dangerous products found on the EU market. It has participated in the work of the General Assembly of Product Safety Enforcement Forum of Europe (PROSAFE) as a full member. In the role of observer, it took part in joint actions of surveillance of products for children, carried out by EU Member State market surveillance bodies.

Representatives of the Agency attended seven Administrative Co-operation Working Group meetings as observers. The Agency has signed a memorandum of understanding on market surveillance and consumer protection with Hungary's administration for consumer protection. Full alignment of the Law on market surveillance with the *acquis* remains to be achieved.

There were no developments as regards the 'New and Global Approach' and the 'Old Approach' product legislation.

On **consumer protection**, the technical capacity of the relevant State-level and Entity institutions and their public information activities both grew. Relations between the government and non-governmental organisations improved. The report on the execution of the 2012 State-level annual consumer protection programme was adopted. The 2013 State-level annual consumer protection programme as well as a new draft State-level Consumer Protection Law aligned with the *acquis* have yet to be adopted.

The Ombudsman's Office for Consumer Protection is fully staffed. In 2012, the Ombudsman handled 317 cases, of which 295 were resolved. The Ombudsman delivered 10 expert opinions, provided 664 pieces of legal advice and answered 1050 requests for information. The Ombudsman issued recommendations and guidelines in the telecommunications sector, heating and water supply.

*Overall*, there has been some progress in the area of free movement of goods and consumer protection. Further efforts are needed to adopt a legislative framework harmonised with the horizontal *acquis* and to continue aligning with the product-specific *acquis*. It remains essential to strengthen institutional capacity and coordination between relevant institutions. Prioritisation of legal alignment and related capacity-building still remains to be carried out in accordance with market needs. Major steps need to be taken to achieve a fully-functioning single economic area. Preparations in this field are moderately advanced.

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

As regards the **movement of persons**, Bosnia and Herzegovina concluded an agreement on employment of its citizens in Slovenia. An agreement was also reached on the exercise of rights to unemployment benefits between the Federation Employment Institute, the Republika Srpska Employment Institute and the Brčko District Employment Institute. This could be a first step towards coordination of social security within Bosnia and Herzegovina. There are still considerable differences in labour legislation and social security systems between different levels of governments that remain an obstacle to the movement of workers within the country. Alignment with the EU standards remains at a very early stage.

There were no developments on the **right of establishment** and on the **freedom to provide cross-border services**. Preparations for aligning with the Services Directive have not yet started. There is no distinction between the treatment of EU operators providing cross-border services and those providing services through being permanently established in the country.

In the field of **postal services**, the Agency for Postal Traffic issued one more licence for private courier services, bringing the total number to 13. A postal strategy at State-level does not exist. The new State-level Law on Postal Services aiming to achieve further harmonisation with the *acquis* was not adopted. The universal service obligation is still set above the minimum requirement laid down in the postal *acquis*. The situation is the same with the scope of the reserved area, which is broad in comparison with the postal *acquis*. The lack of harmonisation between the Entities and the State-level regarding the scope of universal services and reserved services raises serious transparency issues and continues to undermine legal certainty. Administrative capacity at the State-level Ministry of Transport and Communications regarding postal services remains weak.

On **financial services**, the Federation has amended and the Republika Srpska has adopted a new Law on the Banking Agency to align them with the international regulatory framework on the exchange of information and protection of confidentiality. Both Entities have adopted implementing regulations defining content and deadlines for reporting by banks, leasing companies and micro-credit organisations. Reporting between the Entities is harmonised. The coordination of banking supervision between the Entities remained satisfactory. The Entities' banking supervisory agencies extended temporary measures on loan repayments until the end of 2013. Stress tests are being carried out continuously. Capitalisation of banks remains adequate. Guidelines for establishing a list of systemically important banks were adopted.

Basel II recommendations on banking laws and Basel Banking Supervision Committee standards are yet to be fully implemented in both Entities. The revised Strategy for the introduction of the International Convergence of Capital Measurement and Capital Standards — Basel II was adopted by both Entities in February. The Federation amended the laws on banks and leasing in order to align it with the State-level anti-money laundering law. Republika Srpska adopted amendments to a number of decisions to align them with the same law and at the same time amended its Law on Banks in the section regulating interim management.

The Law on the Protection of Consumers of Financial Services in the Federation has been drafted, but is yet to be adopted after completion of the public consultation procedure. Despite the existing legal framework, the Ombudsman for financial services is not yet operational in the Federation. Memoranda of understanding with supervisors of foreign banks present in the country are yet to be signed. Further alignment with the *acquis* is required.

Both Entities adopted implementing legislation on *insurance services*, on the conditions for establishment and operation of brokerage firms' branch offices in another Entity and on marginal solvency. The Federation also adopted a decision on temporary funding of the



protection fund and Republika Srpska adopted a rulebook on the calculation of the minimum capital of brokerage firms and implementing guidelines on prevention of money laundering and financing of terrorism. A controversial draft Federation Law on compulsory traffic insurance was introduced into parliamentary approval procedures on the proposal of the Federation Ministry of Justice, despite serious objections provided by the Insurance Agencies at State and Federation level on its *acquis* incompliance.

The legislation remains partially harmonised with the *acquis*. The Law on the Insurance Agency of Bosnia and Herzegovina and the Entities' legislation on insurance and insurance supervision have yet to be fully aligned with the Solvency II Directive. There are still differences between the Entities' legislation, including the penalties imposed in case of serious offences. The Administrative Board of the Insurance Agency of Bosnia and Herzegovina has not been re-appointed by the Council of Ministers since June 2012. This has led to the inability of the Administrative Board to perform its role under the law, blocking legislative progress. The regulatory and enforcement powers of the Insurance Agency of Bosnia and Herzegovina remain to be reinforced and clarified. The Insurance Agency published in August the annual statistics on the insurance market in Bosnia and Herzegovina with improved indicators on the situation in the insurance sector. However, the statistics, reporting and data exchange between the Entity agencies and the Insurance Agency of Bosnia and Herzegovina remain insufficiently developed. The Federation and State-level have not yet established arbitration capacities.

On *capital markets*, the Federation amended its Law on the Securities Market to mandate prior approval by the Securities and Exchange Commission for the increase or reduction of the equity share of natural and legal persons within a trading agent. It also amended several rulebooks regulating participation on the market, reporting requirements and deadlines, and requirements for the auditing of investment funds' financial statements.

The Entities' legislative frameworks are not fully aligned with the *acquis* nor fully harmonised with each other. Republika Srpska has amended its Law on takeover of joint stock companies while the same laws are yet to be adopted by the Federation and the Brčko District. The Brčko District has not yet adopted the new Law on the securities market. Regulation and oversight over the securities market remain fragmented and participants in the securities market with their head office in one Entity still need to obtain an additional licence to operate in the other.

The Federation initiated the drafting of new **company law** that would enable simplification of the business registration process. The Republika Srpska company law has been amended in order to decrease the initial capital for establishing a limited liability company to at least BAM 1 and to create legal precondition for transforming of the tax debt into the share of the company's ownership. Republika Srpska adopted a new Law on business registration to streamline and simplify the registration procedure and to prepare the environment for the introduction of a one-stop-shop system for business registration. The new Law will be applied as of 1<sup>st</sup> December 2013.

The legislation on *corporate accounting* and *auditing* is broadly aligned with the *acquis* and almost fully harmonised between the Entities. The Entities apply International Financial Reporting Standards (IFRS) to all companies, irrespective of their size. In Republika Srpska, IFRS may be used by small and medium-sized companies if they so provide in their accounting policies. Companies with public responsibility and those listed at the stock exchange are obliged to fully apply IFRS.

The Federation Ministry of Finance adopted a rulebook on licensing of auditors and auditing companies that conditions the issuance of licences by payment of a fee for membership in the Chamber of Auditors, ensuring adequate funding of the Chamber's operations. The Federation

Chamber of Auditors recruited a full-time quality assurance supervisor and the Management Board of the Chamber appointed members of the Committee for Audit Standards and Ethics. The rulebooks on supervision and methodology of quality are under preparation but remain to be adopted. In Republika Srpska, the Association of Certified Auditors and Accountants continued to implement quality assurance reviews. The Ministry of Finance performs the independent oversight of audits.

Further alignment with the *acquis* is needed on cross-border mergers for Republika Srpska and on take-over bids for both Entities. There is no system for sharing data between different company registers. The Federation Government has not yet appointed members to the independent Federation's Public Oversight Board.

*Overall*, the country made very limited progress on the movement of persons, services and right of establishment. Some progress was made on company law, accounting and auditing. There was limited progress in aligning financial services legislation. No progress has been made in establishing a legal framework for providing universal postal services across the country. Preparations are still at an early stage.

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

On free **movement of capital**, Bosnia and Herzegovina continues to apply relatively liberal rules on inward capital flows. The legal framework is not harmonised. In both Entities, the legislation limits the amount that non-residents may transfer without bureaucratic burdens.

Regarding foreign investment, there is a lack of coordination throughout the country for designing and implementing legal reforms. Capital markets are not fully functional. Creation of a single economic space would be the key to attracting more foreign investment. Overall, foreign direct investment inflows increased in 2012 and reached 3.8% of the country's GDP, though still lower than before the global crisis. Investment increased mainly in non-financial sectors, most notably in the manufacturing of base metals and wholesale trade. Restrictions on foreign direct investment continue to apply in the media, where a 49% limit has been imposed on foreign capital.

Within the central bank, Bosnia and Herzegovina has a modern **payment system** for giro clearing and real-time gross settlement operations. In 2012, the value of transactions in these two categories increased by 6.4% compared to 2011. Within the commercial banking system, intra-bank transactions made up 66% of the total number and 52% of the value of transactions.

*Overall*, there was no progress regarding free movement of capital. Preparations in the area of free movement of capital remain moderately advanced, and there needs to be further alignment with the *acquis*, ensuring countrywide harmonisation and creating a single economic space.

#### *4.1.4. Customs and taxation*

The **customs** tariff was updated in line with the 2013 version of the EU Combined Nomenclature. In line with the Interim Agreement, Bosnia and Herzegovina reduced all customs duties to 0% for all industrial products. Rules of origin continue to be used in accordance with the Interim Agreement. Bosnia and Herzegovina signed the Regional Convention on Pan-Euro-Med preferential rules of origin but still needs to ratify it. Intellectual property rights (IPR) enforcement laws were adopted. Operational capacity on customs IPR enforcement should be improved. The draft Customs policy law has to be adopted and its implementing regulation needs to be finalised and adopted.

The Indirect Taxation Authority (ITA) has implemented simplified customs procedures to speed up the clearance procedure on entry and exit of goods. The ITA introduced local

clearance at import and the status of authorised consignor and authorised consignee in the customs transit procedure, accelerating customs clearance procedures and reducing expenses linked to the import and export of goods. ITA is drafting secondary legislation for the implementation of Authorised Economic Operator (AEO) status to further improve relations between customs and trade. This will enable the country's economic operators to be recognised as reliable partners in the global supply chain.

