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Bosnia and Herzegovina 2020 Report

Accompanying the

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1. Introduction

1.1. Context

In February 2016, the country applied for EU membership and in September 2016 the European Council invited the European Commission to submit its opinion on the merits of Bosnia and Herzegovina's application. In May 2019, the Commission adopted its Opinion and accompanying analytical report on Bosnia and Herzegovina's EU membership application.¹ The Opinion identifies 14 key priorities for Bosnia and Herzegovina to fulfil in order to be recommended for the opening of accession negotiations, in the areas of democracy / functionality, the rule of law, fundamental rights, and public administration reform. In its December 2019 conclusions, the EU Council welcomed the Opinion and invited the Commission to focus its annual reports on Bosnia and Herzegovina, starting with the one in 2020, on the implementation of the key priorities from the Opinion.²

Bosnia and Herzegovina continues to implement the Stabilisation and Association Agreement and the meetings of the joint bodies under the agreement took place regularly, except for the parliamentary committee, which has yet to adopt its rules of procedures.

The public political commitment of the authorities at all levels of government to the strategic goal of European integration remained to a large extent merely declarative and was not turned into concrete actions, as political leaders spent the reporting period engaging in party politics and unconstructive political disputes, which impeded the appointment of a new government until late 2019, 14 months after the October 2018 elections, and hindered its work afterwards.

Some steps have been taken in the recent months, amid the COVID-19 pandemic, to address the key priorities from the Opinion. In October 2019, the Council of Ministers adopted an action plan for the implementation of the recommendations from the Commission's 2019 analytical report, whose content was not fully agreed among all levels of government. The Constitutional Court repealed the provision on the death penalty in the *Republika Srpska* entity constitution, fulfilling part of key priority 10. Legislative amendments following a political agreement in June 2020 should allow holding local elections in Mostar in December for the first time since 2008, thus fulfilling part of key priority 1. In July 2020, all levels of government adopted the strategic framework on public administration reform, contributing to key priority 14. Bosnia and Herzegovina adopted the revised National War Crimes Strategy in September 2020, contributing to key priority 5. Preparations are also ongoing to hold the joint parliamentary committee. Bosnia and Herzegovina needs to move forward on the other key priorities too.

The outbreak of the COVID-19 pandemic is a global shock that has not spared the Western Balkans. It represents an unprecedented burden on their health and social protection systems. The final extent of its footprint in terms of loss of human lives and damage to the economies is still difficult to assess, but early Commission estimates foresee a drop of between 4 and 6% of Gross Domestic Product (GDP) in the region. Thousands of citizens are at risk of losing their jobs, and temporary government support measures (unemployment benefits, deferrals/waivers to tax and social security contributions, etc.) have an important fiscal impact.

¹ SWD(2019) 222 final, COM(2019) 261 final

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

While the EU is itself heavily affected by the pandemic, it has spared no time and effort to provide essential and unparalleled support to the Western Balkans. This includes financial support of more than EUR 3.3 billion for countries in the region to address the immediate health crisis and resulting humanitarian needs, as well as longer term and structural impact on their societies and economies. Given the European perspective of the Western Balkans, the EU is also treating the region as privileged partners by associating them with the Union's mechanisms and instruments. These include the Health Security Committee, Joint Procurement Agreements, Union Civil Protection Mechanism, Solidarity Fund, consular assistance in repatriation or exemption from temporary EU export restrictions of medical equipment. These and other measures have provided immediate relief and are a clear message of the EU's political commitment towards the region.

In the initial response to the COVID-19 outbreak Bosnia and Herzegovina reacted promptly and closely followed global recommendations by introducing mitigation measures to prevent, slow down and control the transmission of the virus. The authorities also increased health system capacities and re-oriented health providers towards COVID-19 designated facilities. Despite the initial success of the health authorities to prevent and control the spread of the virus, early relaxation of the restrictive measures was followed by an epidemiological peak during the summer months. By all relevant parameters and benchmarks, the response of the health system was comparatively effective in curbing the initial COVID-19 outbreak in the country, however, coping with the later peak proved to be challenging. During the COVID-19 outbreak, health services were provided to all persons in Bosnia and Herzegovina, including migrants and asylum seekers, irrespective of citizenship or health insurance status.

The COVID-19 crisis demanded a high level of coordination among all levels of government which proved challenging in practice. The established crisis management bodies acted in their respective jurisdictions, without countrywide harmonisation of decisions and actions. The fragmentation of the healthcare system compounded coordination difficulties, and formal strategic response plans were not developed. Restrictive measures were relaxed gradually and in a more harmonised manner throughout the country. Citizens' compliance with the protective epidemiological measures remains limited.

It is of utmost importance that emergency measures taken during the crisis are not at the expense of fundamental principles and values and that such measures remain proportionate, time-bound and subject to democratic oversight.

1.2. Summary of the report

Regarding the **political criteria**, during most of the reporting period the Parliamentary Assembly of Bosnia and Herzegovina was blocked for political reasons, which resulted in a legislative backlog, and the Council of Ministers acted in caretaker function, pending the appointment of a new government, which only took place in December 2019, 14 months after the general elections. The Federation entity government is still in a caretaker function. Bosnia and Herzegovina's Constitution remains in breach of the European Convention on Human Rights (ECHR), as per the Sejdić-Finci and related cases. No progress was made in improving the electoral framework in line with European standards and ensuring transparency of political party financing. Amendments adopted in July 2020 should allow holding local elections in Mostar for the first time since 2008. Preparations are also ongoing to hold the Stabilisation and Association Parliamentary Committee, as well as develop and adopt a national programme for the adoption of the EU acquis. No progress was made in ensuring an

enabling environment for civil society. Meaningful and systematic consultations with civil society remain to be ensured.

Bosnia and Herzegovina is at an early stage with **public administration reform (PAR)** and there was no progress on ensuring a professional and depoliticised civil service and a coordinated countrywide approach to policy making. All levels of government adopted the strategic framework on public administration reform and now need to adopt the related action plan. A political body steering the coordination of public administration reform is not yet established. To guarantee a professional civil service, civil service procedures must be based on merit principles and free from political interference.

Bosnia and Herzegovina is at an early stage/has some level of preparation in the area of **judiciary**. No progress was made in this area during the reporting period. No appropriate action was taken to address the findings of the Expert Report on Rule of Law issues. Integrity reforms have met resistance from within the judiciary. Evident signs of deterioration require urgent measures to strengthen the integrity and regain citizens' trust in the judiciary, starting with a credible and rigorous system of verification of financial statements of judicial office holders. Obstructions to judicial reforms from political actors and from within the judiciary and the poor functioning of the judiciary undermine citizens' enjoyment of rights and the fight against corruption and organised crime.

Bosnia and Herzegovina is at an early stage/has some level of preparation in the prevention and **fight against corruption and organised crime**. No progress was made in addressing the Opinion key priorities and 2019 recommendations in this area, as well as the findings of the Expert Report on Rule of Law issues. Corruption remained widespread and is a serious concern, with all levels of government showing signs of political capture directly affecting the daily life of citizens. There are systemic shortcomings in the operational cooperation of law enforcement agencies and a very limited exchange of intelligence. The police is vulnerable to political interference. Financial investigations and asset seizures are largely ineffective. The contact point for cooperation with Europol is not yet operational. No steps were taken to establish cooperation with Eurojust. The country needs to improve its capacity and continue its efforts in the fight against terrorism and drug trafficking.

As regards **fundamental rights**, while the legislative and institutional framework is largely in place; a comprehensive strategic framework remains to be adopted. Some steps were made – notably, the Constitutional Court repealed the provision on the death penalty in the *Republika Srpska* entity constitution, and the first LGBTI Pride Parade took place peacefully in Sarajevo. Challenges remain on freedom of assembly, notably in the *Republika Srpska* entity. Significant reforms are needed to ensure that all citizens are able to exercise their political rights and to overcome the practice of 'two schools under one roof' and ensure inclusive and quality education for all. There was no progress on guaranteeing freedom of expression and of the media and the protection of journalists by ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers, and ensuring the financial sustainability of the public broadcasting system.

The EU has provided considerable support to Bosnia and Herzegovina to manage **migration**. The EU urges Bosnia and Herzegovina authorities to urgently take all necessary measures to prevent a humanitarian crisis from unfolding. The EU also expects violations of the law to be duly investigated. Bosnia and Herzegovina needs to ensure effective coordination, at all levels, of border management and migration management capacity, as well as the functioning of the asylum system.

As regards the **economic criteria**, Bosnia and Herzegovina has made limited progress and is at an early stage of establishing a functioning market economy. The quality of economic governance suffered from delays in government formation and insufficient cooperation at entity and state levels, paralysing among others progress towards improving the business environment which is held back by significant weaknesses, including in market entry and exit procedures, the rule of law and supervisory and regulatory institutions. Economic growth benefitted from strong domestic demand, reflecting sizeable inflows of workers remittances and low inflation. The public sector remained oversized and inefficient. The financial sector remained stable and lending increased, while unemployment has declined, partly due to a substantial labour force outflow. However, the economic impact of COVID-19 led to a sharp drop in economic activity and a marked deterioration in the labour market.

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

Bosnia and Herzegovina has continued to participate actively in **regional cooperation** and maintain good neighbourly relations. Progress on alignment with the EU Common Foreign and Security Policy has been made and should be further pursued.

Bosnia and Herzegovina is overall at an early stage/has some level of preparation regarding its level of preparedness and ability to take on the **obligations of EU membership** and needs to significantly step up the process to align with the EU acquis and implement and enforce related legislation. Limited to no progress was made on the different EU acquis chapters during the reporting period. Particular attention should be paid to the areas of free movement of goods, right of establishment and freedom to provide services, information society and media, agriculture and rural development, fisheries, transport policy, energy, economic and monetary policy, statistics, social policy and employment, enterprise and industrial policy, regional policy and coordination of structural instruments, education and culture, consumer and health protection, and financial control.

2. FUNDAMENTALS FIRST: POLITICAL CRITERIA AND RULE OF LAW CHAPTERS

2.1. Fundamentals first: Functioning of democratic institutions and Public Administration Reform

2.1.1. Democracy

The reporting period was marked by the stalemate in forming the state-level and Federation entity governments following the October 2018 elections. Although a political agreement had been found already in March 2019, Bosnia and Herzegovina remained with a caretaker government for 14 months until December 2019, while coalition partners remained embroiled in a longstanding dispute over the NATO integration of the country and over the control of the Sarajevo and Tuzla cantonal governments. A breakthrough was reached with international and EU facilitation. Nonetheless, the political environment remained polarised, with repeated calls from the *Republika Srpska* entity, in November 2019 and February 2020, to roll back reforms and to block State-level institution. The reshuffling of the Central Election Commission also further strained relations within the ruling coalition. The need for a coordinated response to the COVID-19 crisis helped to temporarily put political issues aside,

but tensions persisted. The Federation entity remains to date with a caretaker government. In such a political atmosphere, little action has been taken by political actors to address the 14 key priorities of the Commission's May 2019 Opinion and accompanying analytical report. On 28 April 2020, the Presidency tasked the Council of Ministers to present an action plan on the Opinion key priorities. A political agreement in June 2020, leading to legislative amendments in July, should allow for local elections to be finally held in Mostar on 20 December 2020.

Elections

Some progress was made towards addressing part of the Opinion key priority 1 on ensuring that elections are conducted in line with European standards by implementing the recommendations of the Office for Democratic Institutions and Human Rights at the Organisation for Security and Cooperation in Europe (OSCE/ODIHR) and relevant Venice Commission recommendations, ensuring transparency of political party financing, and holding municipal elections in Mostar. Legislative amendments adopted in July 2020 should allow residents of Mostar to vote by the end of the year.

No legislative steps were taken to implement the comprehensive set of recommendations issued by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE) and by the Council of Europe's Group of States against Corruption (GRECO). These recommendations address the transparency and overall integrity of the electoral process and the implementation of election results. Bosnia and Herzegovina does not have an action plan for this.

Due to the Parliament's inaction following a decision of the Constitutional Court, local elections have not been held in Mostar since 2008. In October 2019 the European Court of Human Rights (ECtHR) established in the *Baralija* case that there was discriminatory treatment of Mostar residents due to the State's failure to enable the conduct of democratic elections. The ECtHR requested the country to amend its legislation within 6 months, also noting that the Constitutional Court has the power to set up interim arrangements if the Parliament fails to do so. A political agreement on 17 June 2020 was followed by the swift adoption of legislative amendments in July 2020. These developments paved the way for Central Electoral Commission to announce the holding of local elections on 20 December 2020 in Mostar.

In March and May 2020, the House of Representatives decided on a different composition of the Central Election Commission. Court cases on the legality of the appointment process are pending. The decision of the Central Election Commission to postpone local elections from 4 October to 15 November 2020 due to lack of budget allocations was unsuccessfully challenged before both the Constitutional Court and the Court of Bosnia and Herzegovina.

Parliament

The Parliamentary Assembly was blocked for most of 2019 for political reasons, resulting in a heavy legislative backlog. Blockages continued in 2020 as well. The legislative assemblies in the country remain weak in relation to the executives, with little cooperation among them and weak capacities to ensure a harmonised alignment with the EU *acquis*. Legislation and practices on registration of political parties and on political party financing needs to be improved. **Some progress** was made in addressing the Opinion key priority 3 on ensuring the proper functioning of the Stabilisation and Association Parliamentary Committee.

The **Parliamentary Assembly** of Bosnia and Herzegovina was blocked for most of 2019 due to the political dispute surrounding the appointment of a new state-level Council of Ministers. This had heavy repercussions on the democratic functions of Parliament, with no progress in legislative work and lack of oversight of the executive. Following the political agreement on a new government, by early 2020 both houses of Parliament appointed their members to the standing committees and joint standing committees, enabling legislative work to get underway. The appointment of inter-parliamentary delegations was completed only in January 2020.

After five years of stalemate, in July 2020 the Parliament adopted the proposal of rules of procedure of the Stabilisation and Association Parliamentary Committee (SAPC). Such rules of procedure, which foresee two-thirds majority voting without ethnic rules, must now be confirmed at the next meeting of the joint body. The country needs to ensure the functioning of the SAPC. Political dialogue at parliamentary level is an obligation under the SAA.

Despite legislation laying down a 40% gender quota for candidates, in the 2018-2022 term women account for 21% of the members of the House of Representatives (9 out of 42) and 20% of the members of the House of Peoples (3 out of 15). The rules of procedure requiring gender balance in the appointment of members of the collegiums and of delegations to international organisations are largely ignored. There are no measures to promote the political representation of disadvantaged groups of women.

Citizens who do not declare themselves as Bosniaks, Croats or Serbs cannot be appointed to the state-level House of Peoples; since 2009 the ECtHR has established in its *Sejdić-Finci* case law that these restrictions are in breach of the Convention and its Protocols.

Entity parliaments have been in regular operation since October 2018. Since May 2019, the Parliament of the **Federation** entity adopted 16 laws in urgent procedure out of 18 (89%). In the **Republika Srpska** entity, the National Assembly adopted in the reporting period, 34 laws in fast-track procedures out of 107 (36%), including the budget; such procedures are in principle reserved only for exceptional cases. There are no specific standing committees on oversight and control of the entity government. In June 2020 the entity assembly adopted new rules of procedure, aimed at improving the quality and speed of parliamentary work.

The state-level parliament suspended their sessions from March to May 2020 due to the COVID-19 pandemic; the Federation entity introduced rules of procedure for online sessions. In the *Republika Srpska* entity, on 28 March the parliament declared a state of emergency, suspending parliamentary works and entrusting the entity President with the power to issue decrees with force of law in matters of entity competence. In this period, 19 decrees with force of law were adopted. The entity parliament terminated the state of emergency on 20 May and confirmed all adopted decrees on 23 May.

The parliamentary forum on European integration did not hold any session in 2019, negatively affecting the coordination between members of sectoral committees. All legislative assemblies, including at cantonal level, need to significantly improve their cooperation, notably to ensure a harmonised countrywide alignment process based on a national programme for the adoption of the EU *acquis*. The capacities of legislative assemblies to align with the EU *acquis* should be significantly enhanced, if necessary by pooling resources countrywide. All assemblies should ensure that the legislation includes impact assessments and should step up the oversight of the governments, including by monitoring the implementation of legislation.

The legislation on the registration of **political parties** needs to be harmonised across the country. Bosnia and Herzegovina has made no progress in ensuring transparency of campaign financing and in preventing misuse of public resources. The Central Election Commission's audit department needs to strengthen its capacity to monitor compliance with the regulation on political party financing. The country needs to ensure appropriate legislative and institutional follow-up to the outstanding GRECO and OSCE/ODIHR recommendations on political party financing, including transparency of campaign costs and sanctions for breaches. Issues persist in relations to internal party democracy, which include a lack of democratic internal policies and structures. There are no women among the political party leaders, and few in other party leadership positions.

Governance

The State-level Council of Ministers acted in caretaker function for most of 2019. The appointment of new governments in the Federation entity and in two cantons remain pending. The executives have little capacities for coordination and policy planning, including on EU matters. This requires strengthening the Directorate for European Integration, and making full use of the coordination mechanism. **No progress** was made in addressing the Opinion key priority 2 on developing and adopting a national programme for the adoption of the EU acquis (NPAA), reflecting the role of all levels of government in aligning with the EU *acquis*.