The operational capacity of customs to apply simplified procedures and security measures needs to be improved with a focus on audit principles, risk analyses and by introducing the concept of AEO. A unit for risk analysis has yet to become operational. The lack of a fully-developed risk analysis results in frequent and poorly targeted and therefore inefficient customs controls. The capacity of the customs laboratory needs to be strengthened.

Bosnia and Herzegovina made limited progress in preparing for accession to the Common Transit Convention. The implementation of a new customs declaration processing system has not yet started, although a decision for the relevant system (Asycuda) has been made. A module for cross-checking financial data of taxpayers was added to the VAT system and improved targeted audits. The eVAT module for electronic submission of return sheets was developed, but has not yet been implemented, pending secondary legislation. Also, business processes should be designed for all types of tax.

In the area of indirect **taxation**, the Law on value added tax (VAT) and Law on Excise and legislation on free zones have yet to be aligned with the *acquis*. In the area of direct taxation, the Federation Tax Administration Law has been amended to change the sequence of tax collection, whereby the basic debt is paid first and then the compulsory collection charge, penalties and interest rate. Regarding the income of persons from dependent activities, the Federation Income Tax Law has been amended to exceptionally define as tax residents of the Federation residents of Republika Srpska and of the Brčko District, if their employer is a resident of the Federation. Amendments to the Federation Law on a Unified System for Registration, Control and Collection of Contributions have abolished the obligation to submit an annual registration of contributions data.

Republika Srpska has adopted a new Contributions Law, which provides for redistribution of contribution rates, whereas the cumulative contributions rate has remained unchanged. The new Republika Srpska Law on Games of Chance was adopted to improve the monitoring system, prevent money laundering and financing of terrorist activities. Republika Srpska has also adopted a law that provides for special methods to settle tax debts of companies that suffered from the economic and financial crisis, such as by postponing the payments due up to one year. The rulebook on the enforcement of the Profit Tax Law has been amended to align it with amendments to the Republika Srpska Profit Tax Law. The Brčko District Profit Tax Law has been amended to align it with relevant Entity legislation and to regulate additional benefits for legal persons in transition from a cash to an accrual basis, when assessing the tax base and incentives for investment and export. Fiscal cash registries are still to be introduced in the Brčko District.

The exchange of tax information between the Entities has improved. Rules and procedures on direct taxation should be further harmonised. The enforcement of legislation at all levels remains a priority. There is at present no cross-checking of data between tax institutions, nor joint audits.

Regarding ITA's operational and administrative capacity, its Governing Board adopted a new rulebook on the authority's internal organisation. The rulebook needs to be amended to address the re-design of jobs. In the tax administration, operational jobs should be replaced by enforcement, audit and service jobs.

*Overall*, progress was made in the area of customs and taxation. There were positive developments implementing simplified procedures, modernising IT systems and enhancing the legislative framework for the collection of direct taxes. Substantial efforts are required to align legislation with the *acquis* to ensure proper implementation of the Interim Agreement, to re-design jobs and to provide services for businesses and taxpayers. Preparations in this area are at an early stage.

#### 4.1.5. *Competition*

Regarding the area of **anti-trust and mergers**, Competition Law has yet to be fully aligned with the *acquis*. The Competition Council's (CC) activities focused on mergers and abuses of dominant market positions. The CC adopted eight antitrust decisions and 16 merger decisions and issued 25 expert opinions. Eight mergers were prohibited, the other eight were authorised unconditionally. The CC imposed fines totalling about €1.8 million on companies that infringed competition rules. The Court of Bosnia and Herzegovina rendered six rulings initiated by the parties, confirming the final decision of the CC. The CC's staff requires further training to improve the authority's investigative capacity.

Amendments were adopted regarding the Entities' Laws on Public Undertakings enabling the application of the EU's competition principles to public undertakings and undertakings to which special and exclusive rights were granted.

The **State Aid** Council was established and held its first sessions. The Chairman of the Council resigned in April since the Council and its Secretariat were not operational due to a lack of financial resources. The financing of the authority at the State-level and by the Entities has been secured in the meantime. The appointment of a new chairman is required to avoid blocking of operations by the Council. Rules of procedures and a rulebook on the internal organisation of the Secretariat were adopted. The Secretariat is still not fully operational. A by-law on the procedures and the sample forms for the submission of notifications and for the monitoring of state aid was adopted. A by-law establishing the criteria for granting state aid which is not fully in compliance with the *acquis* is in the process of being adopted. The inventory of aid schemes instituted before the establishment of the State Aid Council has been completed. The aid schemes have not yet been aligned with the Union's competition rules. Transparency of all state aid granted in the country has not yet been ensured.

*Overall*, some progress was made in the area of competition. Further efforts have to be made to improve the current anti-trust legislation and to improve the administrative capacity of the Competition Council. To comply with the Interim Agreement, the country must fully implement state aid legislation and set up the institutional framework for effective control of all state aid granted in the country. Preparations in this area remain at an early stage.

#### 4.1.6. *Public procurement*

Legislative alignment in the public procurement area has not advanced and remains to be addressed, particularly as regards alignment with EU Directives 2004/17 and 2004/18.

The regulation of the concessions system is still fragmented due to different legislation at the State, Entity, Cantonal and District levels. This contributed to legal uncertainty, high transaction costs and fragmented national economic space. The Public Procurement Agency (PPA) recruited two new employees and the Procurement Review Body (PRB) is awaiting new appointments or renewals of its members' mandates. While administrative capacity remained low, given the highest number of cases in the region, the rate of resolved appeals was satisfactory. The online publication of PRB decisions has not resumed. The PPA has been active in organising training and upgrading its IT system.

*Overall*, preparations in the area of public procurement are at an early stage. The quality, integrity and transparency of internal operations of PPA and PRB need to improve substantially across the country.

#### 4.1.7. *Intellectual property law*

The functioning of the Institute for Intellectual Property improved further. Training and awareness-raising efforts on the importance of intellectual property rights continued.

With regard to the **copyright and neighbouring rights**, the Institute received a total of five applications for a licence for collective management of copyright and related rights and processed five of them. It revoked the authorisations that had been granted to four collective management societies after the entry into force of the new copyright law. For the time being, the system of collective management works well enough but there is room for improvement. A total of 32 copyright works and related rights entered the Institute's records and certificates of deposit and registration were issued.

Regarding **industrial property rights**, the Nairobi Treaty on the Protection of the Olympic Symbol has been ratified, as well as the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods. The International Convention for the Protection of New Varieties of Plants (UPOV Convention) has yet to be ratified. The Institute for Intellectual Property received 60 (national) and 263 (extension) patent applications and processed 245, including some from previous years. The Institute has started issuing patent specifications at the request of the patent holder, as well as supplementary protection certificates for medicinal products intended for humans or animals or for plant protection products. As for trademarks, the Institute received 730 applications and processed 1 057, including many from previous years. The Institute received 26 industrial design applications and issued 23 decisions granting industrial designs. There were no applications for protection of geographical indications. The Board of Appeal of the Institute received 23 new applications and completed five appeal proceedings. IT equipment was improved.

Concerning **enforcement**, the holders of intellectual property rights filed 39 requests for customs measures on the basis of protected trademarks. Decisions were issued on 35 requests whereby customs measures were approved in accordance with the provisions of the Trademark Law, and four requests were rejected. A total of 17 decisions were issued on temporary confiscation and seizure of goods. Training continues to be conducted for the Indirect Taxation Authority (ITA) staff. A database of rights holders and trademarks designed for customs protection measures has been published on the ITA intranet. ITA seized counterfeit goods valued at about €14 000. In two out of eight cases, the goods were destroyed, while in six cases, a lawsuit was filed and is awaiting a court verdict. The State Investigation and Protection Agency (SIPA) and Entity Inspectorates intensified their work in the field on intellectual property rights. SIPA seized counterfeit goods valued at about €180 000. It submitted 24 reports on criminal activities to the relevant Prosecutor's Office. The Republika Srpska and the Federation Inspectorates conducted a media campaign to raise awareness about the importance of intellectual property rights protection and informed business entities about new legislation and inspection activities.

Republika Srpska market inspectors conducted 95 inspections on the protection of intellectual property. Irregularities were detected in 21 cases and the business entities were issued with 15 decisions to remedy irregularities. Goods were seized in one case and four banning measures were imposed. Three minor offence warrants were issued, worth a total of €5 000, and two minor offence reports were filed. The Federation market inspectors conducted 593 inspections related to the protection of copyrights and related rights (software licences). Irregularities were detected in 180 cases. In all, 24 offence warrants were issued, worth a total of €22 250.

A reliable system for collecting, analysing and exchanging data among the various institutions involved is still lacking. An enforcement strategy is still not in place and enforcement as well as coordination among enforcement bodies at various levels need to be improved.

*Overall*, preparations in the area of intellectual, industrial and commercial property rights are well advanced. Further efforts are required to improve enforcement and coordination.

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

Regarding **employment policy**, neither the Federation nor the Brčko District adopted operational plans to implement Bosnia and Herzegovina's Employment Strategy 2010-2014. The Republika Srpska government adopted an operational plan for 2013. Employment stagnated through 2012. Participation in the labour market continued to decline (53.9% in 2012) as did the employment rate (down to 38.5% in 2012). Unemployment rose slightly further to 28.6% in 2012. About 80% of those unemployed are long-term unemployed. Youth unemployment remains at alarming levels (at 63.1% in 2012).

The three Institutes for Employment in Bosnia and Herzegovina (RS, FBiH and BD) signed an agreement on the right of monetary compensation for unemployed persons. The agreement regulates between them the conditions and harmonised procedures for obtaining rights on monetary compensations.

Labour market challenges remain considerable and are becoming more serious. The Entity governments lack the capacity to implement active labour market measures. The labour offices at municipal level remain overloaded with the administration of health insurance for the unemployed. This prevents them from performing other tasks to support job seekers (e.g. job counselling). The lack of coordination among labour institutions in the country remains a concern.

Concerning **social policies**, there was no significant development regarding *labour law* and *health and safety at work*. Labour inspectorates remain understaffed and unable to perform their tasks.

in the field of *social dialogue*, the Government and Assembly of the Brčko District signed a co-operation agreement with the Association of Employers, the Chamber of Commerce and the Trade Union, with the aim of improving the business and employment environment in the District. Social dialogues at Entity level ran smoothly. The Economic and Social Council has not been established at State-level because of the unresolved issue of representation of one of the social partners.

On *social inclusion and protection*, vulnerable groups (children, Roma and returnees) are not adequately protected, whether at State or Entity level, or in the Brčko District. Republika Srpska adopted a revised legislative framework to improve the overall social protection system. The Brčko District is preparing a revised legislative framework. The Federation is revising legislation with the aim of introducing a minimum level for social benefits. Social inclusion strategies remain to be adopted in Republika Srpska and at State-level.

Social protection remains largely inefficient, despite a relatively high level of public expenditure. Pension systems are facing financial difficulties, as they are coping with privileged pensions. In May, the Federation adopted a Law on the reform of privileged pensions, allowing reform to start.

Regarding **public health policy**, the reform of the payment system in secondary healthcare was further developed. Republika Srpska started implementing a new payment system based on the model of Diagnostic Related Groups, improving the efficiency and quality of secondary healthcare. The Federation is preparing for the implementation of the new payment system. However, activities to improve transferability of health funds have yet to be

undertaken. There was some progress in developing a reporting system on National Health Accounts in line with WHO and EUROSTAT requirements. There were no steps to reduce fragmentation of the entire health system and to harmonise reforms. The implementation of Entity health strategies is slow. Regarding eHealth, a system for electronic health records and electronic prescriptions for medicines was established in Republika Srpska.

In the field of *tobacco control*, a report on the global tobacco epidemic in 2013 was submitted to the WHO. The results of the Global Youth Tobacco Survey will inform policy makers on tobacco consumption among young people in the country.

In the field of *communicable diseases*, the Council of Ministers adopted the 2011-2016 Action Plan for implementation of an HIV and AIDS Response Strategy in Bosnia and Herzegovina. There were some developments in setting up an early warning system. A surveillance and control system for tuberculosis (TB) was introduced at State, Entity and Cantonal/regional level. A more efficient system of management for TB, including monitoring and evaluation, was introduced, as well as monitoring of medicines. An Action Plan for Preservation of the Status of a Country without Poliomyelitis 2012-2015 was adopted by the Council of Ministers of Bosnia and Herzegovina. A State-level Commission for Verification and Control of Measles and Rubella was established.

Regarding *blood, tissues, cells and organs*, a set of implementing legislation regulating the fields of organ transplantation, tissue banks and stem cells was adopted at Entity-level. Initiatives to propose legislation at State-level continue to be blocked undermining efforts to put in place a much-needed legislative framework to regulate transplantation activities.

In the field of *mental health*, Bosnia and Herzegovina established a network of community services, and is now making efforts to develop staff competencies.

In the field of *drug abuse prevention*, the Federation adopted a Plan of Action against drug abuse 2012-2013. In the field of *nutrition*, a policy to improve the nutrition of children under five was adopted in Republika Srpska. In the field of *cancer screenings*, further steps are needed to improve reporting on cancer and implementation of EU cancer screening guidelines. As for *rare diseases*, in Republika Srpska, access to financing for treatment of rare diseases was approved.

*Overall*, there was very little progress on employment and social policies. The same applies to social protection. Little progress was made in public health regarding implementation of the new payment system and the development of the reporting system on National Health Accounts. In several areas, public health legislation and action plans still need to be implemented, and further efforts need to be made on social inclusion and protection and on employment policy. Legislative approximation still needs to be strengthened.

#### 4.1.9. Education and research

The Conference of Ministers of **Education**, foreseen to be held every second month, met twice since March 2012. Coordination of ministers in the Federation was not effective, since there are two coordination bodies acting in parallel, with the Federation Coordination of Ministers of Education only coordinating ministries in six Cantons. There was *de facto* coordination among the ministers of the Cantons implementing curricula in the Croat language. An inter-sectoral commission for the preparation of the Action Plan for the implementation of the Baseline Qualifications Framework in Bosnia and Herzegovina was established with a mandate for only one year.

In Republika Srpska, two higher education institutions were accredited, and another six are awaiting accreditation. In the Federation, the Tuzla Canton amended its Higher Education Law to prepare for accreditation.

The Centre for Information and Recognition of Higher Education Qualifications issued new guidelines on criteria for validation and recognition of international higher education qualifications. There are still different practices across the country. Following the adoption of the Bosnia and Herzegovina Framework Law on Higher Education, all Cantons have completed the process of harmonisation. No progress was made regarding harmonisation of legislation for pre-school education and vocational education and training. The legislation for Vocational Education and Training has yet to be adopted by four Cantons and harmonisation of pre-school education legislation has yet to be adopted by three Cantons.

The Federation government adopted two strategic documents, 'Strategic Directions for the Development of Higher Education' and 'Measures for Prevention of Corruption in Higher Education'. Implementation has not yet started.

The proportion of children attending early childhood education has continued to increase and reached 13% in 2012, while the participation of Roma children stood at 2%. As for primary and secondary education, 69% of Roma children were attending primary school and 23% were attending secondary school.

There has been some progress in the area of **culture**. In July 2013 Bosnia and Herzegovina signed a memorandum of understanding establishing its full participation, as from the budget year 2013, in the MEDIA 2007 Programme. Very little progress was made in the area of **research and innovation**. Participation in the Union research programme has slightly improved but too little actions were taken to strengthen the capacity on research and innovation at national level. In particular the level of investment in research continues to stagnate at a very low level of GDP.

With respect to participation in the framework programme (FP7), efforts to promote co-operation under FP7 were stepped up with support from the Austrian Development Agency. This resulted in a higher number of submissions and selected projects but overall the success rate (about 13%) is still very low. The administrative capacity is very weak and there is a serious lack of coordination between the different Entities involved in research and other stakeholders and Ministries (economy, social development and education). Staffing at all levels of the institutions of Bosnia and Herzegovina as well as the public bodies is very weak. Participation in COST and EUREKA was good. Preparations for participation in the next EU research and innovation programme Horizon 2020 started.

With respect to integration into the European Research Area, very few actions were taken. The increase in the level of investment in research was minimal and partial. In addition, reliable statistics to establish expenditure on research from both the public and private sectors are still missing. The research infrastructure is very weak. Some actions on mobility of researchers to address the diaspora were taken. With respect to the Innovation Union, some work on good practices and instruments for innovation started.

*Overall*, alignment with the European standards in education is at an early stage. The development of education in the Federation is hampered by the fact that there has been little coordination at ministerial level. With respect to research and innovation some actions in line with EU policy were taken but too little in particular in view of co-operation under Horizon 2020.

#### *4.1.10. WTO issues*

Bosnia and Herzegovina has made major progress in the negotiations for its accession to the World Trade Organisation (WTO), so that the process could possibly be completed by the WTO Ministerial Conference in December 2013. The multilateral negotiations have almost been completed. The updated Legislative Action Plan was submitted to the Working Party Members in July. Bosnia and Herzegovina is seeking to complete the remaining bilateral



market access negotiations with Panama, Brazil, Ecuador and Ukraine on the basis of final offers submitted in August 2013

## **4.2. Sectoral policies**

### *4.2.1. Industry and SMEs*

There has been no progress on industrial policy. The State-level coordination, a country-wide strategy and statistics remain to be established for the harmonised implementation of the policy measures by the Entities.

Regarding **SME** policies, there is no official definition of SMEs at the State-level; the two entities use their own SME criteria based on Entity laws. Bosnia and Herzegovina has not yet introduced regulatory impact analysis (RIA). Republika Srpska introduced a draft of a new SME Law which aims to harmonise SME definitions with the *acquis*. It incorporates the Small Business Act principles and clarifies competencies by improving its coordination with local development agencies.

Bosnia and Herzegovina has made little progress in implementing the Small Business Act (SBA). The formally established SME consultative committee, bringing together all the key actors in SME policy, is still not yet fully operational. The SME Council for Development and Promotion of Entrepreneurship continued to be inactive. Some reforms have been initiated towards introduction of a countrywide unified business register and one-stop shops to simplify doing business in both Entities. However, the business registration and start-up process remains cumbersome and costly. No steps to remedy this have been recorded since 2009. The issue of double registration has not been solved. New enterprises are still required to register with the local court and with the municipality and to take care of all notification procedures themselves, although there are simplified procedures for craft registration.

The policy framework for business support services remains underdeveloped. The State-level SME strategy mentions business support services, but no policy has been implemented. Regional and local agencies receive financial support from a range of donors and the local public sector, but the overall choice and quality of SME support services is still limited.

Republika Srpska continued with the adoption of by-laws for tourism and the catering industry. Similar legislative harmonisation has yet to follow in the Federation. The Federation strategy on tourism development for 2008-2018 has not yet been adopted.

*Overall*, there was little progress in the area of industrial and SME policies. A comprehensive countrywide industrial policy and SME strategy have still to be adopted. The regulatory environment remains complex and the regulatory burden on SMEs heavy. Enterprises continue to face obstacles and administrative barriers to conducting business across Entities. Policy actions have been fragmented and uncoordinated. Attempts to move towards greater coordination have not yet succeeded in bringing about any significant results.

### *4.2.2. Agriculture and fisheries*

Regarding **agriculture and rural development policy**, a countrywide rural development strategy and State-level Laws on Wine and on Organic production have not yet been adopted. Implementation of the State-level strategic plan and the harmonisation programme for agriculture, food and rural development remains pending. Harmonisation of Republika Srpska's rural development strategy and action plan and the Federation's harmonisation programme for agriculture, food and rural development with the State-level framework still remains to be done. The Federation's Strategy for agriculture and rural development is pending. Channels for coordination at State-level and at the Entity levels remain insufficient. The coordination of rural development policy and actions, including support measures, remain insufficient.

Regarding preparations for the Instrument for Pre-Accession Assistance for Rural Development, an agreement on the institutional structures for decentralised management still has to be reached. Additional sectoral analyses for two more sectors, forestry and aquaculture, are expected to be completed in 2014. More staff has been recruited to the Office for Harmonisation and Coordination of Payment Systems, but the office still does not have the capacity to carry out its tasks properly. Building up the Entities' capacities remained uneven. Republika Srpska increased its staffing and continued to build up its capacities, especially at its Paying Agency. The administrative capacities of the Federation's ministry for agriculture and Brčko District's agriculture department remain insufficient. Inter-sectoral coordination and the participation of the non-governmental sector remain weak.

The Entities' budgets for agriculture and rural development remain insufficient. Subsidies to farmers remain mainly product-based and alignment with the *acquis* remains weak. Efforts to improve productivity and competitiveness remained hampered by the lack of an efficient administration and effective rural credit schemes.

The adoption of Bosnia and Herzegovina's agricultural information strategy and the Law on the Agricultural Census remain pending. Agricultural statistics and the agricultural information system remain to be improved, including harmonisation of existing systems. Harmonisation of land registration systems has yet to be improved and land management requires strengthening.

As regards **food safety**, implementing legislation on nutrition labelling, infant formulae and novel food was adopted.

As regards the placing on the market of food and feed, Bosnia and Herzegovina adopted new legal provisions on hygiene rules for food and feed establishments and microbiological criteria for foodstuffs. Residue monitoring plans for honey, dairy, poultry and eggs were positively evaluated by the European Commission, thus allowing export of honey from Bosnia and Herzegovina into the European Union.