The composition of the **Presidency** of Bosnia and Herzegovina remains in violation of the ECHR and its Protocols, as established since 2009 in the ECtHR *Sejdić-Finci* case-law. The lack of consensus among members of the Presidency led to long delays in the appointment of the new government. Presidency decisions taken by a majority faced 'vital interest' vetoes, supported by the *Republika Srpska* entity parliament, and were invalidated in July 2019, February and July 2020. Despite disagreements, the Presidency managed to act coherently to respond to the COVID-19 outbreak. On 28 April, ahead of the Zagreb Summit, the Presidency adopted conclusions aimed at starting to address the Opinion key priorities, including by tasking the Council of Ministers to develop an action plan on the 14 key priorities and a methodology for the program of EU integration (NPAA).

The **Council of Ministers** continued to work in a caretaker function for the whole 2019, often only via telephone sessions. A new Council of Ministers was not appointed until 23 December 2019, 14 months after the general elections. The last ministerial appointments took place in July 2020. As in its previous composition, the new government includes 2 women among the 9 ministers (22%), with responsibility for foreign affairs and for civil affairs.

The Council of Ministers acted swiftly in the context of the COVID-19 pandemic, including by declaring a state of natural or other disaster in the whole country on 17 March and activating the coordination body for protection and rescue. The Council of Ministers continued to meet regularly and with growing intensity across the COVID-19 pandemic crisis.

As regards the EU integration agenda, in October 2019 the Council of Ministers adopted the 2018-2021 medium-term development strategy, as well as an action plan for implementing the recommendations from the Commission's 2019 analytical report. The content of the action plan was not fully agreed among all levels of government.

The governments of the **Republika Srpska entity** and of most cantons worked regularly in the reporting period. The government of the *Republika Srpska* entity declared a situation of emergency on 16 March, which remains in force, and a state of emergency, from 3 April till 20 May. The governments of the **Federation entity** and of the Herzegovina-Neretva Canton

and Canton 10 acted in a caretaker mandate throughout 2019 and 2020, pursuing a less ambitious agenda, as new executives have not been appointed since the election. The Federation government declared a state of disaster from 16 March till 29 May.

In 2019, the **Sarajevo Canton** government introduced ambitious anticorruption and transparency measures, restructuring public companies and addressing infrastructural and environmental challenges in the canton. Following a shift in alliances connected with the formation of the state-level coalition, a no-confidence motion was adopted in January 2020 and a new cantonal government took office on 3 March 2020.

The Constitutional Court of the Federation entity operates with only 5 judges out of 9; this seriously impairs its decision-making, which requires a quorum of five. Its panel on ‘vital national interest’ vetoes is not able to function with only 3 judges out of the 7 required. The entity Presidency and Parliament should swiftly proceed to fill the judicial vacancies.

The entity and state governments adopted in October 2019 and January 2020 respectively a document outlining a socio-economic reform programme for 2019-2022. Bosnia and Herzegovina needs to develop and implement a common action plan of socio-economic reforms in line with the key short-term recommendations from the Commission Opinion and analytical report and with the joint conclusions of the economic and financial dialogue. Coordination among executives at all levels has to be ensured when formulating and implementing this package of socio-economic reforms.

The *participation of women* in the executives across the country stands at around 20%, with the *Republika Srpska* entity scoring the highest with 6 women out of 16 ministers (37.5%) and Herzegovina-Neretva Canton the lowest with no women among the ministers.

The capacities of governments at all levels to ensure coordination and policy planning are insufficient. *Coordination on EU matters* needs to be strengthened in order to efficiently deal with increasing EU requirements. This calls for strengthening both the role and capacities of the Directorate for European Integration, and making full use of the coordination mechanism for the tasks required. As a key priority and outstanding obligation under the SAA, Bosnia and Herzegovina needs to develop a *national programme for the adoption of the acquis* (NPAA) that reflects the role different levels of government play in aligning with and enforcing the EU *acquis*. SAA obligations and other EU requirements need to be duly included in the NPAA and in the corresponding annual work programmes of all levels of government.

The *Republika Srpska* entity has a 2017-2021 strategy for developing **local self-government**, while there is no such strategy at the state level or in the Federation entity.

Civil society

The overall legal and regulatory framework for civil society in Bosnia and Herzegovina is broadly in line with the EU *acquis*. **No progress** was made in addressing the Opinion key priority 11 on ensuring an enabling environment for civil society, notably by upholding European standards on freedom of association and freedom of assembly. Challenges remain, as exemplified in the case of the “Justice for David” movement in Banja Luka. Meaningful and systematic consultations with civil society remain to be ensured as part of an inclusive policy dialogue. A framework for the transparent funding of civil society organisations is needed.

An empowered civil society is a crucial component of any democratic system and should be

recognised and treated as such by state institutions.

The legislation on freedom of association is broadly in line with standards and generally upheld. However, activists dealing with sensitive issues have been subject to threats, verbal abuse and physical attacks. The distribution of public funds is not fully transparent and impartial. Only a few municipalities have regulations for the transparent funding of civil society organisations that are based on clearly defined criteria and require monitoring and evaluation tools. A framework for the transparent funding of civil society is needed across the country.

The legislation on freedom of peaceful assembly needs to be harmonised across the country and aligned with European standards, in particular as regards grounds for restriction and the responsibility of organisers. Civil society organisations have reported increasing attempts to restrict freedom of assembly, in particular in relation to the ‘Justice for David’ movement in Banja Luka, whose activists have been subject to intimidation, fines, and judicial prosecution. The Sarajevo Pride parade organisers also reported facing with several additional burdens, including extra costs for additional security requirements.

Legislation on public consultations is uneven across the country and there is no strategic framework for cooperation with civil society. Meaningful and systematic consultations remain to be ensured. The Council of Ministers needs to enact the 2017 charter on cooperation with civil society organisations, notably by developing regular cooperation and consultations.

Civilian oversight of the security forces

The Parliamentary Assembly and its committees have a key role in the oversight of the country’s security forces. Due to the parliamentary blockade, the joint committees on defence and security and on the security and intelligence agency were not formed and did not hold any session in 2019; the committees held their first session only in January 2020.

The Military Commissioner, who oversees the protection of the human rights and freedoms of soldiers and personnel of the armed forces and the Ministry of Defence, conducted 92 proceedings in 2019, of which 8 are pending.

2.1.2. Public administration reform

Bosnia and Herzegovina is at an **early stage** with public administration reform. There was **limited progress** in the reporting period in addressing the Opinion key priority 14 on completing essential steps in public administration reform towards improving the overall functioning of the public administration by ensuring a professional and depoliticised civil service and a coordinated countrywide approach to policy making. The strategic framework on public administration reform was adopted by the government of the *Republika Srpska* entity, two years after other governments did so. The State government and the *Republika Srpska* entity have established working groups to develop strategies on public financial management for 2021-2025. However, stronger political commitment, sufficient financial resources and more efficient coordination structures are needed to ensure a comprehensive and harmonised approach to public administration reforms. A political body steering the coordination of public administration reform is not yet established. To guarantee a professional civil service, civil service procedures must be based on merit principles and free from political interference.

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

- adopt action plan for public administration reform and strategic framework for public financial management, establish a common performance-based monitoring framework and ensure financial sustainability;
- establish a political decision-making body to steer coordination of public administration reforms across all government levels;
- amend civil service laws to ensure respect of the merit principle at all levels of government and strengthen the capacities of civil service agencies to improve human resource management and trainings

Strategic framework for public administration reform

In June 2020 the government of the *Republika Srpska* entity also adopted the countrywide **strategic framework on public administration reform** (PAR SF) 2018-2022, two years after the State and Federation entity governments had done so. The related action plan has been developed with participation of PAR Coordinators at state and entities levels and remains to be adopted together with a coordinated monitoring and reporting system and related indicators passport.

Insufficient **political support** hinders the coordinated implementation of reforms by all levels of government. Due to the lack of political ownership, budgetary resources for implementing reforms are insufficient. **Financial sustainability** is not ensured, and reforms are mostly donor-driven. The PAR Fund, an instrument to pool donor assistance and local funding, is not operational since 2017, preventing coordinated assistance across the country. The country has yet to demonstrate political commitment to public administration reform by establishing a political decision-making body to steer and coordinate reforms across all levels of government, strengthen the existing coordination structures at technical level, and ensure sufficient funding for the reform efforts.

Policy development and coordination

The **policy-making system** in Bosnia and Herzegovina remains fragmented. The legislative framework on medium-term policy planning is incomplete and uneven. The Federation entity adopted a set of bylaws regulating annual, three-year and strategic planning. Otherwise, there

has been no progress in developing harmonised legal provisions or methodological guidance for countrywide strategic planning. There is still no harmonisation between central planning documents such as the medium-term and annual government programme, framework budget document and action plan for implementation of priorities and no harmonisation of such documents with the sector strategies. Quality review remains insufficient.

The legal framework for **inclusive and evidence-based policy development** is incomplete and not consistently implemented. The *Republika Srpska* entity simplified procedures on the regulatory impact assessment for law-making. The impact and quality of the analysis supporting policy proposals needs to be improved across all levels. The financial implications are not systemically calculated, and the collection and use of administrative data for policy-making are not ensured.

The legal framework on **public consultations** needs to be improved and applied consistently. The legislative framework does not fully establish standards for monitoring and reporting on key government planning documents at each level of government, thus preventing **public scrutiny over government work**. Beyond legislative measures, more efforts are needed to raise awareness on various forms of consultation with the public. It remains key to strengthen technical capacities at all levels of government on how to regularly use public consultations as a tool of policy-making.

Public financial management

A country-wide **public financial management (PFM) reform strategy** has yet to be developed and adopted to ensure a common reform direction on PFM. The *Republika Srpska* entity continue to lack a PFM strategy, whereas all other levels have continued to implement reforms on PFM strategies that come to an end in 2020. However, in light of the COVID-19 crisis and the need to maintain functioning PFM systems, all levels of government have embarked on a process of developing new PFM strategies until 2025 by establishing working groups; the Federation needs to establish the same working group. The challenge continues to be that PFM reform programmes at various levels of government need to be further aligned with international standards on budget formulation and execution procedures, monitoring, transparency of budget data and forecasting. Public institutions at all levels have insufficient internal audit capacity and inadequate internal controls, especially for public procurement. Reform efforts need to target the substantial payment arrears of the public sector, in particular in the health sector, and target the management of publicly-owned enterprises in order to increase transparency, fiscal sustainability and efficiency in the sector. The management of public investments needs further upgrading. (*See also Chapter 5 and Chapter 32*).

Bosnia and Herzegovina has not yet achieved sufficient **budget transparency**. Annual budgets and reports on budget implementation are only published by state-level institutions. The lack of harmonisation of the charts of accounts at state and entity level hampers access to consolidated data. In-year reporting still has to be improved at all levels. Available budgetary information remains incomplete, and assessing the overall budgetary and fiscal policy is difficult. There is no citizens' budget at any level of government and budget calendars remain to be adopted

Public service and human resources management

Ensuring a non-politicised, **merit-based and professional civil service** remains a major challenge. The *Republika Srpska* entity and Brčko District made no progress in adopting the common policy framework on civil service. Different working conditions embedded in the

legislation as well as divergent practices across levels of government (notably in respect of selection and recruitment, scope of the civil service, transfers and promotions requirements, appraisals and disciplinary procedures) could hamper the mobility of civil servants. All levels of government lack a coordinated approach to human resource management and civil service legislation. In particular, the Federation entity and cantons need to closely coordinate the institutional set-up of the civil service. The appointment of PAR coordinators in the cantons at the end of 2019 was a positive step towards improved coordination within the Federation entity. Political influence in recruitment and promotion procedures persists systematically across all levels, with lack of transparency in the appointment of selection committees. Candidates continue to be selected without applying merit principles and heads of institutions continue to use great discretion in final appointments. All civil service laws and recruitment practices have yet to ensure that ethnic criteria do not prevail over merit. The criteria for dismissals and disciplinary procedures are still insufficiently used, including the possibility to appeal.

Human resources management (HRM) remains highly fragmented. Civil service agencies and training units do not coordinate appropriately. A general lack of data and inconsistent methodologies prevent comparison of performance on HRM practices across government levels. Monitoring of human resource management is not done consistently across levels of government and civil service agencies do not make those data transparent to the public. No progress has been made in establishing functional HRM information systems (HRMIS) across all levels of government. The State level needs to adopt a legal basis to render HRMIS functional for civil service; the Federation entity has done so in July 2020; for the same aim, the *Republika Srpska* entity needs to clarify the responsibilities on HRMIS between institutions in charge of public administration and the civil service agency. The administrative capacities and coordination of civil service agencies and integrated training units need to be strengthened. The **remuneration system** for civil servants remains inconsistent across public institutions and continues to lack transparency, also due to differences across the country in salary legislation, job classification, and pay grades.

Insufficient resources are provided to civil service agencies for training and **professional development**. The performance appraisal system is formally in place but not used systematically to justify promotions. A new rulebook on performance appraisal of the civil servants in the Federation entity has introduced the use of behavioural competencies and defined objectives as separate criteria for assessing the performance. There was no progress in establishing a coherent system for fair performance appraisal, promotion and training as a right of a civil servant. Different recruitment and promotion requirements and practices hamper the mobility of civil servants. There are no systemic, consolidated data on the **integrity of civil servants**. Public perception of corruption of public officials remains high. Due to the COVID-19 pandemic, civil service agencies temporary suspended and postponed all recruitment procedures in the civil service, whilst training activities were undertaken online, where appropriate.

Accountability of administration

No progress was made in specifying in the legislation the different functions of administrative bodies, or the conditions for establishing, merging or abolishing them. This leaves excessive discretion to restructure the administration without consideration of the rationale and cost-effectiveness of changes. Clear supervision and reporting lines between ministries and subordinated institutions are still lacking. The political level does not sufficiently delegate decision-making responsibility to senior civil servants or to middle management. (*Also see*

Chapter 32)

The recommendations of oversight mechanisms (Parliaments, the State Audit Institution and the Human Rights Ombudsman) are rarely implemented. This compromises the **citizens' right to good administration**. Several institutions do not even respond to the recommendations addressed to them, although they are legally obliged to do so. (*Also see Chapter 23*)

The **right to access public information** remains uneven due to shortcomings in statutory deadlines for replying to public information requests, an incoherent system to submit requests, incompleteness of the information provided by the authorities, hardly accessible information to the public and the poor use of a comprehensive public interest test to justify a refusal to grant access to information. Legal provisions on data protection and on access to information are still interpreted in a way that protects private rather than public interests. There is a lack of effective institutional mechanisms for supervising implementation of the laws or sanctioning violations. (*Also see Chapter 23*)

The **citizens' right to administrative justice** remains uneven due to the differences in efficiency of courts across the country. There are no effective remedies against the excessive length of judicial proceedings. Though applicants may file a case with the Constitutional Court, this measure does not ensure acceleration of the pending proceedings. (*Also see Chapter 23*)

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

Service delivery to citizens and businesses

The legal framework for a **user-oriented administration** varies substantially across the country. The adoption of a new law on electronic identification and trust services for electronic transactions in compliance with the EU *acquis* is still pending. In October 2019, the Office for the Supervision and Accreditation of Certifiers, established within the Ministry of Communication and Transport, registered the first trust service provider, paving the way for the introduction of qualified electronic signature in the country.

To foster a user-oriented administration, the country has to ensure a harmonised approach to the modernisation, simplification and digitalisation of services. Special administrative procedures still need to be reviewed and either abolished or brought in line with the laws on general administrative procedure. Different levels of authority decided to suspend time limits in administrative procedures and disputes, except in urgent cases, for the duration of the state of disaster or emergency. The delivery of public services was adjusted to the specific measures to prevent the spread of COVID-19. Bosnia and Herzegovina should simplify and harmonise business registration procedures and ensure full mutual recognition between entities, including on concessions and licensing. No one-stop-shop exists for either citizens or businesses, except in the *Republika Srpska* entity. Systematic monitoring of user satisfaction with service delivery does not occur at any level.

2.2.1. Chapter 23: Judiciary and fundamental rights

Bosnia and Herzegovina has **some level of preparation** to implement the EU *acquis* and European standards in the area of judiciary and fundamental rights.

No progress was made during the reporting period. Obstruction of justice reform by political actors and from within the judiciary, and the poor functioning of the judicial system continued

to undermine the citizens' enjoyment of rights and the fight against corruption and organised crime. The authorities and the judiciary have not taken action to address the findings of the Expert Report on Rule of Law issues.³ Corruption is widespread and the fight against it has not advanced. As regards fundamental rights, the provision on the death penalty in the constitution of the *Republika Srpska* entity was declared unconstitutional. The first LGBTI Pride Parade was held in Sarajevo.

Functioning of the judiciary

Bosnia and Herzegovina is at an **early stage/has some level of preparation** in the area of the judiciary. **No progress** was made in addressing the Opinion key priority 6. Two out of three of the 2019 recommendations remain outstanding. The authorities and the judiciary have not taken appropriate action to address the findings of the Expert Report on Rule of Law ("Priebe report") issues. Reforms have also met resistance from within the judiciary, in particular with regard to declaration and verification of assets of judicial office holders and evaluation of judges and prosecutors. Evident signs of deterioration require urgent measures to strengthen the integrity and regain citizens' trust in the judiciary, starting with a credible and rigorous system of verification of assets of judicial office holders. Obstruction to justice reform from political actors and from within the judiciary, and the poor functioning of the judicial system continued to undermine the citizens' enjoyment of rights and the fight against corruption and organised crime.