Clarification of the chain of command and removal of overlaps within the official food and feed control system remain a key priority. Legislation at State-level is neither adopted nor implemented at Entity level. The capacity to implement official controls is weak. Systems to ensure an exchange of information on official controls among relevant authorities and central authorities are not adequate. A strategy on laboratory capacity to cover analysis of samples in line with official controls on food and feed chains still needs to be drawn up. As a temporary measure, a political agreement was signed between the Ministry of Foreign Trade and Economic Relations, the Ministry of Agriculture Forestry and Water Management of Republika Srpska and the Ministry of Agriculture, Water Management and Forestry of the Federation '*on the establishment of a chain of command meeting EU requirements for exports of milk and milk products from Bosnia and Herzegovina to the EU*', which is a key EU import requirement. The full implementation of this Protocol is still pending. Training was started in EU hygiene rules for staff of relevant authorities and food business operators. Checks and registration of milk farms were stepped up to ensure compliance with EU requirements. Implementing legislation was adopted to allow the State Veterinary Office to check and approve establishments for export to the EU, but implementation has not started. The regulatory framework for the control of import of food of non-animal origin requires upgrading.

In the **veterinary** sector, implementing legislation was adopted on movement of pets and control of animal diseases, including bovine spongiform encephalopathy and zoonoses (salmonella). Vaccinations against brucellosis and rabies are conducted regularly. The existing legal framework for animal health requires upgrading. Deficiencies in the existing animal identification and movement control system do not allow proper implementation of

animal health measures or their planning. The national system for the management of animal by-products needs to be upgraded to comply with EU requirements. More efforts are needed in the veterinary sector to implement measures to meet EU import requirements.

In the **phytosanitary** sector, efforts continued to implement legislation harmonised with the *acquis* in an integrated manner throughout the country. The issuing of phytosanitary certificates in line with the International Standard for Phytosanitary Measures (ISPM) Number 12 started on 1<sup>st</sup> July 2013. Registration of phytosanitary operators started on 1<sup>st</sup> September. The network of laboratories dedicated to phytosanitary diagnostic tests requires optimisation in line with realistic analyses and inspection needs. A new Law on Plant Protection Products in line with the *acquis* has not yet been adopted. Training of agricultural producers in the use of plant protection products and application of maximum residue limits commenced. A national plan for monitoring of residues was finalised. Efforts are needed to expand the application of principles of integrated pest management.

Regarding **genetically modified organisms (GMOs)**, several pieces of implementing legislation on authorisation, traceability and labelling were adopted.

Regarding **fisheries**, Republika Srpska and the Federation adopted legislation on freshwater fisheries that is partially aligned with the *acquis*. Bosnia and Herzegovina needs to step up efforts to implement the *acquis* for this area to facilitate an increase in exports of fish and fishery products to the EU.

*Overall*, there was little progress in the fields of agriculture and rural development, food safety, veterinary, phytosanitary policy and fisheries. A countrywide rural development strategy has not yet been adopted. State-level capacity for coordination and harmonisation needs strengthening. Agricultural statistics and the information system still need to be improved. Improving the productivity and competitiveness is being hampered by the lack of an efficient administration and effective rural credit schemes. Implementation of the food safety and veterinary *acquis* remained uneven and official control capacity needs to be upgraded. Preparations in these areas of the *acquis* are at an early stage.

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

In the field of **environment**, steps were taken in the area of *horizontal legislation*. A first State of the Environment report for Bosnia and Herzegovina was published. Republika Srpska adopted implementing legislation advancing its alignment with Strategic Environmental Assessment (SEA) and Public Participation Directives. The implementation of the SEA and Environmental Impact Assessment (EIA) Directives in both Entities need to be improved, especially on public consultation procedures.

As regards *air quality*, Republika Srpska adopted implementing legislation on air quality monitoring, zones and agglomerations and air quality values. The implementation of the relevant *acquis* is at an early stage. Air quality planning and monitoring systems need upgrading. A country-wide air monitoring network has not yet been established.

On *waste management*, planning for solid waste management infrastructure intensified with the completion of studies for selection of locations for future regional sanitary landfills and municipal waste management plans for selected regions. However, there is no countrywide strategic planning of investment in this sector. The Federation adopted implementing legislation on management of waste electrical and electronic equipment (WEEE). Republika Srpska and the Federation adopted implementing legislation on packaging and packaging waste. There are limited economic instruments in place to promote recycling and prevention of waste generation. New investments in the area of waste should focus more on waste separation and recycling. Capacity to manage industrial and hazardous waste is weak.

Regarding *water management*, no efforts were made to ensure a consistent and harmonised approach to water management at State-level, including implementation of the water laws, monitoring and river-basin management plans. The Federation adopted implementing legislation on determining ecologically acceptable flow for surface water bodies. Steps were taken towards developing relevant strategies in the Entities and of river basin management plans for the rivers Neretva, Trebisnjica and Sava. Access to drinking water, untreated discharges of wastewater and flood management remain challenges.

As regards *nature protection*, the Federation adopted the Law on Nature Protection, thereby advancing alignment with the Birds and Habitats Directives. Republika Srpska adopted legislation that strengthens the protection of several sites. Implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) did not start. Implementation of the nature protection *acquis* remained at an early stage.

In the field of *industrial pollution control*, Bosnia and Herzegovina ratified the Convention on Transboundary Effects of Industrial Accidents. In the field of *chemicals*, Republika Srpska adopted implementing legislation advancing the alignment with the EU Regulation on classification, labelling and packaging of substances and mixtures (CLP) and implementing legislation on biocides.

Regarding **climate change**, the country does not yet have a comprehensive countrywide climate policy or strategy. Substantial efforts are required to fully integrate climate change into sectoral policies and strategies. The country regularly associated itself with EU positions in the international context. While having previously associated itself with the Copenhagen Accord, the country has not yet put forward a mitigation commitment by 2020. The country should consider making mitigation commitments consistent with those of the EU and its Member States for the purpose of the post-2020 climate agreement to be reached by 2015. It is also invited to start reflecting on its climate and energy framework for 2030 in line with the EU Green Paper *A 2030 framework for climate and energy policies*.

The country is at a very early stage in aligning with EU climate *acquis*. Alignment with the *acquis* in the field of ozone layer protection and fluorinated gases has progressed, but not at countrywide level. The country identified 28 stationary installations for the future implementation of an emissions trading system. Significant efforts are required to strengthen the country's monitoring, reporting and verification capacities. The country participated regularly in work on the climate under the Regional Environmental Network for Accession (RENA). A successful EU-Bosnia and Herzegovina climate event was organised in February. Significant efforts are needed to raise awareness at all levels and to promote cooperation between all relevant stakeholders.

**Administrative capacity** in the environment and climate sectors remains weak. A mechanism for comprehensive alignment with EU legislation across the country is lacking, as is countrywide strategic planning. Monitoring and reporting on the state of the environment at country level is not done in a coherent and consistent way. Integration of environmental and climate concerns in other sectors remains weak. The administrative structure on climate change needs to be considerably strengthened. Capacity building is required to address significant capacity, cooperation and coordination needs.

*Overall*, there was limited progress on the environment and climate fields. The establishment of a harmonised legal framework for environmental protection, adequate administrative capacity and a functioning environmental monitoring system remain the priorities. Improvements have still to be made to horizontal and vertical communication and information exchange on environment and climate change issues among all authorities. Public consultations with civil society and other stakeholders need to be further strengthened. Regarding climate change, substantial efforts are required for awareness raising, setting a

more strategic approach for the country, aligning with and implementing the *acquis* and continuing to build up administrative capacity, including inter-institutional cooperation and coordination. Preparations on the environment and climate change fields remain at an early stage.

#### 4.2.4. *Transport policy*

In the transport sector, a State-level Transport Policy remains to be adopted, and key strategic and policy documents for all transport sub-sectors have yet to be developed. Legislation pertaining to rail, road, maritime and inland waterways transport modes has not yet been aligned with the *acquis*. Upgrading of transport infrastructure needs to be intensified and should be in line with the agreed comprehensive network of the South-east Europe Transport Observatory Network (SEETO).

Regarding **trans-European transport networks**, Bosnia and Herzegovina is participating in SEETO and contributing to the implementation of the memorandum of understanding on the development of the South-East Europe Core Regional Transport Network.

Building of new stretches of motorway within the Pan-European Corridor Vc advanced, although the pace of planning and construction of the southern stretch of the highway remains hampered by political disagreements. Works on the signalling overhaul of the Ploče-Bradina railway section of Corridor Vc are ongoing. Within the SEETO network, works are under way on the signalling overhaul on the sections Banja Luka-Kostajnica and Doboj-Šamać. Works on the signalling overhaul, reconstruction of the track overhaul and electrification of the railway line are ongoing on the section Doboj-Petrovo-Tuzla, which also belongs to the SEETO network.

As regards **road transport**, efforts towards *acquis* alignment could be noted. The legislation on the transport of dangerous goods has not been harmonised within the country and the *acquis* has not yet been transposed in the whole country. Road safety is a major concern and Bosnia and Herzegovina needs to improve the rate of fatalities in road accidents, among the highest in Europe.

Regarding **rail transport**, the two Entities' vertically-integrated railway companies linger in a critical financial situation. In both companies the separation of operational functions from infrastructure management, as provided for by Package I of the EU Railway Directives, has not yet occurred. Railways of Republika Srpska have not yet adopted their network statements. The opening of the rail market is at an early stage. The safety authority has prepared different instructions, such as on interoperability and the Entity in charge of maintenance and transport of dangerous goods by rail, published in the Official Gazette. The railway institutions fall short of staff. Rehabilitation works on rail tracks continued. However, the bottleneck at Ivan Tunnel and Bradina ramp, which prevents the transit of Ro-La trains and 40ft containers from the port of Ploče, is hampering the development of combined transport.

As regards **inland waterways**, some preparatory activities have been undertaken. Demining and rehabilitation of the River Sava waterway has not yet been addressed and introduction of a river information system has been delayed. Relevant inland navigation regulations should be issued and aligned with the *acquis*.

Concerning **air transport**, implementation of the first phase of the European Common Aviation Area has progressed. Although the Rulebook on Internal Organisation and Systematisation of Workplaces in the State Air Navigation Services Agency (BH ANSA) was adopted, the Council of Ministers of Bosnia and Herzegovina still needs to approve additional documents, necessary for the finalisation and functioning of BH ANSA and for starting Bosnia and Herzegovina Air Traffic Management Operations. Following Standardisation

Inspections on safety by the European Aviation Safety Agency (EASA), the Directorate for Civil Aviation has drawn up a Corrective Action Plan for addressing its findings. The plan was approved by EASA. The Directorate for Civil Aviation shall address the findings identified in particular in the flight operations area. Bosnia and Herzegovina ratified the Agreement on the establishment of functional airspace blocks of Central Europe (FAB CE). The legislation on access to the ground handling market at airports was approximated.

Regarding **maritime transport**, Bosnia and Herzegovina is not a party to any of the most important International Maritime Organisation (IMO) conventions such as the International Convention for the Safety of Life at Sea (SOLAS), including the International Ship and Port Facility Security Code, the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Convention on Standards of Training, Certification and Watch keeping for Seafarers (STCW).

*Overall*, little progress has been made in the area of transport. As the State-level transport policy has not yet been adopted by the Parliamentary Assembly, work on a transport strategy and action plan has not yet started. Preparations in the transport sector are at an early stage.

#### 4.2.5. Energy

Bosnia and Herzegovina has not yet developed a countrywide energy strategy. There were no significant efforts to harmonise the Entities' strategic planning, particularly with regard to the **security of supply** of oil, gas and electricity, nor on a common approach to investment priorities.

Regarding the **internal energy market**, existing laws at all levels are not fully aligned with the *acquis* nor do they allow for the development of a competitive countrywide wholesale market. Tender procedures and transparency have still to be addressed in a comprehensive way.

The State-level electricity transmission company (TRANSCO/Elektroprijenos) remains largely incapable of performing its legal obligations for maintenance, development, planning and investment in the transmission infrastructure. Several attempts to organise a TRANSCO shareholders' meeting to adopt the measures necessary to ensure the proper functioning of TRANSCO failed. The company continues to operate without having adopted long-term development, investment and financial plans, resulting in no significant investments in the reinforcement or development of the transmission system. The problematic viability of TRANSCO and the fragmentation of the electricity market put at risk the implementation of obligations stemming from the Energy Community Treaty.

The review and the alignment of the electricity legislation with the *acquis* focusing on Third Package provisions has been initiated at State, Entity and Brčko District level, with a view to enabling the country to fulfil its obligations under the Energy Community Treaty. The State Electricity Regulatory Commission approved the necessary annual revenue for the Bosnia and Herzegovina Independent System Operator and determined a new tariff rate. Full independence of the regulatory commissions remains to be ensured.

As regards the development of the necessary gas sector legislation, the alignment with the *acquis* at all levels is still pending. There is no State-level Gas Law, the amendments to the Gas Law that Republika Srpska adopted in January are not complete and the draft Gas Law of the Federation is not adequate. The Entities have set up separate gas operators and continue to operate under different rules for market participants, unbundling, third party access and market opening. There are no regulatory authorities in charge of the gas sector at State-level and in the Federation.

As regards the **renewable energy** sector, both Entities have adopted respective laws on the exploitation of renewable energy sources and on efficient co-generation. The State-level law

on renewable energy sources needs to be adopted in line with the obligations under the Energy Community Treaty. The complexity of the administrative structure and division of jurisdiction within the sector hampers the comprehensive countrywide promotion and development of the renewable energy sector. There is no countrywide renewable energy action plan for the implementation of the obligatory renewable energy target which the country has to achieve by 2020 (40% of final energy consumption). Nonetheless, due to favourable incentives provided at Entity level, growth in the development of facilities powered by renewable energy sources is increasing.

Regarding **energy efficiency**, Republika Srpska has adopted the relevant law, whereas the government of the Federation has resubmitted the draft law to the parliament for adoption. A National Energy Efficiency Plan (NEEAP) and a reliable roadmap for the transposition of the *acquis* in line with the obligations under the Energy Community Treaty still need to be adopted. Both will be essential for an adequate transposition and implementation of the relevant energy efficiency obligations. Various initiatives on promoting energy efficiency and numerous pilot projects, particularly in the public buildings sector, have been launched and implemented throughout the country.

Regarding **nuclear safety and radiation protection**, the State Regulatory Agency for Radiation and Nuclear safety proclaimed a number of regulations in line with the *acquis* and sector requirements. A national emergency plan and a strategy for radioactive waste management have not yet been adopted.

*Overall*, little progress was made in the energy sector. The country is increasingly falling behind in meeting its obligations under the Energy Community Treaty. The lack of cooperation and coordination between the Entities is hindering overall progress in the energy sector and is a deterrent to investment in a sector with strong investment potential. Unequivocal commitment is necessary to ensure crucial improvements, particularly as regards the area of security of supply, the effective functioning of the electricity transmission company, integrated energy markets and full independence of regulatory bodies.

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

Regarding **electronic communications and information and communication technologies** (ICT), the Electronic Communications Law is largely based on the 1998 EU regulatory framework. A decision to introduce the general authorisation system has yet to be taken. The Communication and Regulatory Authorities (CRA) continued to implement competitive safeguards to prevent operators misusing market power. Mobile number portability has been introduced. A rulebook on tariff rebalances for 2013-2015 was adopted. The CRA is implementing the last phase of the rebalancing of tariffs for voice telephony services.

The three incumbent operators are all subject to significant market power obligations, while the CRA allowed them to provide services outside their original concession areas. They continue to operate in their geographical areas as *de facto* monopolies over fixed voice telephony. The incumbents' share of the fixed broadband market fell in the face of competition from cable and wireless network operators. The overall fixed broadband penetration rate increased modestly, reaching 11.9% per population according to the latest available data. CRA introduced legislative and regulatory measures enabling mobile virtual network operators to emerge in the market. However, implementation is pending and market barriers for new operators have not been removed. No steps have been taken to introduce the single European emergency number 112.

Regarding **information society services**, a State-level Law on the Agency for the Development of the Information Society has not yet been adopted. Following the adoption of amendments to the Law on Identity Cards, Bosnia and Herzegovina has started to issue new

cards including electronic identity elements in view of future e-services. There was no progress on the development of State-level legislation on electronic documents.

There was no alignment with the e-commerce Directive nor with the implementing legislation related to conditional access services. The State-level e-commerce law has not yet entered into force. The implementing legislation for the State-level e-signature law of 2006 has not yet been adopted. Administrative capacity in the State-level Ministry of Transport and Communications remains insufficient.

As regards **audiovisual policy**, the Decision on determining the body responsible for cooperation with the independent regulatory bodies in the field of audiovisual media services and the body responsible for drawing up the list of important events was adopted by the Council of Ministers in March 2013. Through adoption of this Decision, Bosnia and Herzegovina has aligned its legal framework with the Audiovisual Media Services Directive (AVMSD) and signed the memorandum of understanding with the European Commission for participation in the Media 2007 Programme.

The CRA Council adopted amendments to the Code on commercial communications to regulate product placement in audio-visual media services. It also drafted guidelines for implementation of the Code.

An updated action plan on digitalisation is yet to be adopted by the Council of Ministers. The decision on the use of spectrum freed up by the switchover has yet to be made. A tender for acquiring digital equipment for the three public service broadcasters failed for the second time. This delayed the digital switchover initially planned for the end of 2014. A new tender for acquiring the digitalisation equipment has been launched. Radio and Television Republika Srpska (RTRS) attempted broadcasting in the DVB-T format in March 2013 without a valid CRA licence.

The Statute of the public service broadcaster Bosnia and Herzegovina Radio and Television (BHRT) remains unchanged. The Law on RTV FBiH remains not harmonised with the State-level law regulating the procedure for the selection of the members of the Steering board of the public broadcaster. Efforts were made to finalise the reform of the public service broadcasting system of Bosnia and Herzegovina and establish the Corporation. Reform of the public broadcasting sector has been further delayed.

The lack of merit-based appointments and continued challenges to the CRA's independence remain a serious concern (*see 2.2 – Human rights and protection of minorities*). Legislative alignment in the fields of electronic communications and information society and media has yet to be addressed.

*Overall*, preparations are at an early stage. Substantial efforts are needed to develop electronic communications and the information society.

#### 4.2.7. *Financial control*

Regarding **public internal financial control** (PIFC), the State has amended the Law on Financing of the Institutions of Bosnia and Herzegovina to introduce provisions requiring each budget user to sign an annual statement of responsibility. New budget management information systems have been implemented in the State and two Entities. The Central Harmonisation Units (CHUs) in the Ministries of Finance of the State and the Entities have prepared implementing legislation such as manuals, guidelines and charters for internal auditors. The Coordination Board of the CHUs has not yet met to perform its function as a single platform for the coordination of legislation and methodology. Progress in implementation of PIFC would significantly benefit from an active Coordination Board. Staffing of the Federation CHU remains a concern. There has been a slight increase in the



number of internal auditors in the State and in Republika Srpska, but staffing levels are generally below the optimal level.

Regarding **external audit**, the independence of the State-level State Audit Institution (SAI) from the executive was strengthened after the Bosnia and Herzegovina Parliamentary Assembly adopted amendments to the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina. No further measures have been taken to ensure the financial independence of the SAIs from the governments, or to anchor them constitutionally

*Overall*, there has been little progress in the area of financial control. Substantial efforts are needed to finalise the legal framework, resume coordination between CHUs via the Coordination Board and build capacity on implementation of PIFC. The independence of the SAIs has yet to be addressed. Preparations are at an early stage.

#### 4.2.8. *Statistics*

As regards **statistical infrastructure**, the cooperation between the Agency of Statistics of Bosnia and Herzegovina (BHAS) and the Entity institutes for statistics has improved, in particular as regards the preparations for the population and housing census. The Indirect Taxation Authority does not provide sufficient data to the BHAS. The proposed amendments to the law that would enable data sharing are pending adoption in the parliament.

The Strategy 2020 for the development of statistics in Bosnia and Herzegovina has been agreed by the Statistical institutes but not yet formally adopted. A document regulating the implementation of European Statistics Code of Practice in Bosnia and Herzegovina statistics has been adopted.

As regards **classifications and registers**, the Statistical Business Register (SBR) remains incomplete, as data from relevant administrative sources are still missing. A five-year development plan for the SBR was agreed. Bosnia and Herzegovina did not provide GDP per capita figures harmonised at NUTS level 2 to the EU on 1 July 2013, an obligation under the Interim Agreement. A working group established to draft a classification of territorial units for statistics in the country has agreed on NUTS level 1 and NUTS level 2 proposals. The work with level 3 will continue after the population and housing census.

Regarding **sectoral statistics**, the three statistical offices continued to prepare for the population and housing census to be held from 1-15 October 2013. As regards macroeconomic statistics, national accounts need further development. Bosnia and Herzegovina joined the IMF's General Data Dissemination System (GDDS). Final results of the household budget survey 2011 were published in February 2013. Some progress was made on business statistics, especially in construction, retail trade and tourism.

*Overall*, there was some progress in the area of statistics, in particular regarding the preparations for the population and housing census as well as in business statistics. Sectoral statistics such as national accounts, business and agricultural statistics need to be improved. Cooperation, coordination and decision-making processes need to be further improved in the national statistical system.

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

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

As regards **visa policy**, in 2012, 150 visas were issued at the border, a decrease of almost 40% (248 in 2011). In the first half of 2013, 49 visas were issued at the border, a decrease of 38.88% compared with the same period of 2012.

Implementation of the visa-free regime with the EU continued smoothly overall. Although the majority of travellers to the Schengen areas are *bona fide*, a number have abused the visa-free

regime by lodging manifestly unfounded asylum applications. As in the previous reporting periods, seasonal peaks of asylum seekers continued to be registered. This confirms that targeted measures have to be further pursued and be intensified, among others: public campaigns, investigations on facilitators, long-term policies to improve social and economic inclusion of the most vulnerable groups of the population most likely to migrate, including Roma. Further efforts in these areas need to continue systematically and be properly funded. The Commission will submit its regular report to the European Parliament and Council by the end of 2013.