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

- adopt the new law on the High Judicial and Prosecutorial Council and the new law on the Courts of Bosnia and Herzegovina, in line with European standards;
- establish urgently a credible and rigorous system of verification of asset declarations of judges and prosecutors, and members of the High Judicial and Prosecutorial Council;
- apply consistently and significantly improve rules and practices on the appointment, integrity and training of judges and prosecutors; ensure that a system of performance appraisal is in place;
- effectively implement the revised National War Crimes Strategy and put in place a new Justice Sector Reform Strategy.

Strategic documents

The countrywide 2014-2018 justice sector reform strategy and its action plan are outdated and implementation is significantly behind schedule. It has had almost no impact on reforms. Bosnia and Herzegovina needs to step up the strategy's implementation, notably by establishing an updated timeline and by ensuring adequate monitoring and funding. At the same time, decisive action must be taken to draft and adopt a new strategy and action plan without further delay.

Legal and institutional framework

The legal and institutional framework has significant shortcomings. As an Opinion key priority, the country needs to adopt the new Law on Courts of Bosnia and Herzegovina in

³ <http://europa.ba/wp-content/uploads/2019/12/ExpertReportonRuleofLawissuesinBosniaandHerzegovina.pdf>

order to achieve greater legal certainty and improve the functioning of the judiciary, notably in the fight against serious crime. The law should clarify the courts' subject-matter jurisdiction for particularly serious crimes in line with the standards set out in the Treaty on the Functioning of the European Union. This law should also provide for a separate second-instance appellate court to strengthen the independence of the judicial review of the decisions of the Court of Bosnia and Herzegovina.

Judicial self-governance body

In the reporting period, numerous shortcomings have become evident in the independence, accountability and efficiency of the High Judicial and Prosecutorial Council (HJPC), which have further significantly deteriorated trust in the judiciary. Corruption allegations against the HJPC President have not been properly investigated. In addition, the President did not distance himself from political interference from other branches of government and took part in high-level political meetings. This significantly undermines the independence and impartiality of the judiciary, and how it is perceived by the public. The HJPC did not take adequate follow-up action in these cases, including of disciplinary nature, which remains a matter of serious concern. In the context of the COVID-19 pandemic, the HJPC failed to promptly ensure the continuity of its own activities. It held its first online session only on 30 April. The HJPC sent to relevant executive and legislative authorities guidance relative to the functioning of the judiciary on 22 March 2020, which were implemented through adoption of legislative acts at the level of entities and Brčko District, but not at the state level. The monitoring of gradual liberalisation of COVID-19 measures is ongoing, with a view to establish further needs for assistance to the entire judiciary. The HJPC should monitor the implementation of COVID-19-related measures, including its end of April decision on gradual liberalisation measures, to ensure continuous administration of justice.

As an Opinion key priority, Bosnia and Herzegovina needs to adopt the new Law on the HJPC on the basis of the 2018 legislative initiative to strengthen the independence and accountability of the HJPC as a guarantor of the independence of the judiciary. This law should align with European Standards the HJPC's composition, the election and disciplinary responsibility of its members, as well as reform the appointment, promotion, performance appraisal, disciplinary responsibility, conflict of interests and integrity of judicial office holders, and establish a judicial remedy against all HJPC's final decisions. These issues need to be addressed in the light of the European Commission's recommendations and the findings of the Expert Report on the Rule of Law issues. The final draft law should be submitted to the Venice Commission for an opinion, before adoption.

Independence and impartiality

No measure was taken in 2019 to improve the independence and impartiality of the judiciary, which needs to be significantly strengthened in line with European standards, including through additional constitutional and legal safeguards. Lack of impartiality and conflicts of interest continued to be displayed by courts, in particular at the state level.

The rules on the appointment, promotion, career advancement, conflict of interests and disciplinary responsibility of judges and prosecutors do not sufficiently safeguard their **independence**. In particular, appointments and career advancement are not sufficiently based on merit. The practice of deviating from the order in which the candidates have been ranked during appointment procedures, notably in the case of managerial positions, continued to be the rule rather than the exception during the reporting period, and is therefore a matter of serious concern. Efforts are also needed to make judicial appointment procedures more

transparent. Appointment decisions need to be more thoroughly motivated, according to predetermined criteria. Multiple ad-hoc appointment procedures make the system vulnerable. Access to the judicial and prosecutorial profession should be managed through the organisation of a single annual examination. In addition, first access to the judicial or prosecutorial profession should be conditional on completing a specialised preparatory programme for candidates, in line with the findings of the Expert Report on the Rule of Law issues. Judges and prosecutors throughout the country need to be independent and impartial, and perceived as such. The new Law on HJPC should be urgently finalised and adopted to address these shortcomings.

The application of regulatory safeguards aiming to ensure **impartiality** is not consistent, notably for conflict of interests. There are no sufficient security features to prevent abuse of the random case allocation provided for by the case management system, especially in small courts, where reassignments without a specific justification are possible. Judges and prosecutors remain subject to internal and external pressure, including politically motivated threats and intimidation. Such practices need to be forcefully addressed. Dedicated sanctions for undue influence of the judicial office holders or public comments that would undermine their independence are not available. Undue influence may lead to disciplinary or criminal sanctions only in very specific cases. There are no established procedures carrying penalties against undue influence or threats to judicial independence. The existing reporting mechanism at the level of the HJPC, which may result only in an opinion on the reported cases of undue influence, is neither sufficient nor effective. The citizens' and business world's perception of judicial independence significantly worsened during the reporting period.

Accountability

There is no effective and transparent system for the submission, verification and processing of the **asset declarations** of judges, prosecutors, and members of the HJPC. This seriously affects the **integrity** of the judiciary. All courts and prosecutors' offices have integrity plans, however their implementation is uneven. The process for recruiting judges and prosecutors does not include any thorough integrity and assets verification or any assessment of the candidates' ethical and moral standards.

Integrity reforms initiated by the HJPC have met resistance from within the judiciary, in particular with regard to the declaration and verification of assets of judicial office holders. This is worrying. In January 2020, the Court of Bosnia and Herzegovina has annulled the HJPC rulebook on verification of asset declarations of judicial office holders. This decision seriously undermines the integrity objectives of the justice reform and raises impartiality questions. The lack of a separate second instance jurisdiction to review the decisions of the Court of Bosnia and Herzegovina further aggravates the issue.

Decisive action must be taken to regain citizens' trust in the judiciary, starting with a set of indispensable integrity-related amendments to the current Law on HJPC. These amendments should be urgently adopted by the legislator, to establish a credible and rigorous system of verification of asset declarations of judges and prosecutors, and members of the HJPC. A functionally and financially independent structure within the HJPC Secretariat should be entrusted with the verification of asset declarations. To alleviate concerns about potential abuse and manipulations, greater transparency must be ensured through publication of asset declarations and close external monitoring. The asset declarations of management positions, in particular of the president and members of the HJPC, the court presidents and chief prosecutors, must be submitted and processed as a matter of priority. Should important

irregularities be detected that amount to a disciplinary case, the file has to be passed over to the office of the disciplinary prosecutor and other competent bodies for further investigation. The integrity-related amendments to the current Law on HJPC should also provide for access to information in order to crosscheck asset declarations, notably with the tax administration. Decisive action should also be taken immediately. Voluntary publication of asset declarations by all HJPC members and judicial management should be further encouraged. Implementation of integrity plans and code of ethics must be stepped up. In July 2020, the HJPC has adopted a Rulebook on Internal Organisation and Systematisation of Posts, providing for an integrity structure, which is not however operational with respect to the verification of asset declarations.

Disciplinary procedures continue to have little dissuasive effect. There is no specific disciplinary measure for the violation of codes of ethics for judges and prosecutors. In 2019 the office of the disciplinary prosecutor registered 46 complaints against 47 judicial office holders (28% more compared to 2018) – the highest number ever; it completed 42 judicial proceedings (25 from 2019, and 17 from 2018). 37 cases resulted in disciplinary measures, of which 21 involved disciplinary plea bargaining. Two judicial office holders were dismissed. There has been no progress in providing the disciplinary prosecutor with greater autonomy and independence from the HJPC. The disciplinary panels are almost exclusively composed of HJPC members without clear selection criteria. This constitutes a potential conflict of interest, notably in cases where the members of the HJPC are subject to disciplinary procedures. There are no rules guaranteeing full independence and impartiality of the disciplinary panels or the right to judicial review of their decisions, except in cases of dismissals. In 2019, the disciplinary panels composed of HJPC members have ruled that the HJPC President and members may not be subject to disciplinary procedures. This is an extremely worrying precedent. The urgent amendments to the current Law on HJPC should provide for the disciplinary liability of all members of the HJPC, including the President. Disciplinary background should be duly taken into account in the performance, appraisal and promotion of judicial office holders. The HJPC should consider suspending any appointment or promotion until the disciplinary proceedings have been concluded. Failure to submit asset declarations, failure to declare conflict of interests, and serious violations of the codes of ethics should be duly sanctioned and accounted for during appointment, promotion, career advancement and appraisal procedures, and should be a ground for disqualification and negative appraisal. Urgent amendments of the current Law on HJPC should provide for dissuasive sanctions for breach of integrity obligations and an explicit judicial remedy against HJPC decisions concerning the career of judges and prosecutors.

Professionalism and competence

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

In May 2020, by decision of the Court of Bosnia and Herzegovina, the criteria on **performance appraisal** for all judges and prosecutors in force since January 2019, have been annulled. This precedent is a major setback for judicial reform. Performance appraisal criteria are key to promotion of a merit-based career of judicial office holders. This decision also affects all pending and future appointments and challenges the competency of the HJPC to enact the evaluation criteria for all judges and prosecutors, contrary to the Commission's recommendations and the case law of the Constitutional Court. A system of thorough and

balanced performance appraisal based on quality criteria must continue be in place and consistently applied to all judges and prosecutors, in line with the European standards.

Comprehensive training on public communication and media relations for courts and prosecutors' offices is required to ensure transparency and public trust in the judiciary.

Quality of justice

The justice system is not sufficiently accessible and **transparent**. Key court decisions and confirmed indictments are not made available online, in particular in corruption cases. The HJPC received 118 requests for access to information in 2019, all of which were processed. The HJPC has no **communication** strategy. Transparency and communication needs to be significantly improved in the judiciary's interaction with legal professionals, justice users, the media and public at large. The HJPC case law database, which contains over 12,500 decisions, needs to be systematically populated with key rulings from all jurisdictions to foster consistent case law across the country. The database also needs to become accessible to all citizens without charges. Dedicated case law departments should also be in operation in all the highest judicial instances.

Case law lacks **consistency**. The legal status and effectiveness of the judicial panels for the harmonisation of case law in civil, criminal and administrative matters need to be significantly strengthened. Only the harmonisation panel on criminal law met in the reporting period, adopting guidelines on two issues. Ultimately, Bosnia and Herzegovina needs to establish a judicial body to ensure the consistent interpretation of the law and harmonisation of case law across the four legal orders in the country.

There are 1,011 judges and 372 prosecutors, including 78 court presidents and 19 chief prosecutors. 60% of the total number of judges and prosecutors and 46% of managers are women. The 2019 **budget** for the judiciary is EUR 137.3 million, which is more than the 2018 budget (EUR 130.5 million accounting for 0.76 % of GDP). In 2019, EUR 104.8 million was allocated to courts and EUR 29.6 million to prosecutors' offices (compared to EUR 99.2 million and EUR 28.6 million in 2018). The funds allocated remain insufficient to cover investment needs and to improve the judicial infrastructure, since over 70% of the budget is spent on salaries and compensations.

Training for judges and prosecutors remains insufficient. Significant improvements in the duration and quality of mandatory training are urgently needed. Its content should not be limited to legal issues, but also address values and professional skills. Court presidents and chief prosecutors need to be more involved in identifying the training needs of their staff. The HJPC needs to strengthen the supervision of all judicial training activities based on the annual reports received from entity-level training centres. The coordination of donors' support should be significantly improved. The entity-level training centres are observers to the European Judicial Training Network (EJTN), however they should benefit from the expertise within the network in a more proactive manner.

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

Efficiency

The **length of court proceedings** in 2019 further decreased (418 days) compared to 2018 (464 days) in non-utility cases, as did the clearance rate at 103 % (105 % in 2018), but remains very high. Weak trial management and lenient enforcement of procedural discipline by judges add to lengthy proceedings. Managerial oversight of court presidents/chief prosecutors needs to be increased. Legislation and implementing measures need to be adopted urgently to address the excessive length of proceedings.

The overall **backlog** for pending court cases amounts to 2.1 million cases, out of which approximately 1.9 million are cases of unpaid utility bills. This seriously harms judicial efficiency. The backlog of unpaid utility bill cases and small financial claims needs to be reduced significantly by urgently amending the enforcement procedure laws in the entities and the Brčko District to make debt collection more efficient. The backlog for non-utility cases slightly decreased by 3.7% compared to 2018. Annual quotas to reduce the backlog in connection with qualitative performance appraisal criteria, should further be used to reduce the backlog of cases, without hampering the quality of justice.

The use of court settlement and **alternative dispute resolution** methods, notably conciliation and mediation, needs to be promoted and applied in line with European standards and best practices.

Domestic handling of war crime cases

Bosnia and Herzegovina's cooperation with the *International Criminal Tribunal for the former Yugoslavia* (ICTY) and its successor institution the International Residual Mechanism for Criminal Tribunals (IRMCT-Mechanism) is assessed as satisfactory. The Prosecutor's Office of Bosnia and Herzegovina continues to closely collaborate with the Office of the Prosecutor of the Mechanism, processing an increasing number of requests for assistance from all prosecutors' offices in Bosnia and Herzegovina to the Office of the Prosecutor. The Office of the Prosecutor of the Mechanism continues to assess positively the work of the Prosecutor's Office of Bosnia and Herzegovina, but noted that a much lower number of indictments for war crimes were filed in 2019.

The revised National War Crime Strategy was adopted by the Council of Ministers on 24 September 2020. Its adoption was pending since July 2018. The strategy provides the necessary framework for Bosnia and Herzegovina to process the backlog of war crimes cases more efficiently, by providing clearer criteria for distribution of cases to lower courts and prosecutors' offices and thus allowing the state-level Prosecutor's Office to focus on the most complex cases. The effective implementation of the revised National War Crimes Strategy should start with no delay. Regional judicial cooperation in processing war crime cases remains largely ineffective. The bilateral protocols on cooperation related to war crimes, crimes against humanity and genocide between the Prosecutor's Office of Bosnia and Herzegovina and its counterparts of Serbia, Croatia and Montenegro have helped to reduce judicial impunity but have not been used recently. Cooperation with Serbia has led to indictments being issued pursuant to cases transferred from Bosnia and Herzegovina, which are yet to lead to convictions. Cooperation with Croatia continued to face a number of impediments and has not led to tangible results. A protocol with the Montenegro prosecutor's office is in place but is not used.

Out of the 214 yet unresolved cases, 89 proceedings for war crimes are pending before courts in Bosnia and Herzegovina due to the unavailability of the indicted persons. Holding multiple citizenships, these individuals are allegedly residing in neighbouring countries. This enables them to escape justice by taking advantage of the prohibition in the countries of the region to

extradite their own nationals for the criminal offences of genocide, crimes against humanity and war crimes. They are also benefiting from the lack of progress of other jurisdictions in addressing the crimes in question. Serbia has failed to enforce the final sentence handed down in Bosnia and Herzegovina against Novak Djukić, despite basic international judicial cooperation tools which are applicable between the countries concerned.

War crime cases has been gradually reduced, however the processing of these cases, in particular the most complex ones, is subject to serious delays. The revised national war crimes strategy, whose adoption is pending, should include new timelines for the completion of all war crimes cases by 2023. With an estimated amount of 1,210 cases in July 2013, the total number of unresolved war crime cases had been reduced to 621 (-48.7%) by 31 December 2019; around 253 of these were complex cases. An estimated 214 cases (34,5%) are pending due to the unavailability of the suspects; they require reinforced regional cooperation. In 2019 the number of confirmed indictments and the conviction rates remained stable in the entities and the Brčko District, while decreasing at the state level. The Prosecutor's Office of Bosnia and Herzegovina should enhance its efforts to process the most complex cases and improve the quality of investigations and indictments.

Fight against corruption

Bosnia and Herzegovina is at an **early stage/has some level of preparation** in the fight against corruption. **No progress** was made in addressing the Opinion key priority 7 and 2019 recommendations, which remain outstanding. The authorities and the judiciary have not taken action to address the findings of the Expert Report on Rule of Law issues on the fight against corruption. Corruption remained widespread and all levels of government show signs of political capture directly affecting the daily life of citizens. There has been no progress on effective implementation of anti-corruption strategies and action plans. Lack of harmonisation of legislation across the country and weak institutional cooperation and coordination continued to hamper the fight against corruption. The track record on prevention and repression of high-level corruption remains very limited, due to operational inefficiency and political interference. The authorities need to ensure appropriate legislative and institutional follow-up to the outstanding GRECO recommendations, notably on political party financing and conflict of interest.

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

- adopt the law on the prevention of conflict of interest at state level, and complete the legal framework on the protection of whistle-blowers;
- demonstrate progress towards establishing a track record on the repression and prevention of high level corruption, and ensure an effective and independent judicial process in the COVID-related corruption cases;
- adopt a new state-level anticorruption strategy and action plan, and ensure the effective functioning and coordination of corruption prevention bodies at all levels of government.