Regarding **border management**, most legislation related to integrated border management (IBM), including the Law on Border Control, is mainly based on the *acquis*. The Law on Border Control has been revised, but remains to be adopted. The revised IBM strategy and action plan are being implemented. A mechanism for monitoring the implementation of the IBM strategy is in place. A new set of protocols for enhancing implementation of the agreement on interagency cooperation has been prepared. A rulebook on internal procedures for the Joint Risk Analysis Centre (JRAC) has been adopted by the signatory parties. Improved facilities and working conditions have been provided for the JRAC.

Infrastructure at border crossing points (BCPs) improved, especially as regards surveillance and equipment. ITA transferred its responsibility for management of video control at the BCPs to the Border Police. Two new ITA regional centres were constructed in Mostar and Tuzla. All international border crossings are equipped with biometric passport readers and connected to the integrated system of control of state border crossings (CSBC) and organisational units of the border police. CSBC is being upgraded to include vehicle registration plate readers. A department for management and maintenance of the BCPs has been established within the ITA.

A border crossing point has been set up at Bijaca. The construction of the new BCP at Gradiska is ongoing. The operation of this BCP depends on the construction of a new bridge at Gradiska, which has to be jointly finalised by Bosnia and Herzegovina and Croatia. Bosnia and Herzegovina has allocated the necessary funding. Joint locations BCPs Neum I and Neum II have been set up on the Croatian side.

Bosnia and Herzegovina has closed its part of the 44 identified spots for possible illegal crossings of the border with Montenegro. The closure of unauthorised border crossing points on the border with Serbia remains still pending. Frequent joint border patrols with neighbouring countries resulted in increased detection of illegal migrants and smuggled goods. Nevertheless, more efforts are needed.

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

Regarding **asylum**, amendments to the Law on Movement and Stay of Aliens and Asylum have been adopted, further aligning the law with the EU and international standards. However, the provision on the maximum period of detention at the Immigration Centre remains to be harmonised with the *acquis*. A new migration and asylum strategy and action plan for 2012-2015 were adopted. The asylum sector in the Ministry of Security is almost fully staffed and relevant training has been provided. The temporary asylum centre in Kiseljak is operational. It currently hosts 13 asylum seekers and can accommodate up to 30. A permanent asylum centre in Trnovo has been constructed. The centre will have a capacity of 154 beds.

The number of asylum applications in 2012 remains at the level of the previous reporting period: 40 asylum applications involving 53 persons were submitted, compared with 41

involving 46 persons in 2011. Syria was the biggest single source of asylum seekers. The Council of Ministers adopted a decision granting one year of temporary residence for people from Syria, based on humanitarian grounds.

In 2012, Bosnia and Herzegovina's Ministry of Security rejected eight asylum applications out of 22 filed. In the first eight months of 2013, 39 new asylum applications involving 61 persons were submitted. All asylum-seekers from Kosovo, whose temporary protection status expired in 2007, received first-instance decisions from the asylum sector. In 2012, two persons were still involved in appeal Court proceedings. No irregular migrants were registered for the Assisted Voluntary Return Programme via IOM during 2012, due to lack of financial resources.

Regarding the field of **migration**, a centre for temporary detention of irregular immigrants is in operation, employing 53 staff and with capacity for 120 immigrants. In 2012, a total of 453 foreign nationals were accommodated in the centre. In addition, 67 persons were put under surveillance in their place of residence. In all, 452 foreign nationals were returned to their countries of origin (160 voluntarily, 292 returned through readmission agreements, 14 forcefully repatriated). During the first six months of 2013, 141 third-country nationals were accommodated, of whom 31 were repatriated.

Implementation of readmission between the EU and Bosnia and Herzegovina continued to be satisfactory. Most cases of readmission are carried out under the agreement with Croatia (328 in 2012 compared to 236 in 2011). Of these, 75 were foreign nationals and 161 citizens of Bosnia and Herzegovina. In accordance with readmission agreements with the EU and Switzerland, Bosnia and Herzegovina accepted readmission of 319 of its citizens in 2012, compared to 132 in 2011. In the first half of 2013, 164 citizens were readmitted, an increase around 67% compared to the same period of 2012.

Bosnia and Herzegovina has signed a new readmission agreement with Serbia, introducing a shortened procedure. Implementation of the strategy for the reintegration of returnees remains a challenge. Difficulties with economic reintegration, access to healthcare, social protection, pensions and the employment of minority returnees are obstacles to sustainable return and local integration (*see 2.2 — Human Rights and the Protection of Minorities*).

There were a higher number of interceptions of attempts to cross the border unlawfully. In 2012, a total of 389 people were intercepted trying to enter or leave the country illegally, compared to 324 in 2011. In the first half of 2013, 130 people were intercepted, an increase of 16% compared to the same period in 2012. The Service for Foreigners' Affairs (SFA) makes full use of the Migration Information System (MIS) databases, now accessible to other relevant agencies. In 2012, the SFA issued 8383 permits for temporary stays, a 15% increase in comparison with 2011 (7 661). In 2012, 401 permits for permanent stays were issued, a 30% increase compared to 2011 (308). The SFA issued 569 expulsion decisions in 2012, an 82% increase compared to 2011 (309). In the first half of 2013, the SFA issued 3.576 permits for temporary stays and 339 for permanent stays. 158 expulsion decisions were taken.

A coordination body for monitoring the implementation of the new asylum and migration strategy and action plan was set up. The fifth country migration profile was published. The improved MIS is used for statistical reporting for the migration profile. A working group consisting of representatives from the State and Entity levels was established to set up a mechanism for collecting migration data in line with EUROSTAT regulations. However, comprehensive oversight over migration flows needs to be introduced.

*Overall*, Bosnia and Herzegovina has continued to make progress in the areas of visa policy, border management, asylum and migration. The adoption of amendments to the Law on Movement and Stay of Aliens and Asylum has further aligned the legal framework with the

*acquis*. The infrastructure, surveillance and equipment at border crossing points have further improved. A permanent asylum centre in Trnovo has been constructed. Overall, the migration, asylum and international protection system in Bosnia and Herzegovina is functioning and is adequate for current inflows.

#### 4.3.2. *Money laundering*

Regarding the **fight against money laundering**, Bosnia and Herzegovina is implementing the strategy and action plan for the prevention of money laundering and financing of terrorist activities 2009-2013. There are still no effective measures to prevent money laundering and financing of terrorist activities.

The country remains subject to Moneyval Compliance Enhancing Procedures and is more than a year behind schedule in implementing the action plan agreed between the Council of Ministers and Moneyval. Amendments to the Law on Money Laundering and the Financing of Terrorism and to the Criminal codes, which address a significant number of the Moneyval recommendations, have been prepared but remain to be adopted.

In 2012, The Financial Intelligence Department (FID) within the State Investigation and Protection Agency (SIPA) received 50% more transaction reports than the previous year, while the number of transactions reported as suspicious decreased by half. About two thirds of these reports are from the banking sector, and one third from other legal entities. Post offices, leasing companies, notaries and lawyers have been put under supervision while a range of other legal entities, such as audit offices remain to be included in reporting obligations and mechanisms. There has been a modest increase of reports filed at prosecutors' offices throughout Bosnia and Herzegovina on cases involving money laundering, 59 cases were reported in 2012 involving 187 individuals compared to 34 reports involving 181 individuals for the previous year. Yet the number of confirmed indictments and final verdicts remains extremely low.

There are now more exchanges of information through the EGMONT group, but response time is delayed by lack of knowledge of foreign languages. The investigation section is cooperating with Interpol, SELEC and other Financial Investigation Units in the region.

Bosnia and Herzegovina has no effective system in place to address the confiscation of assets. The prevailing model is confiscation of illegally acquired property under the provisions of the CPC. The Council of Ministers has adopted a draft law on confiscation of assets, establishing a new state agency for managing illegally obtained proceeds of crime, confiscated on the basis of Court of Bosnia and Herzegovina rulings. However, the draft law, still pending adoption in the parliament, does not propose the establishment of an Asset Recovery Office. In Republika Srpska, the Assets Recovery Office has continued to operate. However, implementation of the law is hampered by the lack of comprehensive, qualitative provisions and its harmonisation with other relevant administrative and civil laws as well as procedures, such as land, property and stock registries. An expert forum on confiscation of assets was launched in March, with the aim of setting minimum standards and criteria for establishing an effective asset recovery system throughout the country.

*Overall*, Bosnia and Herzegovina has made little progress in this area. Legislation and the implementation of the strategy and action plan require further improvement. A coordinated approach to establish mechanisms for the effective identification, seizure, management and confiscation of criminally gained assets in a harmonised manner across the various jurisdictions requires substantial effort.

#### 4.3.3. *Drugs*

As far as the **fight against drugs** is concerned, trafficking is a major part of organised crime. Narcotics cultivation is limited to small-scale marijuana production. There are indications that organised crime groups have established a drugs market in Bosnia and Herzegovina.

The implementation of the national drugs strategy and action plan (2009-2012) remains insufficient. The strategy was not updated. After a period of 18 months, the members of the Bosnia and Herzegovina Commission for Suppression of Abuse of Narcotic Drugs were appointed by the Council of Ministers. A draft Law on Prevention and Suppression of the Abuse of Narcotic Drugs, establishing an Office for Drugs, is in preparation.

The Commission for Drugs Destruction, in cooperation with the Ministry of Security, SIPA and the Ministry of Interior of the Federation, destroyed over one tonne of marijuana, skunk, heroin, ecstasy and amphetamine, confiscated in relation to proceedings before the Court of Bosnia and Herzegovina. A large quantity of drugs seized by order of other courts is awaiting destruction.

Bosnia and Herzegovina further improved international cooperation and reported regularly to the International Narcotics Control Board. Cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) continues; the Department for Drugs within the Ministry of Security acts as a focal point. The National Correspondent to the EMCDDA, appointed in the Department for Drugs within the Ministry of Security for the previous project, has not been replaced since November 2012. End of 2011, Bosnia and Herzegovina delivered its first annual report on the situation of the drug phenomenon in the country, following EMCDDA guidelines.

The number of crimes related to drugs abuse increased. Predominant crimes are possession and enabling use of narcotics. Drugs confiscated are usually cannabis, heroin or synthetic drugs. Coordination of operational activities remains on case-by-case basis. Several police operations were conducted, resulting in the arrest of perpetrators and the confiscation of drugs. State-level agencies, the Federation Police Administration and Cantons are using a database of perpetrators. Republika Srpska is not connected to this database.

*Overall*, Bosnia and Herzegovina remains at an early stage in the fight against drug trafficking, as well as in taking effective action to reduce demand for drugs. There is still no agreement on the institutional capacity for policy coordination and implementation. The capabilities of individual law enforcement agencies to identify and disrupt drug trafficking operations are improving, but cooperation remains limited. Bosnia and Herzegovina is on the main Balkans drug trafficking routes. Continued and sustained efforts are needed by the customs administration to detect and seize narcotics at the borders. Overall, preparations in this area are moderately advanced.