Track record

In 2019, 51 **investigations** were initiated by the State Investigation Protection Agency (SIPA) into cases of corruption, of which 13 were finalised. 13 reports against 76 persons (68 natural and 8 legal entities) were sent to the competent prosecutors' offices. The trend shows that only a few investigations have been finalised.

There were 181 indictments countrywide, with a decrease of 3.8% compared with 2018 while

the number of convictions was 221, a large majority of which were suspended sentences. The trend shows that there is a very limited number of final convictions in high-profile cases. During 2019, indictments were filed in 9 cases (10 in 2018). The HJPC has adopted criteria for the identification of high-level corruption cases. Nevertheless, data on final convictions may not be technically retrieved from the Case Management System. This has to be remedied with urgency. Sanctions are not sufficiently effective, dissuasive and proportionate. Plea bargain agreements are frequent and sanctions are lenient because of the excessive application of mitigating circumstances, with prison sentences often suspended or even converted into fines. Most of the convictions were pronounced for abuse of office or authority.

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

In the area of **conflict of interests**, a state-level commission has not yet been established. As regards **asset declarations**, 585 public officials of state-level institutions are required to submit their financial reports for verification. In 2019, the number of financial reports filed was 138; all other officials failed to submit their financial reports. In absence of the state-level commission, no reports were checked and no sanctions were imposed. A positive trend was recorded in the Sarajevo Canton, where 478 out of 740 office holders submitted asset declarations. 230 out of 262 office holders who failed to submit declarations were sanctioned with misdemeanour warrants during the reporting period. Identified asset discrepancies have been referred for further investigation. Rules on conflict of interests are not enforced in the Federation entity or in the Brčko District. Asset declarations of elected officials are made available to the public through the website of the Central Election Commission, which has no obligation to check their accuracy. In Sarajevo Canton, asset declarations of office holders are published on the website of the cantonal anti-corruption office.

The Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) granted administrative protection to **whistle-blowers** in one case in 2019, compared with two in 2018. There is no legislation on whistle-blower protection in the Federation entity. Legislation at all levels of government needs to be aligned with the EU *acquis*.

Institutional framework

Corruption Prevention

The institutional framework on corruption prevention is largely in place and dedicated corruption prevention bodies have been set up in almost all jurisdictions. However, the functioning and coordination of corruption prevention bodies among themselves and with the APIK are not sufficiently effective. APIK should play a much more proactive role in implementing GRECO recommendations and aligning with international standards. During the reporting period, APIK has finalised a framework plan for the prevention of corruption during the COVID-19 pandemic, which led to subsequent action plans agreed by the relevant levels of government, except the *Republika Srpska* entity.

Corruption prevention bodies at the cantonal level are largely set up on an ad-hoc basis, without full-time professional members and are subordinated to the cantonal government. Their independence needs to be significantly strengthened, as do human and material resources. The anticorruption office of the Sarajevo Canton made good progress. In 2019, the office processed 372 reports of corruption, of which 219 were sent on to the competent authorities for further investigation and action. No judicial follow-up has been reported in

these cases. The Prosecutor's Office of Sarajevo Canton, following the publication of the Expert report on the rule of law issues, established efficient cooperation with the anticorruption office and ensured prosecutorial follow-up in the reported cases. The corruption prevention body of the Sarajevo Canton has advanced a mapping of corruption risks and adopted a methodology on public procurement monitoring in COVID-19 pandemic-related measures. The methodology was followed up by the government of Canton Sarajevo. It also processed 70 reports of irregularities, referring more than 20 reports to competent institutions for follow-up. The Brčko District has designated a body for the protection of whistle-blowers, however it still needs to be rendered operational.

Bosnia and Herzegovina needs to introduce a comprehensive and effective system of electronic public procurement to foster transparency and reduce abuse of public resources. An enhanced monitoring system of possible abuses of the Law on Public Procurement during the COVID-19 pandemic was implemented by the Public Procurement Agency of Bosnia and Herzegovina and prosecutor's offices throughout the country.

Law enforcement

The criminal justice policy throughout the whole country is largely ineffective in the fight against corruption. This is in part due to inadequate penalties that do not ensure sufficient deterrence. Deep legal fragmentation and frequent conflicts of jurisdiction leading to transfers of cases slow down proceedings and reduce efficiency. The police is not proactive in launching investigations.

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

The state level prosecutor's office started an investigation in one case of alleged fraud related to the public procurement of COVID-19 medical equipment, largely reported in the media. The investigation is still ongoing. This case triggered unprecedented interference with the investigation. Such undue pressure on the independence of the judiciary is worrisome. The Court of Bosnia and Herzegovina rejected the prosecutors' request for custody of the suspects, and ordered the preventive measure of prohibition to contact other suspects or witnesses. Contrary to its prior practice, the court did not order the supervision of these preventive measures by the law enforcement agency.

Legal framework

The lack of harmonisation of legislation across the country and weak institutional cooperation and coordination continued to hamper the fight against corruption. The country made no progress in adopting a comprehensive law on prevention of conflict of interest, in line with international standards. The Federation entity needs to adopt legislation on conflict of interest as well as on the effective protection of whistle-blowers. The Brčko District needs to introduce an effective system of monitoring and prevention of conflict of interest. *Republika Srpska* entity needs to align its conflict of interest legislation with international standards.

Lack of transparency seriously hinders the fight against corruption. The legislation on political party financing needs to be further aligned with international standards, particularly

with pending GRECO recommendations. Legislation on freedom of access to information at state and entity level needs to be further aligned with international and European standards. Data protection laws are interpreted in a way that protects private rather than public interests. There is no legislation to effectively prevent and address corruption in the private sector and no regulation of lobbying.

None of the GRECO recommendations have been implemented in their entirety. The authorities need to ensure appropriate legislative and institutional follow-up to fulfil the outstanding recommendations, notably on political party financing and conflict of interest. The Central Election Commission's Audit Department needs stronger capacities to monitor compliance with political party financing regulations.

Strategic framework

Anti-corruption strategies and action plans have been put in place across the country, but need to be urgently updated and harmonised. There has been no progress on effective implementation in 2019. The state-level anticorruption strategy and action plan have expired. New strategic documents need to be adopted with no delay and their implementation significantly improved. Anti-corruption strategies need to be harmonised across the country; adequate funding should be provided and monitoring mechanisms established to ensure their implementation.

Fundamental rights

The legislative and institutional framework on fundamental rights is largely in place. Limited efforts were made over the reporting period to address the Opinion key priorities 5 and 9-13 on fundamental rights. Notably, the Constitutional Court repealed the provision on the death penalty in the *Republika Srpska* entity constitution, and the first LGBTI Pride Parade took place peacefully in Sarajevo. The exercise of freedom of assembly remains restricted in the *Republika Srpska* entity, where activists have been subject to intimidation and judicial prosecution. Significant reforms are needed to ensure that all citizens are able to effectively exercise their political rights and thus bring the country's constitutional and legislative framework into line with the *Sejdić-Finci* case-law of the ECtHR. Divided education also needs to end in order to overcome the practice of 'two schools under one roof' and ensure inclusive and quality education for all. Gender-based violence, ill-treatment of detainees and the protection of minorities, including the Roma⁴, are also issues of concern. The country also needs to develop a comprehensive strategic framework on human rights and on the protection of minorities, including on transitional justice. Last year's recommendations remain outstanding.

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

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

⁴ In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

Bosnia and Herzegovina is not an observer country of the European Union Agency for Fundamental Rights. The country should already apply the Agency's methodology for the collection of relevant data on fundamental rights.

Bosnia and Herzegovina has ratified all major European and **international human rights instruments**, most of which are included in its Constitution. Bosnia and Herzegovina underwent the third cycle of the Universal Periodic Review on 13 November 2019; UN Member States issued 207 Recommendations, of which the country accepted 204. The country did not notify the Council of Europe as regards the state of disaster / emergency and the measures undertaken during such a period in derogation to the ECHR.

The **European Court of Human Rights** (ECtHR) delivered 21 judgments concerning 379 applications in 2019 (up from 6 in 2018) finding that Bosnia and Herzegovina had violated rights guaranteed by the European Convention on Human Rights, most of them related to the right to a fair trial, protection of property, right to liberty and security, freedom of expression and non-discrimination. 1,784 applications were submitted to the Court during 2019, bringing the total number of applications pending before the court to 1,816. There are three groups of cases under standard and enhanced supervisory procedure, concerning electoral rights, repossession of properties, and detention conditions for vulnerable persons. The *Sejdić-Finci*, *Zornić*, *Šlaku* and *Pilav* rulings require constitutional amendments to ensure the equality of political rights among all citizens; they have not been implemented.

Bosnia and Herzegovina has no comprehensive policy framework on the **promotion and enforcement of human rights**, including countrywide strategies on human rights, on non-discrimination, and on the protection of minorities in the absence of these strategies, the protection of human rights continues to be uneven across the country.

The Law on the Ombudsman has to be amended in line with the 2017 re-accreditation recommendations, in order to improve the Ombudsman's independence and effectiveness and designate it as a national preventive mechanism against torture and ill-treatment – an international obligation of the country; the House of Representatives has rejected such amendments during the reporting period. The tripartite composition and consensual decision-making of the Ombudsman institution needs to be revised in the mid-term to ensure its effective functioning. In 2019, the Ombudsman received 3,218 complaints and issued 304 recommendations out of which 109 (35%) were implemented by public and private institutions, the same rate as in 2018 and 2017. The Ombudsman has not opened any minor offence proceedings for non-compliance with its recommendations in the past 5 years, despite having competence to do so. It also has not made use of its competence to initiate or intervene in administrative or judicial proceedings. During the state of natural disaster / emergency, the Ombudsman called upon the authorities to ensure in particular the protection of the human rights of vulnerable categories of citizens and to safeguard freedom to provide information.

On the **right to life**, in October 2019 the Constitutional Court repealed the provision on death penalty in the *Republika Srpska* entity constitution. The issue was listed among the key priorities on fundamental rights in the 2019 Commission Opinion.

As regards **torture and ill-treatment**, the Ombudsman received 129 complaints in 2019, down from 144 in 2018. Reports of ill-treatment of suspects and prisoners in police stations and detention facilities are processed at a slow rate and only a few officers are punished. Bosnia and Herzegovina needs to fulfil its obligations under the Convention against Torture, including by adopting a state-level framework law clearly defining countrywide criteria on the rights of civilian victims of war-time torture, which remain uneven across the country. In

August 2019, upon a petition of wartime sexual violence victims, the UN Committee against Torture condemned the practice of application of statute of limitations in compensation claims and requested Bosnia and Herzegovina to establish an effective reparation scheme at the national level to provide adequate and just satisfaction to victims of torture. The country needs to ensure full compliance with this decision.

Legislation on the **prison system** is neither sufficiently harmonised throughout the country nor fully aligned with European and international standards. The Bosnia and Herzegovina law on execution of criminal sanctions was last amended in 2013 with provisions on mutual cooperation, specialised professional training and National Preventive Mechanism, amongst others. While legislation on the execution of criminal sanctions has entered into force in 2018 in the *Republika Srpska* entity, similar legislation remains to be adopted in the Federation entity to address long-standing issues, such as transfer of prisoners across Entity borders, professionalisation of prison management and security staff and setting-up of a fully-fledged parole system. There is no countrywide strategy on the prison system. The State prison in East Sarajevo was opened in July 2020, three years after completion, but is not yet in operation. Bosnia and Herzegovina should improve detention conditions in prisons and police detention facilities and bring them in line with European and international standards, including by introducing social reintegration programmes for former inmates and digitalisation. The country should further expand the use of alternatives to detention, in particular in the *Republika Srpska* entity. Prison system, healthcare and social care services lack effective institutional cooperation. During the pandemic, visits to inmates were suspended, save for defence attorneys.

Bosnia and Herzegovina lacks a countrywide strategy on **transitional justice** to ensure a policy framework for dealing with the legacies of the past. The political environment remains divisive and not conducive to **reconciliation**. Well-documented and established facts about wartime events, including war crimes and genocide, are frequently contested by high-level political leaders, who cast doubts on the independence or impartiality of international and domestic tribunals. Convicted war criminals are still glorified. All actors need to demonstrate full cooperation with the international tribunals by acknowledging and respecting their decisions. Revisionism and denial contradict the most fundamental European values.

The unresolved fate of *missing persons* is a matter of concern. 7,532 people are still missing as a result of the conflict, of which 194 were identified in 2019, according to the data provided by the Bosnia and Herzegovina Missing Persons Institute as of April 2020. Bosnia and Herzegovina needs to assume full responsibility and ownership of the process. While the Missing Persons Institute is financially sustainable, its ability to fulfil its mandate is impeded by political pressures and lack of capacity. A support fund for the families of missing persons has not been established, as provided for by the law. The lack of local forensic capacity, especially in the Federation entity, hampers identification. Further efforts are needed on a regional scale to solve the issue of persons who disappeared in relation to the conflicts of the 1990s.

Bosnia and Herzegovina needs to bring its laws in line with EU **data protection** legislation. In July 2020 the country signed the Protocol 223 amending the Council of Europe Convention for the protection of individuals with regard to the automatic processing of personal data; it now needs to ratify it. The offence of unauthorised use of personal data is included in all four criminal codes in the country. The Personal Data Protection Agency needs adequate human and financial resources to perform its tasks effectively. The Agency conducted 66 procedures ex officio in 2019, a decrease from 69 in 2018 and 45 in 2017. It received 131 complaints in

2019 compared to 140 in 2018 and 96 in 2017. The Agency conducted 16 inspections in 2019 (42 in 2018 and 83 in 2017). It issued 25 minor offence orders in 2019 (15 in 2018 and 15 in 2017). In 2019 there were 21 administrative proceedings against decisions of the Agency before the Court of Bosnia and Herzegovina – compared to 12 in 2018 and 2017. The Agency provided 376 expert opinions in 2019 (169 in 2018 and 180 in 2017) and 15 opinions on laws and by-laws in 2019 (37 in 2018). Following the introduction in the State Parliament’s rules of procedure of an obligation to consult the Agency on legislative proposals, such a requirement is still not introduced at other levels of government. In April 2020, the Agency prohibited authorities at all levels to publicly disclose the data of persons who are positive to COVID-19 and persons who received orders on isolation and self-isolation; it also stated that, while it is not illegal to publish a minimum of information on persons who violate the laws or certain prohibitions, it is however contrary to the law to proactively and generally publish data on persons violating restrictive measures

Freedom of expression

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

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

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

Intimidation of journalists

Serious concern persists over political pressure, intimidation and threats against journalists, and particularly women journalists. The authorities continue to downplay the intimidation of journalists, and their reaction remains weak. Public institutions do not collect data on threats and attacks against journalists and media workers. The *BH Novinari* association recorded 56 cases of violation of journalists’ rights in 2019, including 9 cases of physical assault, 21 threats out of which 8 death threats, and 10 cases of political pressure. 29 additional cases have been registered since the beginning of 2020. The Ombudsman received 18 complaints, up from 9 in 2018. In July 2019, the Banja Luka court condemned in first instance for attempted murder one of the assaulters of a journalist who had been reporting on the ‘Justice for David’ demonstrations in August 2018. Authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against the media, including by ensuring effective police investigations and judicial prosecution leading to final convictions of

perpetrators.

Legislative environment

Defamation has been decriminalised since 2002, but politicians continue to use civil suits to intimidate journalists. Courts should step up their efforts to ensure an expedient processing of defamation cases and consistency of case law on damage awards, to prevent any chilling effect that would force journalists into self-censorship. Legislation on freedom of access to information remains non-harmonised across the country and is still not in line with international and European standards. Legislation on hate speech still needs to be fully aligned with the ECtHR case law and the EU *acquis*. Legal provisions on data protection and on access to information are still interpreted in a way that protects private rather than public interests. Legislation prohibiting the transmission of information that may cause panic or severely violate public peace and order was in force in the *Republika Srpska* entity from 19 March to 17 April 2020. Such legislation has a chilling effect on freedom of expression for both media and individuals, leading to the risk of self-censorship.

Implementation of legislation/institutions

The Communications Regulatory Agency (CRA) enjoys operational independence, but lacks full political and financial independence. The procedure to appoint its management needs to be improved. This would also help improve its public perception as a neutral and independent body. The CRA was active during the COVID-19 crisis, issuing recommendations and instructions.

Public service broadcaster

The 2003 law on the public broadcasting system is only partially enforced, and entity laws on broadcasting are not in line with it. Therefore, the three public broadcasting services are exposed to political influence, in particular through politically controlled steering boards, with a worrying trend of self-censorship. The country does not have an appropriate model for collecting fees, as provided for by the law. Entity broadcasters have substantial unpaid debts towards the state-level broadcaster, which are subject to lengthy litigation. Such issues continue to pose a threat to the financial independence and sustainability of the public broadcasting system. Bosnia and Herzegovina also needs to proceed with the digital switchover, which is now overdue. (*Also see Chapter 10 – Information society and media*)

Economic factors

Bosnia and Herzegovina needs to adopt legislation on media ownership transparency and set up a detailed register that would give systematic insight into ownership structures and prevent hidden media concentration. Local public broadcasters are not included in the public broadcasting system and receive funds from local government budgets, with strong risks of political pressure and influence in the absence of clear criteria for the distribution of subsidies. Bosnia and Herzegovina should adopt legislation on advertising in the media, in particular for publicly owned enterprises such as telecom companies. Media integrity is also harmed by the advertising practices of public companies and advertising agencies linked to political parties. The lack of transparency and clear criteria in the distribution of subsidies is a matter of concern.

Internet

Freedom of expression online is still not specifically regulated across the country. The Press Council regulates online media and handles complaints. Self-regulation of online media is of

limited effect, and online platforms are often used to incite hatred and spread disinformation. Online hate speech is on the rise. Criminal prosecution is limited to the offence of inciting religious and ethnic hatred through the internet or social networks.

Professional organisations and working conditions

Journalism in Bosnia and Herzegovina remains a precarious profession, with low wages and little job security, deteriorating even more during COVID-19 crisis. A significant number of journalists work without an adequate contract nor guarantees against dismissals or disciplinary measures, leaving them vulnerable to undue influence from editors or owners. The employment rights provided by the entity-level labour laws are not respected. There is no structured dialogue between the authorities and the media community on the working conditions of journalists. Trade unions for journalists are many but they are weak and enjoy little recognition or independence; unionisation is low, and there are no branch collective agreements for media workers. The *BH Novinari* association and the Banja Luka Club of journalists play an important role in fostering professionalism and integrity. All the major media outlets have committed to comply with the Press Council's press and online media code as the basis of self-regulation, but their compliance remains uneven.

Freedom of thought, conscience and religion

The constitutional and legal guarantees of freedom of thought, conscience and religion have generally continued to be upheld. While religious tolerance has been symbolically promoted on some occasions, cases of discrimination, hate speech and hate crimes on religious grounds continue to occur, as do incidents targeting religious sites. Religious communities generally adhered to COVID-19 restrictive measures, including in performing religious services.

Freedom of assembly and association

Freedom of assembly laws need to be harmonised across the country and brought in line with European standards, in particular when it comes to grounds for restriction and responsibility of organisers. The Brčko District adopted in July 2020 a law on freedom of assembly, largely in line with European standards. Civil society organisations have also reported increasing attempts by authorities to restrict peaceful assemblies. Members of the 'Justice for David' movement have been unable to organise gatherings in Banja Luka ever since the violent dispersal by the police in December 2018. Activists are on trial in Banja Luka for, among other things, shouting 'justice' on the streets. In September 2019, the first Pride March was organised successfully in Sarajevo, with a counter demonstration held the day before. Although the legislation remains restrictive, the Sarajevo Canton police acted professionally in facilitating both public assemblies. The second Pride March, planned for August 2020, took place online and in limited physical form due to the deterioration of the COVID-19 situation. In December 2019, the cantonal police violently dispersed environmental protests in Mostar. The authorities should refrain from actions that adversely impact the exercise of freedom of assembly, and adopt measures to ensure the full enjoyment of such rights. In light of the COVID-19 pandemic, authorities imposed temporary measures restricting public gatherings.

Freedom of association is generally upheld. However, activists dealing with sensitive issues, in particular women's rights, have been subject to threats, verbal abuse and physical attacks. Misuse of public funds to support associations at various levels of government has been reported. As a key priority, the authorities need to promote a conducive and enabling environment for civil society, free from corruption, and ensure that any legislative development on freedom of association is subject to effective consultation.

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

Regarding **property rights**, the authorities need to update and interconnect the entity-level cadastre and land registry databases. There is no legislative framework on handling restitution claims. Some cases related to repossession remain pending. The Commission for real property claims of displaced persons and refugees has not resumed operations. In October 2019, the ECtHR recognised a violation of the right to property in the case of Fata Orlović, and ordered the country to remove from the applicant's land the church that was built there after the war. Implementation of the ruling is pending.

Concerning **non-discrimination policies**, countrywide human rights and anti-discrimination strategies have yet to be adopted. The Law on the prohibition of discrimination aims at full alignment with the EU *acquis*, but it is not applied effectively, and there is no adequate collection of reliable statistical data. The Ombudsman registered 206 cases in 2019, up from 196 in 2018 and 174 in 2017. Discrimination remains under-reported, particularly at the workplace. The ECtHR *Sejdić-Finci* case-law has still not been implemented. Disputes over education continue, whilst systemic solutions for ensuring inclusive and non-discriminatory education are not in place. The common core curriculum has not yet been completed or applied throughout the country, and the availability of teaching in the national groups of subjects remains limited. No progress was achieved in eliminating the 'two schools under one roof' phenomenon, which is in breach of a 2014 ruling by the Federation entity Supreme Court. There was some progress in recognising the name of the Bosnian language in schools in the *Republika Srpska* entity. In December 2019, the Supreme Court of the *Republika Srpska* entity recognised the discrimination and violation of the right to education of Bosniak pupils and ordered the Vrbanjci branch school to introduce subjects from the Bosnian curriculum for them; these subjects remain not available for the school year 2020/2021. Due to the COVID-19 pandemic, schools were closed in mid-March and online education introduced until the end of the school year. Separate online platforms for the Bosnian and Croat language curriculums are used in the Herzegovina-Neretva and Central Bosnia cantons.

Legislation on **hate crimes** is harmonised across the four criminal codes in the country. Entity-level legislation criminalises **hate speech** only when causing national, racial and religious hatred and it still needs to be aligned with the EU *acquis*. Failure to identify acts as hate crimes and the high burden of proof still makes it difficult to establish intent, leading to few indictments and convictions. 130 hate incidents were recorded and 1 conviction was handed down in 2019, compared to 121 and 2 in 2018, and 175 and 1 in 2017. Five trials are ongoing. The case law on hate crimes is not consistent. The authorities need to take concrete measures to counter hate speech in the printed and electronic media, as well as in official discourse. There is a lack of monitoring mechanisms and enforcement of the prohibition of hate speech in online media. Bosnia and Herzegovina ratified the Council of Europe Convention on cybercrime and its additional protocol in 2006, but its implementation has been slow.

Equality between women and men is largely provided for in the legislation, which remains to be harmonised across the country and effectively enforced. The *Republika Srpska* entity further aligned its legislation on protection against family violence with the Istanbul convention; it entered into force on 1 January 2020. The country has a 2018-2022 gender action plan, as well as an action plan on women, peace and security. In May 2019, the EU and Bosnia and Herzegovina adopted a joint roadmap for action on the G7 partnership initiative for the implementation of UN Resolution 1325 on women, peace and security. Women are

under-represented in politics and public life. Gender impact assessments of policy and legislative processes are not carried out, although they are required by law. As for the pay gap, despite the lack of official data, women are estimated to earn on average 78% to 85% of a man's salary for the same position. The treatment of maternity, paternity and family leave differs between entities and among cantons. The institutional response to gender-based violence needs to be improved, including on protective measures, victim support, legal aid and safe accommodation. Bosnia and Herzegovina needs to accelerate the prosecution of crimes of sexual violence, provide reparation to women who are victims of war crimes, and secure witness protection. Data collection needs to be improved to enable the development of sound policies targeting key gender gaps, and provide relevant data on gender-based violence. The Ministry for Human Rights and Refugees and the Gender Equality Agency have been active in ensuring gender mainstreaming of measures taken during the COVID-19 pandemic. *(Also see Chapter 19; on women victims of trafficking in human beings, see Chapter 24).*

As regards the **rights of the child**, Bosnia and Herzegovina needs to develop and adopt a new action plan on child protection. In 2019, the Ombudsman received 198 complaints on children's rights (216 in 2018, 172 in 2017 and 138 in 2016). Enrolment in preschool education is the lowest in Europe (17%). There are around 1,640 children without parental care in the country. Bosnia and Herzegovina is reforming its child protection system, moving towards community-based care. Foster care and alternative solutions for children should be promoted, and measures should be taken to prevent family separation. Support needs to be provided to children leaving care institutions at the age of 18. The administrative capacities of the centres for social welfare need to be strengthened, as they coordinate multi-sectoral support. The exploitation of children and child begging are issues of concern. Only a small number of cases of violence against children are reported. Not all children are covered by compulsory health insurance, and marginalised groups, such as the Roma, face multiple forms of discrimination. The authorities need to collect precise and consistent data on child poverty rates and violence against all children. Unaccompanied migrant children face specific difficulties, such as accessing safe accommodation and asylum procedures. 533 unaccompanied migrant children were identified in 2019, up from 324 in 2018. Only 304 of them were appointed a legal guardian, as provided for by law, up from 29 in 2018. Alternatives must be found to the detention of irregular migrant families with children, and the registration of births of children of undocumented migrants must be ensured. In April 2020, the Constitutional Court established that COVID-19 restrictions on movement imposed in the Federation entity on persons under 18 and over 65 years were not proportionate and strictly time-limited.

The legal framework on **juvenile justice** is in place, but entity-level laws have not been fully implemented or harmonised with each other. The absence of separate units for juveniles during pre-trial detention and in police stations is in breach of international standards. The use of alternative measures needs to be increased, as detention should only be the last resort. Only limited reintegration measures are available to juveniles upon release from detention. In June 2020, there were 39 minors in prisons.

Persons with disabilities remain among the most vulnerable groups. Multi-sectoral and comprehensive implementation mechanisms are still not in place, in particular as regards accessibility and training. The law allows persons with disabilities to be deprived of legal capacity through a judicial process, which is in violation of the Convention on the rights of persons with disabilities, of which the country is party. Both entities adopted strategic frameworks for advancement of the rights and status of persons with disabilities. Bosnia and

Herzegovina does not have a uniform definition of disability, nor a database of persons with disabilities. Support is limited and varies depending on the origin of the disability, as persons with war-related disabilities (war veterans and civilian victims of war) enjoy priority over other persons with disabilities. Such a status-based discriminatory approach must end. Even though the law prohibits discrimination, persons with disabilities continue to face challenges regarding access to education, healthcare and social assistance. Very few public buildings are accessible to persons with physical disabilities. The Council for Persons with Disabilities needs to be further engaged in all relevant processes. The authorities also need to improve data collection, including gender-disaggregated data on women and men with disabilities. Children with disabilities are one of the most marginalised and excluded groups, facing stigma and discrimination. The quality of services is not adequate for their needs, especially in health and education. Many are placed in residential institutions, in violation of the UN Convention on the Rights of Persons with Disabilities. Institutionalisation of children negatively impacts their full, effective and equal participation in society and exposes them to mistreatment and abuse. A strategy on deinstitutionalisation is still missing. The management of the Pazarić care institution was dismissed in November 2019 for alleged mistreatment of children and adults with disabilities; a criminal investigation is ongoing. (*see also Chapter 28 – Consumer and Health Protection*)

The country has yet to adopt an action plan on the **rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**; work on its development resumed in 2019 and continued in 2020. The four criminal codes are harmonised to include hate crimes on grounds of sexual orientation and gender identity; the prosecution of hate crimes and hate speech against LGBTI persons remains insufficient. The legal system fails to recognise the social and economic rights of same-sex couples, including the right to family life. The social inclusion of intersex and transgender persons, who are particularly marginalised, has to be improved. In September 2019, the first pride parade was held in Sarajevo without incidents amid heavy security; over 2,000 participants expressed their support for LGBTI rights and other marginalised communities, as well as the right to freedom of assembly and expression of all citizens. Events related to the second Pride March, planned for August 2020, took place online and in limited physical form due to the deterioration of the COVID-19 situation.

The **procedural rights** of suspects, accused persons, witnesses and victims are generally upheld, although access remains uneven across the country. The four criminal procedure codes in the country are yet to be further harmonised, and their enforcement varies. The practice is not fully in line with the ECtHR case law and with the EU *acquis* on the right to immediate access to a lawyer while in police detention. No progress was made in adopting measures to address systemic violations of the right to a fair trial within a reasonable time and the right to an effective remedy, as identified by the Constitutional Court.

The legal framework on **legal aid** should be completed by adopting laws in the Federation entity and the Central Bosnia Canton. A countrywide assessment of legal aid needs should be carried out to determine and address the main gaps to ensure effective equal access to justice for all irrespective of places of residence. Without comprehensive coverage and clear minimum common standards, the right to legal aid continues to be upheld unevenly, to the detriment of the most vulnerable.

Respect for and protection of minorities and cultural rights

While the legislative and institutional framework for the protection of **minorities** is largely in place, its implementation is limited. Members of national minorities continue to have low

participation in political and public life. Bosnia and Herzegovina still lacks a countrywide strategic document on national minorities. In 2019, the Ombudsman received seven complaints concerning minority rights, up from four in 2018.

The **Roma** (estimated at 58,000) are the most vulnerable and disadvantaged minority. Roma women in particular face multiple forms of discrimination. The social inclusion of the Roma requires a comprehensive and integrated approach based on reliable data. The action plans implementing the 2005 Roma strategy require appropriate funding from competent institutions at all levels and constant monitoring, including by the Roma Committee. The government has started the preparations and should adopt a comprehensive Roma action plan encompassing all relevant sectors (housing, employment, education, healthcare, and cross-cutting issues). Further cooperation among all levels of government is needed in addressing Roma inclusion issues. As regards housing, the legalisation of informal settlements is ongoing but uneven. Discrimination in employment is rampant, with very high unemployment rates. Compulsory education enrolment rates have increased, but the number of school drop-outs remains very high. There are no segregated classes or schools. There is no teaching in and of the Romani language, and the awareness of Roma culture among the rest of the population is very limited. Around two thirds of Roma have access to healthcare services, which depends on registration with employment or education administrations; children outside education and elderly Roma face the biggest hurdles. The Ministry of Human Rights and Refugees received 12 complaints related to Roma and their access to social assistance and housing in 2019. The process of civil registration is well advanced. This accomplishment needs to be made sustainable by removing outstanding administrative obstacles, including residence requirements for birth registration and for access to healthcare and education and the recognition of documents for children born abroad. Prejudices and anti-gypsyism still hinder the social integration of the Roma. The Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process (Poznań Declaration) was endorsed by the government. The mapping of needs of Roma has to start; the government is working with the Regional Cooperation Council on mapping and consolidating learning models on Roma language and culture in view of including them in the education curricula. The implementation of the conclusions from the February 2020 seminar on the social inclusion of the Roma must be closely monitored and reported. The authorities, in cooperation with donors and civil society, acted during the COVID-19 pandemic to support the most vulnerable, including the Roma.

Bosnia and Herzegovina hosts around 100,000 **refugees and internally displaced persons**, following the conflict in the 1990s, of which 8,547 live in collective centres and alternative accommodation. The 2010 revised strategy for the implementation of Annex VII to the Dayton Peace Agreements has not yet been fully implemented. Minority returnees are among the most common targets of ethnically driven hate speech and hate crimes. Bosnia and Herzegovina should complete the process of return and fulfil its obligations to allow closure of Annex VII.

The country also needs to provide adequate humanitarian assistance and protection (including shelter, food and medical assistance) and effective access to the asylum procedure to the asylum seekers and migrants present on its territory since 2018. (*See also Chapter 24*)

2.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. EU

Member States also cooperate with Bosnia and Herzegovina in the fight against organised crime and terrorism, and in judicial, police and custom matters and are supported by the EU Justice and Home Affairs Agencies.

Bosnia and Herzegovina has **some level of preparation** to implement the EU *acquis* in this area. **No progress** was made in addressing the Opinion key priorities 7 and 8 on the fight against organised crime and the management of migration and asylum. The 2019 recommendations remain outstanding. The country has several strategies in place, and legislation in some areas is broadly aligned with the EU *acquis*. However, legislation is not harmonised across the country, and institutional cooperation and coordination are weak. As a result, implementation is often unsatisfactory.

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

- improve capacity for countering terrorism through better cooperation and coordination, by enhancing the exchange of criminal intelligence (notably by finalising cooperation with Europol), and establishing programmes to prevent radicalisation and facilitate disengagement from violent extremism;
- take full political responsibility for the management of migration and ensure that refugees and migrants receive adequate protection and assistance; improve crisis response capacity and ensure effective coordination and adequate contingency planning; strengthen asylum procedures to provide persons in need with international protection; increase border surveillance, including human resources and equipment; improve the legal framework and implementation capacities for voluntary and forced returns;
- adopt the action plan to allow for the implementation of the national strategy on supervision over narcotic drugs, prevention and suppression of the abuse of narcotic drugs for the period 2018-2023.

Fight against organised crime

Bosnia and Herzegovina **is at an early stage/has some level of preparation** on the fight against organised crime. **No progress** was made in addressing the Opinion key priority 7 on the fight against organised crime and the 2019 recommendations, which remain valid. The country has several strategies in place, notably on organised crime, trafficking in human beings and integrated border management. However, the legal framework is not harmonised across the country. There are systemic shortcomings in the operational cooperation of law enforcement agencies, due to the lack of harmonisation of criminal legislation in the country, exacerbated by weak institutional coordination, and a very limited exchange of intelligence. Criminal organisations operating in the country take advantage of legal and administrative loopholes. The police is vulnerable to political interference. Financial investigations and asset seizures are largely ineffective. A proactive approach remains fundamental to countering criminal infiltration of the political, legal and economic systems. Cooperation with Europol is still not operational. The country also needs to establish cooperation with Eurojust.

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

- adopt a strategic approach towards fighting serious and organised crime, including on cybercrime and trafficking in human beings, based on a threat assessment in line with the Europol methodology involving competent authorities from all levels of government;
- strengthen cooperation among law enforcement agencies, notably by establishing

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

→ establish a national contact point for cooperation with Europol, sign an agreement on operational cooperation with Eurojust, and establish a firearms focal point.

Institutional set-up and legal alignment

The institutional structure of law enforcement mirrors the distribution of competences across the various levels of government. There are multiple distinct law enforcement bodies, out of which 15 have investigative powers. There are 481 police officers per 100,000 inhabitants in the country, compared with the EU average of 326 in 2017, according to Eurostat.