#### 4.3.4. *Police*

With regard to **police** matters, agencies and boards established under the police reform laws are consolidating their functions. Conflicting interpretations of the provisions of the 2008 laws prevent the development of a consistent and effective institutional framework.

The staffing level at the Directorate for coordination of police bodies has now reached 70%. The Directorate has temporary premises and physically integrated the VIP facilities protection sector and the Interpol and Europol section. The number of messages exchanged through Interpol channels has consistently risen. The level of implementation of the road map signed between Europol and the Ministry of Security is low. Access to the Europol application Siena has been implemented. There is no agreement on the Implementation of the Europol National Contact Point among law enforcement agencies.

An inter-agency monitoring team supervising the implementation of the electronic data exchange system for police and prosecutors registries has been established. Some technical aspects in the system still need to be addressed, including the fact that the Directorate still has no access to the system databases. A Europol data protection audit has been completed.

A protocol on cross-border surveillance under the Police Convention on Cooperation in South-East Europe was signed with Montenegro. A protocol on hot pursuit between Bosnia and Herzegovina, Montenegro and Serbia is under preparation. The Agency for Forensic and Expert Examination is now at 50% staffing and has completed construction of its laboratories, which are now being equipped. Regular expert examinations have started, though prosecutors have not fully used the potential of the laboratories.

The Police Support Agency is now co-located with the Directorate for coordination of police bodies and completed the rulebook on standardisation of police equipment. A new Director for the Police Support Agency was appointed by the Bosnia and Herzegovina Council of Ministers. Other agencies have not entrusted the Police Support Agency with procurement procedures. The Agency for Education and Advanced Training has reached 70% of its staffing. It has trained new cadets and delivered specialist programmes. It has begun the second stage of construction of its training facilities. The State Investigation and Protection Agency remained at 73% of their foreseen staffing level. Amendments to the Laws on Police Officials are pending adoption at State-level. The Federation, Cantons and the Brčko District have launched initiatives to align their respective laws. Amendments concern technical and operational matters such as the use of arms and police powers and enhancing personal data protection. A draft Law on Internal Affairs in the Federation is pending adoption in the parliament. The draft law reiterates the principles of operational and financial independence of police. Once adopted, the design of the law shall serve as a model law for cantons when changing their respective laws on internal affairs.

*Overall*, some progress was made in the area of policing. The police reform bodies are all operational. Unclear and overlapping competences are, however, preventing the effective use of resources. Coordination and cooperation among agencies remains mainly informal.

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

On fighting **organised crime**, Bosnia and Herzegovina remains a source of arms and ammunitions for criminal groups operating in the EU and the Western Balkans region. Organised crime activities are mainly linked to illicit drugs trafficking, arms trafficking, economic crime, trafficking in human beings and money laundering.

Bosnia and Herzegovina has formed a working group to prepare a new strategy to fight organised crime and an Organised Crime Threat Assessment (OCTA). The WG agreed to use the Europol SOCTA methodology for making of OCTA with involvement of police agencies intelligence analysts trained on Europol SOCTA methodology. A number of successful large-scale joint police operations took place. The number of suspected cases of organised crime reported to prosecutors' offices increased by over 200%. Overall, the number of suspects was close to the total for the previous year. Nevertheless, organised crime remains a serious concern in Bosnia and Herzegovina.

Prosecutors and judges specialised in organised crime cases are unevenly spread, particularly at Entity level. Better instructions were introduced on professional cooperation between prosecutors and law enforcement agencies. However, the implementation of the system of prosecutor-led investigations remains an issue. Weaknesses in the systematic gathering, analysis and use of intelligence by law enforcement agencies hampers strategic targeting of organised crime groups and activities. There is no systematic exchange of intelligence among the law enforcement agencies for joint operational planning.

The absence of legal provisions for covert identities limits the use of undercover agents and informants. Amendments to the State Criminal Procedure Code for more effective deployment of Special Investigative Measures have been prepared, but remain to be adopted.

A new draft Law on the Witness Protection programme was adopted by the Council of Ministers and is in the parliamentary procedure.

Small arms and light weapons as well as explosives and remnants of war are subject of trafficking at the local and the international level. Entity level regulations on arms still have to be harmonised mutually, in accordance with international standards. Many illegal weapons and much ammunition are in civilian possession. A new Strategy on control of small arms and light weapons, covering the period from 2013 to 2016, was adopted by the Bosnia and Herzegovina Council of Ministers. A Framework Law on Amnesty at the Federation level is in preparation.

Data exchange between police agencies and prosecutors' offices on registered arms and weapons is covered under the Agreement on electronic data exchange. There is no system of exchange of intelligence on arms and weapons.

In the area of **judicial cooperation in criminal matters**, preparations for concluding a cooperation agreement with Eurojust are at an early stage, but have progressed. The assessment of the data protection legislation has been completed. Changes to the Law on Protection of Classified Information, bringing the law into line with the relevant EU standards and providing for implementation of bilateral security agreements, remain to be adopted.

With regard to combating **trafficking in human beings (THB)**, a new strategy and action plan for 2013-2015 have been adopted. The implementation of projects in the action plan is financed mainly by donors. Provisions on THB victims to align them with international standards were taken into account in amendments to the Law on Movement and Stay of Aliens and Asylum. Provisions on THB in the criminal codes at the Republika Srpska and the Brčko District level mutually harmonised and in line with ratified international standards were adopted. Similar amendments to the criminal code at the State and Federation level are in parliamentary procedure. National legislation, especially in relation to penalties, remains to be aligned with EU *acquis*, notably Directive 2011/36/EU. The national coordinator's office continued an educational campaign targeting social workers, secondary school teachers, work inspectors and prosecutors. The State-level government secured funds for three 'safe houses'. Regional monitoring teams continue to meet regularly and improve their capacity through training. Centres for Mental Health are included in the regional monitoring teams, along with centres for social welfare and NGOs involved in providing protection to victims. The guidelines which prescribe the procedures for the involvement of the Centres for Mental health have been developed. Further strengthening of cooperation between the four Regional Monitoring Teams and the State-level Strike Force is needed to ensure that investigations are properly coordinated and assistance provided to the victims.

There was a rise in the number of THB victims identified. A comprehensive, multi-disciplinary and victim-oriented approach to trafficking still needs to be developed and identification of victims needs to be improved. The majority of trafficking was for the purpose of sexual exploitation and begging/forced marriages. Bosnia and Herzegovina continues to be a country of origin, transit and destination for the trafficking of women.

The rulebook for protection of foreign victims of trafficking was amended, aligning the Bosnia and Herzegovina system further with the EU and international standards. The Department for Combating THB within the national coordinator's office and the database on THB victims are not fully operational. Bosnia and Herzegovina remain to further align its

THB system with the set of recommendations included in the last report by the Group of Experts on Action against THB (GRETA).

Bosnia and Herzegovina has neither a strategy nor institutions in place to address the issue of **cybercrime and cyber security threats**. An action plan to set up a Bosnia and Herzegovina Computer Emergency Response/Readiness Team (CERT) is pending adoption by the Council of Ministers. Activities to establish CERT were undertaken. Crime reports prepared by law enforcement agencies in Bosnia and Herzegovina do not refer to cybercrimes. They do not provide exact data on the number of cases, investigations or suspects. Digital forensics and other technical means of combating cybercrime at national and international level are limited and insufficient. The Directorate for Coordination of Police Bodies is designated as a 24/7 contact point in the light of the Cybercrime Convention (Budapest Convention) but the required capacity is lacking.

Concerning the **fight against terrorism**, Bosnia and Herzegovina continues to implement its strategy for preventing and fighting against terrorism 2010-2014. Key strategic measures have been developed, though the overall operational capacity needs to be reinforced. The Joint Task Force to fight terrorism is functioning and its capacity is being developed. The operational part of the task force is awaiting regulation of its financing and confirmation of the formal status of its members. Security and intelligence data are exchanged between the agencies represented in the Joint Task Force. Activities were undertaken to assess the significance of current trends and the potential action required to address the issue of violent extremism and radicalism that can lead to terrorism. Republika Srpska and the Brčko District amended their criminal codes to introduce the notion of hate crimes as a criminal offence. The criminal code of the Federation does not include such provisions.

Bosnia and Herzegovina continued to implement the restrictive measures established by UN Security Council Resolutions. The Ministry of Security adopted a number of decisions regarding countries, individuals or groups linked to terrorist activities.

*Overall*, the country made limited progress in the fight against organised crime and terrorism. Specific efforts in the fight against THB remain at an early stage. Cooperation among law enforcement agencies continues, but a more systematic exchange of information intelligence remains to be consolidated. Coordination mechanisms need to be established. Cooperation between law enforcement agencies and prosecutors' offices still needs to be improved to guarantee more effective judicial follow up to police operations.

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

Regarding **personal data protection**, the Director of the Personal Data Protection Agency was reappointed and a deputy Director was appointed by the parliament. The agency has 24 employees out of a planned total of 45 as in the rulebook, which is sufficient with the current workload. The agency established regular cooperation with the country's agencies for the civil service and provided training for their employees on personal data protection.

The agency regularly issues orders to ensure efficient implementation of the Law on Protection of Personal Data. It carried out 99 monitoring inspections and provided 181 expert opinions. It dealt with 71 complaints. The Agency has also issued 10 penalties, and has carried out 25 *ex officio* procedures.

There is no systematic screening of legislation for compliance with personal data protection provisions. Implementing legislation in the law enforcement sector is in preparation. The Law on Personal Data Protection does not apply to the Bosnia and Herzegovina Intelligence Agency.

*Overall*, preparations for personal data protection are advancing, although they are still at an early stage.