The legal framework on the **fight against organised crime** is only partially aligned with the EU *acquis*. The absence of progress in establishing asset management capacity at the state level is of particular concern. Extended and third-party confiscations are possible under criminal legislation, but they are rarely used. Bosnia and Herzegovina should strengthen the capacity to collect, record, report and analyse appropriate data on organised crime. The country should step up the fight against transnational organised crime networks. The legislation on **trafficking in human beings** needs to be further aligned with the EU *acquis*, notably for sanctions. The country needs to further align its legislation on **cybercrime** with the *acquis*.

Legislation on the **civil possession of weapons** needs to be further aligned with the *acquis*. The legislative framework on explosives for civil use and the transport of dangerous goods need to be completed and aligned with the EU *acquis* across the country. Further alignment with marking and deactivation standards is needed. Legislation on **anti-money laundering** and **counter terrorism financing** need to be aligned with the EU *acquis*.

The country has several strategies in place, notably on combating organised crime and trafficking in human beings. However, there is no coordination and consistency in developing and implementing these strategies. Bosnia and Herzegovina should systematically monitor and assess the impact of existing strategies before adopting new ones. Concrete results-based indicators should be in place. The country should produce a new serious and **organised crime threat assessment** (SOCTA), followed by strategic and operational plans of actions. In January 2020, Bosnia and Herzegovina adopted a 2020-2023 **strategy to counter trafficking in human beings**. The country still lacks a strategic framework to address cybercrime; a strategy is only in place in the *Republika Srpska* entity. The country should adopt a new strategy for the control of **small arms and light weapons**, and an action plan to implement the roadmap for a sustainable solution to arms control in the Western Balkans. The related legislation is not fully in line with the EU *acquis* and, in some cases, regulations from the former Yugoslavia are still applied.

Implementation and enforcement capacity

In 2019, there were 55 investigations into **organised crime** with 417 suspects, 25 indictments with 134 accused and 26 sentences with 91 convicted. In 18 cases, plea bargain agreements were concluded with 68 individuals. As regards cybercrime, in 2019 there were 117 investigations in cybercrime, including online child sexual abuse, against 129 individuals, compared to 104 investigations against 137 individuals in 2018. The number of convictions in 2019 is still very low (23 convictions for 28 individuals) with almost 50% being suspended sentences (10 convictions for 15 individuals).

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

There is no overall policy for carrying out **financial investigations** on a systematic basis and, where those were conducted, results have been insignificant. Guidelines on the mandatory use of financial investigations for corruption, organised and economic crime have been adopted within the state-level Prosecutor's Office. Authorities need to adopt and implement standard operating procedures on the conduct of financial investigations.

The Financial Investigation Unit within SIPA needs to become more efficient in fulfilling its tasks and competences stipulated by the Law on anti-money laundering and terrorism financing. As regards financial crime in 2019, 28 reports against 246 persons (220 natural persons, 21 legal entities and 5 unidentified individuals) were sent by SIPA to the competent prosecutors' offices. Cooperation and exchange of crime-related data between domestic law enforcement agencies and with other countries of the region need to be improved. In 2019, there were 53 investigations of money laundering involving 200 individuals, 37 indictments against 60 suspects, and 36 convictions against 47 defendants.

The value of **asset confiscations** in 2019 amounted to EUR 11.8 million for 106 cases (first instance and final convictions), compared to EUR 9.7 million for 116 cases in 2018. The tools for freezing, managing and confiscating criminal assets are not sufficiently effective. The confiscation of criminal assets needs to become a strategic priority in the fight against organised crime, terrorism and high-level corruption. The freezing of assets needs to be used more systematically and the management of frozen assets needs to be improved. Data collection and analysis on asset seizure and confiscation needs to be further developed; data should be used as a tool to improve the effectiveness of management.

As regards **anti-money laundering**, in May 2020 the European Commission has adopted a delegated regulation that removed Bosnia and Herzegovina from the EU list of high-risk countries (*see Chapter 4 - Free movement of capital*).

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

Arrangements for practical **cooperation between prosecutors' offices and the police** are in place, but require structural improvements to guarantee a more effective judicial follow-up, including through enhanced cooperation between the police and prosecutors. The weaknesses in cooperation been exposed in particular in the investigation initiated by the case of alleged fraud related to the public procurement of COVID-19 medical equipment. The poor cooperation between the SIPA and the state level prosecutor's office is cause of major concern given its serious impact on investigations, especially in the cases of high-level corruption.

The system of electronic exchange of data from the records of police authorities and prosecutor's offices needs to be fully functional and ready for used by all signatories of the 2009 Agreement. Forensic capacity is fragmented as the state and entities develop their own capacity. There is no operational countrywide DNA database and the DNA profiling capacity is limited. There is no swift exchange of forensic data with other countries. A new automated

fingerprint information system (AFIS) needs to be put in place as the existing one is outdated. This is a commitment which is outstanding since several years already. There is no effective, coordinated and consistent countrywide approach on using undercover investigators.

On cooperation with **Europol** there has been some progress but the Agreement on operational and strategic cooperation with Europol, which is in force since March 2017, remains unimplemented. Bosnia and Herzegovina is yet to establish a national contact point, as required in the agreement. This will allow the deployment of the respective liaison officers in the Hague and Sarajevo. Despite the lack of deployment and internal political situation, Bosnia and Herzegovina is willing to cooperate with Europol and requested additional SIENA connections; it should continue the roll-out of SIENA connections across the country. In 2019, the number of new cases increased by 44% compared to 2018. In 2019, the number of messages increased by 44% compared to 2018. For the time being, the country's participation in Europol's analysis projects has been put on hold and the use of Europol products and services has been very limited.

In 2019, Bosnia and Herzegovina participated in the annual planning of operational actions under the **EU Policy Cycle / EMPACT** (European Multidisciplinary Platform against Criminal Threats) priority on the facilitation of illegal immigration (FII). The country committed to participate in two operational actions together with EU Member States to fight migrant smuggling by criminal groups in 2020. Bosnia and Herzegovina participated in 21 operational actions of the EU policy cycle in firearms, facilitated illegal immigration, organised property crime and trafficking in human beings. The country should establish a National EMPACT Coordinator and strengthen cooperation with EU Member States and neighbouring countries to dismantle organised smuggling networks. The law enforcement authorities should make use of regional initiatives, such as the Joint Operational Office in Vienna, which serves as a regional operational platform for international investigations into migrant-smuggling organised crime groups.

In 2019, 61 potential victims of **trafficking in human beings** were detected, compared to 36 in 2018 and 83 in 2017. The number of convicted perpetrators in 2019 was 34, compared to 48 in 2018 and 17 in 2017. Bosnia and Herzegovina still lacks a national referral mechanism for victims of trafficking. The **witness protection programme** requires improvements, notably in out-of-process protection. The authorities' capacity to effectively tackle **cybercrime**, including online child sexual abuse, and to respond to cyber security threats remains inadequate. The law enforcement authorities must ensure adequate tools and sufficient well-trained staff to detect, trace and prosecute cybercrimes. As regards arms control, in 2019 a total of 1,361 pieces of weapons, 296 pieces of mine-explosive materials, 18,910 pieces of ammunition, and 1 kg of explosives were seized and a total of 3,479 pieces of weapons and weapons parts pieces were destroyed. This compares with 2,500 pieces destroyed in 2018, and 10,800 pieces destroyed in 2017. Data collection is neither uniform nor in compliance with international standards. The records prescribed by law often do not contain all the necessary data. Bosnia and Herzegovina still needs to establish a firearms focal point. A working arrangement with CEPOL is in force since 2014; cooperation continues, despite participants in residential activities decreasing from 18 in 2018 to 13 in 2019.

Cooperation in the field of drugs

Institutional set-up and legal alignment

The legal framework at various levels of government is only partly in line with the EU *acquis*, notably on minimum rules on drug-related criminal offences and sanctions. The legislation

provides for the entire quantity of drug seized to be preserved as material evidence for court proceedings, rather than just a sample. The country should adopt legislation designating a national correspondent to enhance cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Coordination among competent agencies needs to be improved. Bosnia and Herzegovina should establish a focal point for drug issues for the entire country and introduce an early warning system.

Bosnia and Herzegovina has a 2018-2023 strategy on supervision over narcotic drugs, prevention and suppression of the abuse of narcotic drugs, but there is no action plan to implement it. The *Republika Srpska* entity has its own strategy and action plan on drugs for 2016-2021. Bosnia and Herzegovina needs to adopt instructions for the establishment of the early warning system and the book of rules on the use of cannabis for the medical purposes.

Implementation and enforcement capacity

In 2019 there were 2,359 reported crimes related to drug abuse, 2,018 orders to conduct an investigation, six judgments rejecting charges, 1,210 filed indictments, 2,479 indictments with plea agreement, 33 acquittals, 100 fine convictions, one conviction without a sentence, 18 convictions with reprimand, 1,207 convictions with suspended sentence and 433 convictions with prison sentence. Bosnia and Herzegovina remains a country of transit and a final destination for drugs. The adoption of amendments to the list of criminalised psychoactive substances, prepared by the Commission for the suppression of abuse of narcotic drugs, is pending with the Council of Ministers. A flexible mechanism is needed to regularly update this list. Professional capacity and cooperation with civil society needs to be improved. More funds are needed for harm reduction programmes and the social reintegration of addicted persons. Bosnia and Herzegovina cooperates with the EMCDDA. Data reporting on epidemiological trends needs to be aligned with the EMCDDA treatment demand indicators. A Commission for drugs destruction is in place but the destruction of drugs takes place very rarely – only twice in 2019. The lack of secure storage prior to destruction is of concern.

Fight against terrorism

Institutional set-up and legal alignment

Anti-terrorism legislation is largely aligned with the EU *acquis* and relevant international law. Criminal legislation needs to be amended to ensure stricter sanctions for the offence of training and travelling abroad for terrorist purposes as well as for online terrorist content.

A new law on anti-money laundering and terrorism financing in line with the standards of the EU *acquis* (fourth AML directive) needs to be adopted. Only the *Republika Srpska* entity has a law on the protection of critical infrastructure while other levels of government are still lacking such legislation.

A strategy and a framework action plan for the prevention of and fight against terrorism for 2015-2020 are in place and are being overseen by a supervisory body. The dismissal of the chairperson in February 2020 caused a disruption in its activities. A follow-up strategy should be adopted in line with EU policy, especially on preventing and countering violent extremism. A policy dialogue on counter-terrorism between the EU and Bosnia and Herzegovina takes place regularly. In November 2019, Bosnia and Herzegovina and the EU signed an implementing arrangement to the 2018 joint action plan on counter-terrorism for the Western Balkans. It sets out concrete steps for enhanced cooperation in countering terrorism and preventing violent extremism. Bosnia and Herzegovina submitted its first report on the implementation of the arrangement in July 2020. The Ministry of Security needs to appoint a

contact point for the implementation of this arrangement. Implementation needs to continue.

The capacities and effectiveness of the Counter Terrorism Task Force and the Counter-Terrorism Section of the state-level Prosecutor's Office need significant strengthening.

Implementation and enforcement capacity

Since 2015, there have been no reports of citizens of Bosnia and Herzegovina departing for conflict zones. Bosnia and Herzegovina has effectively handled the repatriation, re-admission and prosecution of its citizens who travelled to Syria and Iraq as well as their children born there. Of the 50 returned foreign terrorist fighters, 25 men were indicted, tried and convicted for terrorism-related offences in swift and efficient proceedings at the Court of Bosnia and Herzegovina. In December 2019, the authorities organised the first repatriation of a group of citizens of Bosnia and Herzegovina from Northern Syria consisting of 7 men, 6 women and 12 children; the men were arrested and prosecuted upon arrival.

Shortcomings still exist regarding the implementation of counter-terrorism laws as well as the structured and efficient cooperation between competent agencies at the various levels of government. Those sentenced for terrorism-related crimes serve their terms in entity prisons that are often inadequate to hold this type of prisoners. The high-security state prison completed in 2017 was opened in July 2020 but is not yet in operation. Very limited assistance is available, in prison or upon release, for disengagement from violent extremism. A reintegration programme for former foreign fighters and their family members started in September 2019. Comprehensive approaches are required to address challenges posed by returning/repatriated foreign terrorist fighters and family members, including disengagement, rehabilitation and reintegration, both in prison and outside of prison. Lenient sentences combined with the absence of a probation service and systematic disengagement assistance may still represent a security risk.

The country's capacity to investigate and prosecute the financing of terrorism and to counter terrorist content online needs to be further developed. An asset recovery office and a beneficial ownership register on legal persons are yet to be established while targeted trainings have been regularly delivered until the outbreak of the COVID-19 pandemic. Coordination, cooperation and intelligence sharing between security agencies need to be improved.

A multi-disciplinary mobile team of experts is supporting local authorities to handle challenges posed by citizens who have returned from foreign conflict zones and by ongoing radicalisation tendencies. It will be important to ensure the continuity of the work conducted by this mobile team.

Further improvements are needed, especially in cooperation between the entities, e.g. on the identification of a firearms focal point, or in the collaboration with the EU internet referral unit (IRU) at Europol to deal with terrorist content online. The agreement with Europol needs to be implemented fully and the long overdue establishment of a National Contact Point needs to be completed without further delay.

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

Legal and irregular migration

The recently-proposed new pact on migration and asylum stresses that in comprehensive partnerships, migration should be built in as a core issue, based on an assessment of the interests of the EU and its partner countries. The new Pact calls for tailor-made support for the Western Balkans to make sure that they are well equipped as future Member States to respond to shared migration challenges. In the Western Balkans, EU support on migration promoted the creation of new or more robust institutions, laws and procedures in the areas of asylum, protection and border management, as well as the transposition of complex and demanding EU *acquis*.

Institutional set-up and legal alignment

The legislation on foreigners is broadly in line with the EU *acquis*; it needs to be further aligned as regards access to rights, notably for vulnerable migrants. A new **strategy and action plan** on migration and asylum needs to be put in place. The country needs to develop a realistic contingency plan to cope with the additional influx of migrants and refugees.

Bosnia and Herzegovina has concluded **readmission agreements** with the EU and Schengen associated countries, all the Western Balkan countries, Turkey, Russia and Moldova, as well as implementation protocols with 16 EU Member States. Their implementation is satisfactory overall. Negotiations on readmission agreements with countries of high migratory risk have not started yet.

Implementation and enforcement capacity

The numbers of persons irregularly entering Bosnia and Herzegovina has increased significantly since 2018. In 2019, the authorities detected 29,302 migrants on the border or through in-land activities, compared to 23,977 in 2018. Overall, the top three declared countries of origin were Pakistan, Afghanistan and Iraq. By late August 2020, approximately 10,000 migrants and asylum seekers were present in the country. Some 6,500 are sheltered in 7 EU-funded **temporary reception centres** in the Una-Sana and Sarajevo cantons. However, facilities remain insufficient to ensure shelter and protection to those in need.

The competent offices and agencies of the Ministry of Security (Sector for Immigration and Readmission; Service for Foreigners' Affairs) are significantly understaffed and partly underequipped. The authorities at all levels of governance have proven unable to coordinate their efforts and allocate suitable premises for reception centres to relocate asylum seekers and migrants from the most affected local communities.

As a consequence of the inefficient inter-institutional coordination, since June 2019 the local authorities in Una-Sana Canton have introduced restrictions on the maximum number of migrants in the canton, and have been forcibly deporting migrants and refugees to the unsuitable location of Vučjak. Following constant advocacy, the Vučjak site was closed in December 2019 and the approximately 700 persons present there were relocated to a new facility opened in Blažuj near Sarajevo with EU assistance.

Una-Sana cantonal authorities have repeatedly attempted to prevent the entry of migrants and refugees in the canton by restricting freedom of movement or not allowing them to access reception facilities, leading to significant protection risks, in particular for the most vulnerable ones. These counterproductive actions, coupled with reports of police violence as well as intimidation of humanitarian partners, also stretched the scarce resources available to cope with the humanitarian needs. Further restrictions were introduced in August 2020.

The response to migratory flows remains inadequate and shows significant institutional and coordination weaknesses. Most of the responsibilities have fallen upon the Una-Sana Canton and Sarajevo Canton. Political inaction and negative rhetoric, undermine the timely provision of protection and assistance in line with international standards. Bosnia and Herzegovina should take over full responsibility for the management of reception centres and adopt effective contingency plans to cope with possible future increases.

Crisis response during the COVID-19 outbreak was overall satisfactory, preventing a larger spread and more severe consequences for the migrant population. An emergency tent camp in Lipa near Bihać was opened in April 2020 as a preventive measure to provide essential hygiene and health services and reduce vulnerability to COVID-19 for around 1,000 persons staying outside accommodation centres in the Una-Sana Canton. By end August, it accommodates 1,500 persons. Humanitarian partners are present to implement the EU financial assistance and to monitor that international standards are respected. The response to migratory flows leaves ground for improvement. More efficient inter-agency cooperation and coordination mechanisms are necessary to improve border surveillance and the registration and identification of migrants (*see below on Schengen and external borders*). The operation and communication centre, within the Sector for Protection and Rescue of the Ministry of Security, should pro-actively coordinate the response to the migration crisis. The relevant entity, cantonal and municipal authorities should participate in the process.

The protection of vulnerable groups of migrants, such as unaccompanied and separated children, pregnant women, single parents, persons with disabilities, sick persons and victims of violence, must reach a more adequate level. They need to be identified and referred to competent bodies to receive assistance and services in line with international standards. Only the authorities of the Una-Sana and Sarajevo cantons are providing access to legal guardianship and facilitating access to education to unaccompanied children; over 570 unaccompanied children were registered; many remain not identified. Adequate accommodation does not suffice to address all the needs.

On **voluntary and forced return**, the return framework for migrants irregularly staying in Bosnia and Herzegovina requires improvements, as it is mostly based on assistance of foreign donors. Both the legal framework and its implementation require additional improvements. There was an improvement in the mechanisms for collecting, sharing and analysing **statistics** on migration in the Information System for Migration. The number of third-country nationals returned to Bosnia and Herzegovina in 2019 under various readmission agreements amounted to 783, compared to 652 in 2018 and 324 in 2017. There are reports of violent collective expulsion (pushbacks) of migrants and asylum seekers back into Bosnia and Herzegovina.

Cooperation needs to be improved on identification and return procedures. In 2019, 329 foreigners were returned to neighbouring countries following readmission agreements (193 to Serbia, 136 to Montenegro), compared to 643 in 2018. Implementing these readmission agreements has become more challenging in the context of the increased migratory flow. Bosnia and Herzegovina should also increase efforts to establish readmission agreements with the countries of origin and further improve the mechanisms for assisted voluntary return and reintegration. In 2019, 837 foreigners returned to their countries of origin via assisted voluntary return, compared to 735 in 2018.

Bosnia and Herzegovina has one **immigration detention centre** in East Sarajevo (Lukavica) for persons awaiting expulsion from the country, with a maximum capacity of 120 persons.

Bosnia and Herzegovina continued to satisfactorily implement the readmission agreement with the EU and implementing protocols. 1,495 citizens of the country returned from EU Member States in 2019, out of 3,610 who received an order to leave (a return rate of 41%).

Asylum

Institutional set-up and legal alignment

The legislation on asylum is broadly in line with international standards and the EU *acquis*. Further alignment is needed in particular on interview techniques, access to rights and legal aid, as well as on the definition of asylum-seekers and refugees. Inter-agency cooperation needs to be further improved.

Implementation and enforcement capacity

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

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

The asylum legislation needs to be better implemented, in particular to ensure the systematic respect of procedural guarantees for asylum seekers. Their rights as asylum seekers are not guaranteed evenly across the country, as their access to services varies depending on the reception centres' location. The access to asylum procedures and mechanisms should be strengthened to ensure faster processing of their claims and ensure that persons in need of international protection may receive it. As the authorities have not yet taken over the legal responsibility for the main reception centres in the Una-Sana Canton, these centres are not recognised as valid residential addresses for asylum applications; applicants thus fall in a legal limbo, with protection risks. The system for collecting and storing biometric identifiers requires additional improvements, especially for inter-agency information exchange. In 2019, 784 individuals applied for international protection, of which 3 persons were granted the status of refugee (for the first time since 2014), 8 persons were granted subsidiary protection, 9 individual applications were rejected on merit, and 138 applications by 388 persons were closed as the applicants left or attempted to leave the country or failed to show up for an interview. As of mid-August, only 180 persons applied or managed to apply for asylum in Bosnia and Herzegovina in 2020, substantially less than the previous year.

The **Asylum Centre** in Delijaš near Sarajevo has a capacity of 154 beds (which can be expanded to 300) but is only partially used, mainly due to its remote location and poor access to basic services. As of June 2020, there are 30 asylum seekers in the centre.

The country still has no agreement with the **European Asylum Support Office (EASO)**, which provides however assistance to the sector for asylum of the Ministry of Security. Cooperation with EASO should be strengthened, including via a joint roadmap.

Visa policy

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

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

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

The **visa-free regime** with the EU continued to be smoothly implemented. Between 2018 and 2019, the number of refusals of entry in the Schengen+ area decreased by 20% (4,270 in 2019 compared to 5,320 in 2018), while the number of nationals from Bosnia and Herzegovina found irregularly in the EU increased by 10% (from 3,915 to 4,290). In 2019, first time asylum applications (1,570) decreased by 12% compared to 2018 (1,780). The asylum recognition rate decreased to 5.1% in 2019 (compared to 7.66% in 2018). 255 asylum applications were lodged in the first quarter of 2020, 42% less than in the same period of 2019. Bosnia and Herzegovina continued good cooperation on readmission of its own and third country nationals. The return rate in 2019 decreased to 40% (compared to 54% in 2018), with 1,495 nationals effectively returned. Fluctuations in return rates in recent years are the result not of underperformance in cooperation, which remains good, but rather of the processing of backlog cases. Attention should continue for the successful reintegration of returnees. The Commission's third report under the visa suspension mechanism of July 2020⁵ concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks.

In the context of the COVID-19 pandemic, Bosnia and Herzegovina, through the Ministries of Foreign Affairs and Security, successfully organised and enforced repatriation procedures by air and land for both EU and domestic citizens. Repatriation procedures were conducted in line with all necessary medical and security crisis restrictive measures in place.

Schengen and external borders

Institutional set-up and legal alignment

The state-level **border police** is responsible for managing the state border. The **legal framework** for border control is partly aligned with the EU/Schengen *acquis* and is implemented smoothly. The country adopted a new **integrated border management (IBM)** strategy and its action plan for 2019-2023, in line with the EU *acquis*. Bosnia and Herzegovina has yet to establish a national coordination centre (NCC) in line with the EU/Schengen *acquis* and best practices for information sharing and coordination between all relevant law enforcement agencies.

Implementation and enforcement capacity

Following the increased influx of refugees and migrants in 2018 and in 2019, the authorities have redeployed available border guards. However, the response remains inadequate. The Border Police remains understaffed, with 412 vacant positions out of 2,646 (15.54%) at the end of 2019. Specialised training is regularly provided to improve the quality of border checks

⁵ COM(2020) 325 final

and other operations in the field but further improvements are needed.

The IBM strategy for 2015-2018 was implemented satisfactorily. However, it failed to provide tools to effectively address the increased arrival of migrants and asylum seekers. The Border Police and the Service for Foreigners' Affairs further improved their risk analysis capacity through certification of trainers using Frontex risk analysis methodologies. The Joint Risk Analysis Centre based their analytical documents on the most recent Common Integrated Risk Analysis Model (CIRAM) II. Its coordination capacity needs additional improvement through an enhanced information exchange process with local risk analysis centres. Further improvements on **infrastructure and equipment** are needed at border crossing points. **Border surveillance** resources remain very limited and require substantial improvements. The supervision of the green borders (outside the border crossing points) is not effective. The number of border patrols is insufficient, given the length of the border. Risk analysis-led border surveillance requires further improvement.

Inter-agency cooperation, such as between the Border Police and customs at the border crossing points, is at satisfactory level, but information exchange needs to be further improved. The **central investigation office** of the Border Police has executive powers across the country. The combined efforts of the Border Police with other agencies in fighting human smuggling resulted in higher detection rates. The Border Police has adequate expertise for detecting forged documents and access to relevant databases.

On **international cooperation**, the country is a signatory to a number of agreements with neighbouring countries. The Border Police cooperates with the European Border and Coast Guard Agency (Frontex) and Interpol at a satisfactory level. Bosnia and Herzegovina needs to sign and ratify the **Status Agreement** with the EU, initialled in January 2019. Joint operational plans will then need to be developed with Frontex, providing for the deployment for European border and coast guard in the country at its border with the EU to carry out operational activities together with the country's Border Police. Bosnia and Herzegovina participates in the Western Balkan Risk Analysis Network (WB-RAN) led by Frontex.

In the context of the **COVID-19 pandemic**, joint coordinated crisis response actions taken by agencies engaged on the borders of Bosnia and Herzegovina demonstrated good level of cooperation and coordination. Adequate measures undertaken by the **Coordination Body for Protection and Rescue in Bosnia and Herzegovina** implemented by the Border Police and other institutions and agencies contributed to a low number of infected individuals. Adequate border and customs control measures enabled the provision of essential goods and medical equipment in a crisis situation. These actions demonstrated some tangible results of proper implementation of the integrated border management policy in the country.

Judicial cooperation in civil and criminal matters

The legislative framework for mutual legal assistance in civil and criminal matters is in place but is not always applied effectively. Mutual assistance in criminal matters is regulated by a state-level law as well as in the criminal procedure codes at all levels of government.

In 2019, the Ministry of Justice recorded a total of 4,532 requests for judicial cooperation in civil matters. It is estimated that 60% of them originate from EU Member States, primarily Croatia, Slovenia, Austria, Germany and Italy. In 2019, there were a total of 3,979 requests for judicial cooperation in criminal matters. The statistics on enforcement of foreign judgments (transfer of convicted persons and take-over of enforcement of criminal sentences) have remained stable, with 52 cases in 2019 compared to 57 in 2018, with an average

completion rate of six months.

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

Bosnia and Herzegovina does not have a cooperation agreement with Eurojust; it appointed four contact points for relations with Eurojust. With the entry into force of the new Eurojust regulation in December 2019, Bosnia and Herzegovina needs to relaunch negotiations with the Commission for an agreement on operational cooperation with Eurojust. As a prerequisite to this, Bosnia and Herzegovina needs to adopt a new law on personal data protection in line with the *acquis* and to strengthen the operational capacity of the Personal Data Protection Agency. Moreover, the Prosecutor's Office needs to adopt by-laws, notably to better define how the parties to a case can access their personal data via the Prosecutor's Office website.

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

3. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT AND COMPETITIVENESS

<i>Table :</i>	2011-16	2017	2018	2019
Bosnia and Herzegovina - Key economic figures	average			
GDP per capita (% of EU-28 in PPS) ¹⁾	30.2	31.0	32.0	32.0
Real GDP growth	2.0	3.0	3.3	2.7
Economic activity rate of the population aged 15-64 (%) , total	54.1	54.5	54.2	55.5
<i>female</i>	41.7	42.7	41.8	44.4
<i>male</i>	66.4	66.1	66.4	66.4
Unemployment rate aged 15-64 (%) , total	27.7	21.1	18.9	16.4
<i>female</i>	30.9	23.8	21.0	19.7
<i>male</i>	25.8	19.4	17.6	14.2
Employment (annual growth %)	1.0	7.7	2.5	2.5
Nominal wages (annual growth %)	1.1	1.6	3.1	4.3
Consumer price index (annual growth %)	0.4	1.3	1.4	0.6
Exchange rate against EUR	1.96	1.96	1.96	1.96
Current account balance (% of GDP)	-6.5	-4.2	-3.6	-3.5
Net foreign direct investment, FDI (% of GDP)	2.0	2.0	2.5	2.6
General government balance (% of GDP)	-0.9	2.6	2.2	1.9
General government debt (% of GDP)	37.0	35.0	33.6	32.8

Notes :

1) Eurostat

Source: national sources

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

Economic governance has become even more central in the enlargement process in recent years. The Commission's monitoring takes place in two processes: the Economic Reform Programme exercise and the below assessment of compliance with the economic criteria for accession. Each enlargement country prepares an Economic Reform Programme (ERP)

annually, which sets out a medium-term macro-fiscal policy framework and a structural reform agenda aimed at ensuring competitiveness and inclusive growth. The ERPs are the basis for country-specific policy guidance jointly adopted by the EU and the Western Balkans and Turkey at ministerial level in May each year.

3.1. The existence of a functioning market economy

Bosnia and Herzegovina has made **limited progress** and is at an **early stage** of establishing a functioning market economy.

The quality of economic governance suffered from delays in government formation and insufficient cooperation at entity and state levels, paralysing among others progress towards improving the business environment which is held back by significant weaknesses including in market entry and exit procedures, the rule of law and supervisory and regulatory institutions. Economic growth benefitted from strong domestic demand, reflecting sizeable inflows of workers remittances and low inflation. The public sector remained oversized. The financial sector remained stable and lending increased, while unemployment has declined, partly due to a substantial labour force outflow. However, the economic impact of COVID-19 led to a sharp drop in economic activity and a marked deterioration in the labour market.

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

- Increase the transparency and efficiency of the public sector, in particular by establishing an adequate institutional and regulatory framework for a better, de-politicised governance, and by improving the efficiency and management of publicly owned enterprises to reduce their burden on tax-payers;
- Reinforce country-wide analytical and policy-formulating capacities and publish complete and consistent country-wide general government data in a timely manner;
- Streamline and harmonise business registration and licencing procedures, in particular between entities, to improve the business environment and create a single economic space;
- Support formal employment by reducing the tax wedge, especially for low-income earners, and other disincentives to work.

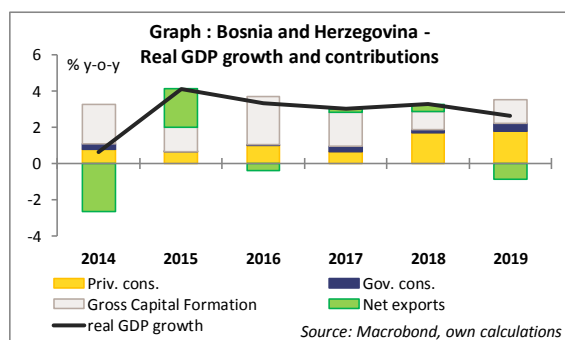
Economic governance

The consensus on economic policy essentials continued to be impeded by persistent political stalemates and a lack of political ownership. Politically driven delays in government formation led to numerous postponements and interruptions of agreed and long overdue reform projects. The country's IMF arrangement has remained on hold since July 2018, on account of announced budgetary measures which were not in line with key programme objectives. There was only limited implementation of the policy guidance jointly adopted at the Economic and Financial Dialogue with the EU in May 2019. The quality of the 2020 Economic Reform Programme points to continued significant weaknesses in administrative coordination and policy formulation. Cooperation between the various levels of government and institutions has remained severely impeded. The authorities responded to the outbreak of the COVID-19 crisis by announcing national emergency and economic support measures. The government requested financial support from the IMF (EUR 330 million from the Rapid Financing Instrument) and the EU, which approved EUR 250 million of macro-financial assistance in the form of a loan to cover the increased external and budgetary financing needs.

Macroeconomic stability

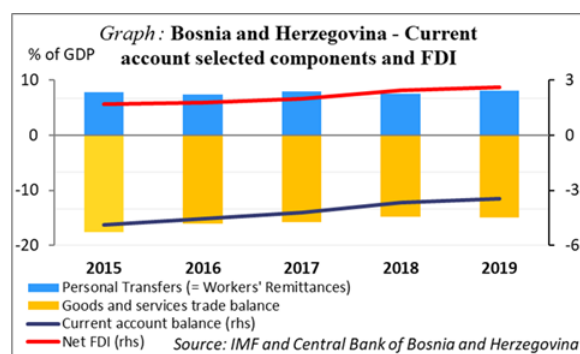
Economic growth decelerated during 2019, although domestic demand remained solid.

Following average growth of 3% over 2014-2018, economic growth slowed down to 2.7% in 2019 and declined further to 2% in the first quarter of 2020. This slowdown reflected a deteriorating international environment, the lack of reforms due to continued political stalemates, and an outflow of skilled workers. The main growth driver was private consumption benefitting from an increasing inflow of workers remittances, accounting for some 8% of GDP and providing a financial lifeline to many low-income households, but also low inflation supporting real disposable income. External demand decelerated, reflecting weakening growth of some of the country's main export markets, but also resulting from tariff hikes by Kosovo*, a key export market for certain commodities. Investment picked up but remained subdued, reflecting a poor business environment and high political uncertainties. Some empiric evidence points to an accelerating flow of outward migration, which – if continued – would have significant negative effects on growth potential in the medium and long term. *Per capita* GDP⁶ stood at some 31% of the EU-28 average in 2018, largely unchanged from previous years. The COVID-19 crisis hit the economy in a phase of downswing. International forecasts are surrounded by a high degree of uncertainty but expect a temporary drop in output by some 3-5% in 2020, followed by a moderate recovery in 2021.



External imbalances have widened during 2019, largely reflecting weaker external demand.

After a slight drop in the current account deficit during the last five years, to 3.6% of GDP in 2018, the deficit remained at a similar level (3.5% of GDP) in 2019, but deteriorated in the first quarter to 4.8% of the annualised GDP. The trade deficit continued to be largely financed by inflows of transfers, such as remittances. Net foreign direct investment remained remarkably stable, accounting for 2.7% of GDP in 2019 and 3% in the first quarter of 2020, mainly as a result of reinvested earnings. Net foreign exchange reserves rose to about 7.9 months of imports at the end of 2019, compared to 7.2% a year before. Short-term debt accounts for only 0.1% of foreign exchange reserves.



The monetary policy regime has supported stability. The currency board arrangement with the euro as the anchor currency was maintained. This approach has served the economy well so far. However, it also implies that the burden of adjustment to external shocks has to be accommodated by other policy areas, in particular a responsible fiscal policy, necessitating

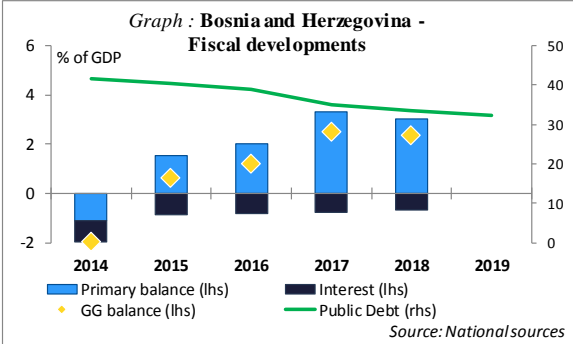
* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

⁶ Expressed in purchasing power standards.

the build-up of sufficient fiscal buffers and a stronger emphasis on medium-term stability, and structural reforms to improve the functioning of markets. The Central Bank has responded to the COVID-19 crisis among others by coordinating with the country’s banking sector representatives and supervisory agencies a 6-month moratorium on loan repayment of households and corporations and has announced to take any additional measures necessary to protect the economy from the pandemic’s negative economic effects.