## Statistical Annex

### STATISTICAL DATA Bosnia and Herzegovina

<b>Basic data</b>							
	Note	2001	2008	2009	2010	2011	2012
Population (thousand)		3 790e	3 842e	3 843e	3 843e	3 840e	3 836p
Total area of the country (km <sup>2</sup> )		51 209	51 209	51 209	51 209	51 209	51 209
<b>National accounts</b>							
		2001	2008	2009	2010	2011	2012
Gross domestic product (GDP) (million national currency)	1)	12 678	24 898	24 202	24 773	25 666	25 654
GDP (million euro)		6 482	12 730	12 374	12 666	13 123	13 117
GDP (euro per capita)	2)	1 707	3 313	3 220	3 296	3 417	3 419
GDP (in Purchasing Power Standards (PPS) per capita)		:	7 318e	7 259e	7 274e	:	:
GDP per capita in PPS (EU-27 = 100)		:	32	31	30	30	28
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		2.4	5.6	-2.8	0.7	1.0	-1.1
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	7.5	8.0	:	:	:
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:
<b>Gross value added by main sectors (%)</b>							
Agriculture and fisheries	3)	10.8	8.9	8.6	8.3	8.1	7.4
Industry	3)	19.8	21.0	20.2	20.8	21.0	20.8
Construction	3)	6.2	6.4	6.2	5.1	4.8	4.7
Services	3)	63.3	63.7	65.1	65.8	66.1	67.1
Final consumption expenditure, as a share of GDP (%)	4)	:	103.0	102.0	103.6	103.5	:
Gross fixed capital formation, as a share of GDP (%)	4)	:	25.2	20.4	18.1	19.2	:
Changes in inventories, as a share of GDP (%)	4)	:	2.8	0n	-1.0	0.2	:
Exports of goods and services, relative to GDP (%)	4)	28.1	24.5	22.8	27.4	29.5	:
Imports of goods and services, relative to GDP (%)	4)	75.2	55.4	45.1	48.1	52.5	:
<b>Industry</b>							
	Note	2001	2008	2009	2010	2011	2012
Industrial production volume index (2010=100)		:	102.5	95.8	100.0	103.5	98.9
<b>Inflation rate</b>							
	Note	2001	2008	2009	2010	2011	2012
Annual average inflation rate (CPI, % change on previous year)		3.1	7.4	-0.4	2.1	3.7	2.0
<b>Balance of payments</b>							
	Note	2001	2008	2009	2010	2011	2012
Balance of payments: current account total (million euro)	5)	-833	-1 795	-813	-695	-1 242	-1 253
Balance of payments current account: trade balance (million euro)	5)	-3 308	-5 453	-3 981	-3 901	-4 267	-4 318
Balance of payments current account: net services (million euro)	5)	255	1 219	972	1 103	1 071	1 057
Balance of payments current account: net income (million euro)	5)	595	482	488	298	163	176
Balance of payments current account: net current transfers (million euro)	5)	1 626	1 957	1 708	1 805	1 791	1 832
of which government transfers (million euro)	5)	450	111	80	76	44	29
Net foreign direct investment (FDI) (million euro)	5)	133	673	176	272	342	273
Foreign direct investment (FDI) abroad (million euro)	5)	0	-27	68	-59	4	0
of which FDI of the reporting economy in EU-27 countries (million euro)		:z	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)	5)	133	699	107	331	338	273
of which FDI of EU-27 countries in the reporting economy (million euro)	6)	:z	321	90	135	181	114
<b>Public finance</b>							
	Note	2001	2008	2009	2010	2011	2012
General government deficit/surplus, relative to GDP (%)		:	-2.2	-4.4	-2.5	-1.3	-2.0
General government debt relative to GDP (%)		34.9	17.1	21.6	25.4	26.0	27.7
<b>Financial indicators</b>							
	Note	2001	2008	2009	2010	2011	2012
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)	7)	1 377b	2 910	2 836	3 017	3 163	3 141
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	7)	2 387b	6 360	6 498	6 968	7 372	7 624
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	7)	1 707	7 419	7 184	7 436	7 828	8 153
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	8)	:	7.0	7.9	7.9	7.4	6.9
Deposit interest rate (one year), per annum (%)	9)	:	0.4	0.3	0.2	0.1	0n

euro exchange rates: average of period - 1 euro = ... national currency		1.956	1.956	1.956	1.956	1.956	1.956
Effective exchange rate index (2005=100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	10)	1 385	3 219	3 176b	3 302	3 284	3 328

<b>External trade</b>	Note	2001	2008	2009	2010	2011	2012
Value of imports: all goods, all partners (million euro)		:	8 330	6 317	6961,9	7 938	7 799
Value of exports: all goods, all partners (million euro)		:	3 432	2 828	3627,9	4 204	4 018
Trade balance: all goods, all partners (million euro)		:	-4 899	-3 489	-3334	-3 735	-3 781
Terms of trade (export price index / import price index)	11)	:	:	:	100.0	99.0p	96.6p
Share of exports to EU-27 countries in value of total exports (%)		:	55.0	54.0	54.5	55.6	57.8
Share of imports from EU-27 countries in value of total imports (%)		:	48.0	49.1	45.9	45.4	46.9

<b>Demography</b>	Note	2001	2008	2009	2010	2011	2012
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		1.9	0.0	-0.1	-0.4	-0.8	-0.9p
Infant mortality rate: deaths of children under one year of age per 1000 live births		7.6	6.9	6.5	6.4	5.8	5.0p
Life expectancy at birth: male (years)		71.3	72.4e	72.4e	72.4e	72.4e	72.4e
Life expectancy at birth: female (years)		76.7	77.7e	77.7e	77.7e	77.7e	77.7e

<b>Labour market</b>	Note	2001	2008	2009	2010	2011	2012
Economic activity rate (20-64): share of population aged 20-64 that is economically active (%)		:	:	:	:	:	:
* Employment rate (20-64): share of population aged 20-64 in employment (%)		:	:	:	:	:	:
Employment rate male (20-64) (%)		:	:	:	:	:	:
Employment rate female (20-64) (%)		:	:	:	:	:	:
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	34.4	34.0	33.3	33.6	35.0
Employment by main sectors (%)							
Agriculture	12)	:	20.6	21.2	19.7	19.6	20.5
Industry	13)	:	21.7	21.2	21.9	20.9	30.3
Construction	14)	:	10.8	10.3	9.1	8.0	:
Services	12)	:	47.0	47.3	49.3	51.5	49.0
Unemployment rate: share of labour force that is unemployed (%)	15)	40.0	23.4	24.1	27.2	28.0	28.6
Share of male labour force that is unemployed (%)		:	21.4	23.1	25.6	26.5	26.4
Share of female labour force that is unemployed (%)		:	26.8	25.6	29.9	30.5	30.7
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	47.5	48.7	57.5	57.9	63.1
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	20.2	20.0	22.3	22.3	22.9

<b>Social cohesion</b>	Note	2001	2008	2009	2010	2011	2012
Average nominal monthly wages and salaries (national currency)	16)	408.0	752.0	790.0	798.0	816.0	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		:	:	:	:	:	:
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)		:	:	:	:	:	:

<b>Standard of living</b>	Note	2001	2008	2009	2010	2011	2012
Number of passenger cars per 1000 population		:	178.8e	180.6e	188.6e	191.4e	159.6e
Number of subscriptions to cellular mobile telephone services per 1000 population		92.6e	769.9e	830.7e	784.3e	825.8e	873.2e

<b>Infrastructure</b>	Note	2001	2008	2009	2010	2011	2012
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		:	19.9	19.9	20.1	:	20.1
Length of motorways (km)		:	28	35	35	:	37

<b>Innovation and research</b>	Note	2001	2008	2009	2010	2011	2012
Spending on human resources (public expenditure on education in% of GDP)		:	:	:	:	:	:
* Gross domestic expenditure on R&D in% of GDP		:	:	:	:	:	:
Percentage of households who have Internet access at home (%)		:	:	:	:	:	:

<b>Environment</b>	Note	2001	2008	2009	2010	2011	2012
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)	17)	16.0	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	:	:	:	:	:
Electricity generated from renewable sources in% of gross electricity consumption		:	:	:	:	:	:
Road share of inland freight transport (% of tonne-km)		51.0	60.0	63.0	62.0	64.0	66.7

<b>Energy</b>	Note	2001	2008	2009	2010	2011	2012
Primary production of all energy products (thousand TOE)		:	:	:	:	:	:
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)	18)	:	:	3 629bp	3 476	4 086	:
Primary production of natural gas (thousand TOE)		:	:	:	:	:	:
Net imports of all energy products (thousand TOE)		:	:	:	:	:	:
Gross inland energy consumption (thousand TOE)		:	:	:	:	:	:
Electricity generation (thousand GWh)		:	14.8	15.7	17.1	15.3	:

<b>Agriculture</b>	Note	2001	2008	2009	2010	2011	2012
Agricultural production volume index of goods and services (producer prices, previous year=100)		:	:	:	:	:	:
Total utilised agricultural area (thousand hectare)	19)	:	1 679	1 656	1 649	1 675	1 680
Livestock: cattle (thousand heads, end of period)		:	459	458	462	455	446
Livestock: pigs (thousand heads, end of period)	20)	:	502	529	590	577	539
Livestock: sheep and goats (thousand heads, end of period)		:	1 101	1 125	1 109	1 086	1 070
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	737	734	693	689	674
Crop production: cereals (including rice) (thousand tonnes, harvested production)	21)	1 139	1 329	1 343	1 104	1 119	906
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)	22)	190	282	280	286	287	265

: = not available  
 :z = not applicable  
 b = break in series  
 e = estimated value  
 n = not significant value  
 p = provisional  
 \* = Europe 2020 indicator

The balance of payments sign conventions are used for FDI. For FDI abroad a minus sign means investment abroad by the reporting economy exceeded its disinvestment in the period, while an entry without sign means disinvestment exceeded investment. For FDI in the reporting economy an entry without sign means that investment into the reporting economy exceeded disinvestment, while a minus sign indicates that disinvestment exceeded investment.

**Footnotes:**

- 1) In 2011, the calculation method for GDP was improved and figures were revised.
- 2) Population estimated in 1.000 (2012=3836; 2011=3.840; 2010=3.843; 2009=3.843; 2008=3.342)
- 3) 2001, 2008 - 2011, data according to NACE Rev 1.1. ; 2012, data according to NACE Rev 2.
- 4) 2008 - 2011, GDP by expenditure is higher than GDP by production (2011=27.240; 2010=26.409; 2009=26.378; 2008=26.782, in thousand BAM)
- 5) 2001, data based on old methodology (BPM5); 2008 - 2012, data based on new methodology (BPM6).
- 6) 2008 - 2011, data based on new methodology (BPM6).
- 7) 2008 - 2010, data based on new methodology.
- 8) Short-term lending rates in national currency to private enterprises and cooperatives (weighted average).
- 9) Demand deposit rates in national currency to households (weighted average).
- 10) Since 2009 gold has been included in reserve assets.
- 11) Based on Paasche export and import unit value indices for 2011 and 2012, base year 2010 , in BAM .
- 12) 2008 - 2011, data according to Nace Rev. 1.1. ; 2012, data according to Nace Rev. 2.
- 13) 2008 - 2011, data according to Nace Rev. 1.1.; 2012, including Sections F (construction), data according to Nace Rev. 2.
- 14) 2008 - 2011, data according to Nace Rev. 1.1.
- 15) 2001, data from the Bureau for Employment.
- 16) 2011, currency: BAM (Convertible Mark); including data from Brcko District; net salary.
- 17) 2001, source: UNDP - IPCC Indirect GHG sources and Initial UNFCCC BiH Communication, 2009. Unit is CO2 eq. in million tons. Agency for Statistics was not taking part in comprising this report and is solely referencing UNDP - IPCC and UNFCCC BiH Report made in 2009.
- 18) 2009 - 2011, primary production of lignite and brown coal included.
- 19) 2008 - 2012, the utilised agricultural area consists of arable land, kitchen garden, permanent crops and permanent grassland as cadastral data (not as UAA).
- 20) Data from 2010 and 2011 are related to the Government Decision about repurchase all quantities of pork meat on the market by large industrial processors.
- 21) 2009, including triticale and buckwheat; 2012, bad weather conditions have caused a decline in production
- 22) Including lettuce and melons after 2009; 2012, in according with EU reg. 543/2009, data excluding dried pulses, bad weather conditions have caused a decline in production