Consumer price inflation decelerated during 2019, benefitting from low import prices and low domestic price pressures. Average consumer price inflation dropped to 0.6% on average in 2019, compared to 1.4% the year before. In the first half of 2020, average consumer prices were 0.6% lower than a year before. Besides low prices for imported energy, price declines for clothing and footwear contributed to the low overall inflation rate. However, the inflation measure suffers from an outdated consumer basket and insufficient cooperation among key data providers.

The general government accounts continued to register surpluses, but the quality of public spending has remained low. Due to the weaknesses of country-wide fiscal data, the country’s overall fiscal position is difficult to assess. In 2019, public finances appear to have benefited from solid revenue growth, reflecting rising domestic demand but also measures to improve tax collection. At the same time, spending has remained contained, partly as a result of delays in government formation. As a result, the general government registered a preliminary fiscal surplus of 1.9% of GDP. The spending structure continues to be dominated by the public sector’s wage bill and transfer payments. The level of public investment remained very low, largely due to administrative weaknesses, such as inadequate project appraisal, weak project management and lack of transparency during execution.



Notwithstanding some progress on improving the financing of the pension system, the overall quality of public finances remained very low, with substantial spending inefficiencies, particularly in the health sector, and a poor targeting of social transfers. Some progress has been made in preparing the restructuring of the railway company in the *Republika Srpska* entity, which could reduce the fiscal burden of this company to the country’s taxpayers. Public debt declined slightly in 2019, to 32.2% of GDP by end-2019, partly reflecting constraints in accessing foreign capital markets. Fiscal rules are only applied in one of the country’s two entities. In the context of the COVID-19 crisis, the authorities have announced additional short-term measures amounting to some 2¼% of GDP.

Overall, the country’s macroeconomic policy mix suffered from an insufficient medium-term orientation and a missing focus on growth-enhancing policy measures. While macroeconomic stability has been preserved overall, fiscal policy is insufficiently geared towards growth enhancing measures. This orientation of fiscal policy towards maintaining the status-quo does not sufficiently use one of the country’s key macroeconomic policy tools, given that the country’s currency board regime limits the room for monetary policy. An insufficient degree of cooperation among the various fiscal policy stakeholders, the limited role of the country’s fiscal council and the lack of conflict resolution mechanism contribute to the limited effectiveness of fiscal policy with respect to enhancing the country’s growth potential. At the beginning of the COVID-19 crisis, the authorities have started to coordinate

their activities, among others by establishing a country-wide task force to coordinate their socio-economic response to the crisis.

Functioning of product markets

Business environment

Market entry and exit regulations have remained largely unchanged and barriers to entering and leaving product markets remain high. Efforts continued to facilitate business registration. Some steps have been taken to strengthen the support for foreign investors. The number of registered companies increased by 2.5% compared to 2018, in particular in the group of smaller companies with 0-9 employees. However, in order to be able to operate in the whole country, multiple registrations are still required, increasing costs of establishing a company. According to international rankings, the business environment has remained largely unchanged, although due to faster progress in other countries, Bosnia and Herzegovina's ranking actually declined slightly. Entrepreneurial outcomes have remained weak, while political interventions are impeding the functioning of markets and institutions. Overall, the country's attractiveness for doing business is hampered by still numerous and lengthy procedures and political interference required for entering or leaving the product market.

The rule of law and the functioning of the judiciary continue to be a crucial weakness. Improvements in this area have remained very limited. Among others, important issues are contract enforcement, in particular settling commercial disputes, a substantial backlog in court cases, and problems with establishing property rights, in particular real estate registration in some areas. Insufficient cooperation and coordination among the various stakeholders is a major impediment to the rule of law and a proper functioning of the judiciary, impeding the establishment of a level playing field on a country-wide level, with wide-ranging negative effects on the country's business environment. The resource endowment and independence of numerous regulatory and supervisory institutions continues to be insufficient.

The informal economy remains large, at some 25-35% of GDP. It provides (unregistered) employment and income but also distorts competition and erodes the base for taxation and social security contributions. Despite some limited progress in addressing the informal economy, such as improving the degree of registration in the labour market by increasing labour market controls, the informal sector may still account for up to one third of GDP. The resulting narrow tax base requires rates for taxes and social security contributions to be higher than would otherwise be necessary. This also adds to a significant fiscal burden on labour, which in turn impedes formal employment and negatively affects Bosnia and Herzegovina's international competitiveness.

State influence on product markets

State influence on the economy remains high. Countrywide public spending continues to be at a high level of some 40% of GDP, while the quality of the provided services is rather low, especially in the areas of health and education. State-owned companies as well as state subsidies and guarantees, which lead to substantial contingent liabilities, are a heavy burden on public finances and thus the country's taxpayers. According to a recent survey, publicly owned enterprises account for about one quarter of public employment and 11% of total employment. Many of those companies are characterised by low productivity, while at the same time they offer wages which are some 40% higher than in comparable private industries. Furthermore, in order to remain in operation, many public companies rely on state support or delay due payments to the social security systems or to private suppliers, creating substantial

liquidity imbalances in other areas of the economy. Public procurement, which represents a significant share of public spending and thus plays an important role for the private economy, is managed on the base of overly complex procedures which facilitate corruption and still contain a preference for domestic suppliers, which is incompatible with the EU *acquis*. There is still a wide range of administrated prices. However, there is no information available on the weight of administrated prices in the country's consumer basket.

The level of officially recorded state aid remained low, but indirect state support undermines a level playing field. Although official data on recorded state aid points to a relatively low and declining level of support of some 0.9% of GDP⁷, a number of public and private companies benefit indirectly from the accumulation of payment arrears of taxes and, in particular social security contributions. Furthermore, state aid control is hindered by the only partial alignment of legislation with international and European standards and by the lack of procedural and fiscal independence of the authority responsible for its control. The consistent enforcement of state aid rules throughout the country is not assured and the competences of the State Aid Council are limited. This leaves room for unfair distortions in the competitive position of some companies in the country.

Privatisation and restructuring

The privatisation process is still not complete and restructuring efforts have made little progress. Attempts to sell earmarked public companies have been largely unsuccessful during the last year. The due diligence procedures for two local telecommunication companies has been completed. Strategic sectors such as transport and energy are still dominated by poorly managed and often inefficient state-owned companies. The share of the private sector in the country's value added has remained rather stable over the last 5 years. The non-state sectors create some 80% of the country's gross value added and generate a similar share of the country's employment.

Functioning of the financial market

Financial stability

Overall, the financial sector remained largely stable despite some negative effects from COVID-19, but a high degree of complexity and fragmentation in the institutional and regulatory set-up is hampering banking supervision. A significant share of the sector's asset portfolio is euro-indexed, which underlines the importance of a stable exchange rate under the currency board arrangement. The sector consists of a few large, mainly foreign owned banks, accounting for some two thirds of the sector, a limited number of smaller, local banks and two state-owned development banks. The number of banks (23) is high in relation to the market size. The overall capital adequacy ratio was at some 18% by end of the first quarter of 2020, well above the regulatory minimum of 12%. Banking sector profitability continued to deteriorate, with a return-on-equity ratio (ROE) dropping to 9.6%, while returns-on-average assets (ROAA) also slightly dropped to 1.2% at the end of the first quarter in 2020. Some banking sector soundness indicators continued to slightly improve. For example, the ratio of non-performing loans (NPLs) has further declined, from 7.9% in 2019 to 6.6% in the first quarter. However, there are big differences among the countries' 23 banks, with some pockets of vulnerability remaining, in particular in the case of some smaller local banks. In particular, there is a notable difference between foreign and domestic banks in terms of

⁷ Latest data from 2018

soundness indicators, with the former being more successful in reducing NPLs or improving loan provisioning. The central bank's analytical capacities are still limited and financial sector supervision suffers from the fragmented and decentralised institutional set-up. In response to the COVID-19 crisis, the Central Bank has reassured households and corporations on the stability of the country's financial sector.

Access to finance

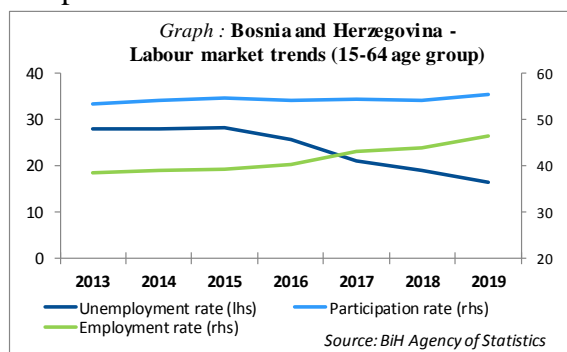
Lending has increased but small firms' access to finance remains constrained. Credit to GDP increased slightly during the last five years from 58% of GDP (in 2014) to close to 60% in 2019. After a near standstill in bank lending in the aftermath of the financial crisis, lending to corporations and households has recovered and has increased in 2019 by some 4.2% and 7.5%, respectively. However, the pick-up of growth to corporations is less dynamic, pointing to difficulties in the private sector to develop bankable projects. In particular, it is still difficult for SMEs and micro enterprises to access finance. Interest rate spreads for consumer loans have markedly declined, dropping during the last 5 years from above 6 percentage points to around 4 percentage points. However, this level is still relatively high, suggesting either still high risk-premia and/or a lack of competition. The size of the non-financial sector and of the capital markets has remained small, with a market capitalisation of the country's bond and stock markets of about 23% of GDP. The use of venture capital has continued to be very limited.

Functioning of the labour market

Despite improving labour market indicators, significant underlying challenges remain. The increase in the number of registered employees slowed down during 2019 to 2.3% on average. In the first quarter of 2020, the year-on-year increase came down to 1.3%, while in the second quarter, the number of registered employees was 2.2% lower than a year before. In 2019, the largest increases were in the service sector, in particular the wholesale and retail sector. The number of unemployed declined by 9% in 2019. However, here too the situation deteriorated in 2020, with the decrease in the number of unemployed slowing down to 6.2% year-on-year in the first quarter, before turning to a 3% increase in the second quarter. However, the overall impact of the COVID-19 on the labour market was still limited, although due to the high share of informal employment, the administrative data might not reflect to the whole picture. The actual number of persons, participating actively in the labour market is declining, as only a part of the unemployed appears to find a job, while many others seem to leave the labour market, either to work abroad or by not registering any longer as looking for a job. According to the internationally comparable Labour Force Survey (LFS), the annual unemployment rate has declined to 15.7% in 2019, compared to 18.4% a year before, but it remains high. Preparations to publish quarterly LFS data are still ongoing. Key factors for the persistently high unemployment are a lack of adequate employment possibilities in the economy, but also a mismatch of education curricula with labour market needs. One additional factor, which could contribute to the relatively low labour market participation is a high tax wedge, in particular for low-wage earners. Draft legislation on the Personal Income Tax as well as on social security contributions with a view to reduce the tax wedge has been prepared, but has not been adopted yet. The labour market participation of women and the youth is still low, while unemployment rates of those two groups are significantly higher than for men in core working age cohorts. Long-term unemployment has remained high, with according to the 2019 LFS survey about 77.3% of the unemployed looking for a job for more than one year. During the last year, the authorities have continued to implement active labour market measures, although the coverage is relatively low and the

measures' efficiency is not sufficiently rigorously evaluated. These support the employment of vulnerable or disadvantaged groups. The still substantial discrepancy between unemployment data according to administrative and according to survey based data has somewhat narrowed but is still significant, pointing to the need to improve the country's labour market statistics.

Brain drain increasingly becomes a challenge. Labour mobility within the country is low, while brain drain towards neighbouring and in particular EU countries seems to be substantial. The loss of qualified labour through emigration has supported relatively high increases of nominal wages in some sectors (e.g. +10% in the construction sector). This has a positive effects on income while, in absence of adequate productivity gains high wage growth erodes the countries' international competitiveness position. Wages in the public sector are also relatively high, in particular when taking into account the sector's productivity, which among others crowds out qualified labour from the private sector.



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

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

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

- Improve the quality of education and training, in particular, accelerate the modernisation of curricula with a view to better alignment with labour market needs;
- Increase public investment, in particular by focusing on transport and energy infrastructure and on improving environmental standards;
- Support trade integration with the EU and CEFTA, among others by supporting alignment with European safety and quality standards, such as envisaged in the context of the Regional Economic Area (REA) initiative.

Education and innovation

Investment in education has remained inadequate to address the challenges. Public spending for formal education accounts for some 4.2% of GDP in 2018. When adding private and foreign spending, the overall amount stands at nearly 5% of GDP. Despite this significant spending, in particular when taking into account the number of students, the outcome of this investment fails to provide the country's labour force with the skills and knowledge, necessary for a smooth integration in the labour market. This contributes to a particularly high youth unemployment rate (33.8% in mid-2019 according to LFS), twice the country's overall unemployment rate. Innovation policy is impeded by the large number of stakeholders involved and the low degree of cooperation and coordination, leading to a low efficiency of

the overall system. The absence of an efficient funding system is another factor, preventing the country's innovation policy from achieving better results for the funds spent.

Access to early childhood education and care is still low, while school enrolment rates have dropped in most sections of the education system, partly a result of demographic dynamics, such as declining birth rates and emigration of young families. Teaching curricula continue to be outdated and are still not sufficiently aligned with the country's needs. Furthermore, the country's education system is very complex and highly fragmented and poorly coordinated, leading to varied standards within the country. This results in a lack of common standards for various levels of education, as well as in differences in the quality of teacher training and performance evaluation. The country participated for the first time in the 2018 PISA study. Results indicate that the students' performance ranks not only well below the OECD average, but is also low when compared with countries in the region, such as Serbia, Montenegro and Albania. The country's illiteracy rate continues to be one of the highest in the region with around 3%, largely as a result of a relatively high illiteracy rate among women. Also missing is sufficient support and training to provide women with skills required for entrepreneurship.

Physical capital and quality of infrastructure

Investment in the country's capital stock remained impeded by the delays in government formation and administrative weaknesses. Gross capital formation rose by some 6.2% in real terms in 2019, compared to 4.7% the year before, largely driven by investment in housing. Public investment remained low, resulting from the delays in government formation, but also suffering from difficulties in planning, adopting and implementing investment projects. The persistent political uncertainty also impeded a stronger increase in private fixed investment, which remained at close to 2½% of GDP, when taking the annual average. Some strategic foreign investment in the oil processing and tourism industry took place during the last year, which however was largely neutralised by lower inflows towards the end of the year. Environmental standards are low and often neglected, leading to high levels of pollution, impeding the health (and thus productivity) of the country's labour force and constituting another factor supporting the brain drain. Overall, the insufficient momentum in investment and neglect of environmental standards hampers improvement in the country's growth potential and labour productivity.

Transport and energy infrastructure investment was also negatively affected by political uncertainties. The delays in government formation not only affected planned investment in transport and energy infrastructure, but also impeded access to international finance. Furthermore, necessary steps for modernising the regulation of the energy and transport markets were further delayed. As a result, the markets for electricity and gas remain fragmented and dominated by key incumbent companies. Furthermore, the absence of a single or sufficiently harmonised regulatory framework and inadequate cooperation and coordination among the various stakeholders often leads to delays of planned investment projects. As a result, infrastructure connections with neighbouring countries as well as the country's digitalisation have remained low. In March 2019, the EU Energy Community opened an infringement procedure against Bosnia and Herzegovina over state aid to the Tuzla 7 coal power plant.

Sectoral and enterprise structure

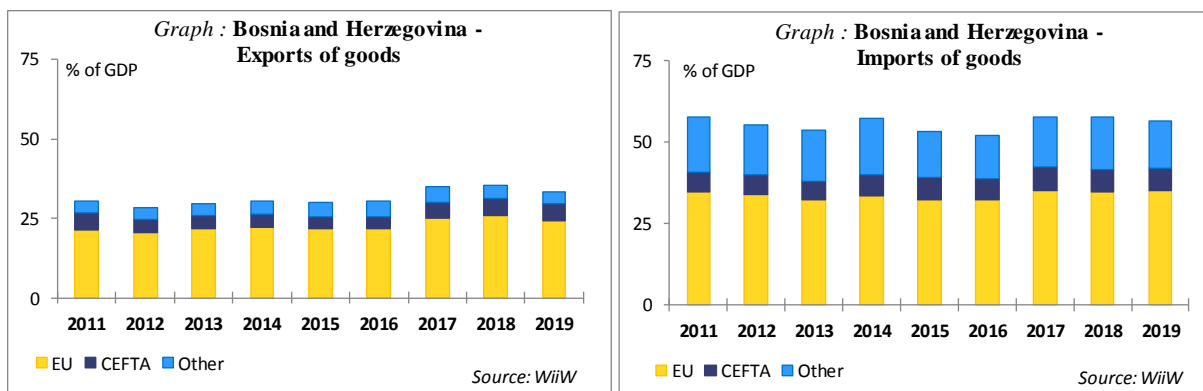
Some structural change from the public sector to trade and manufacturing has taken place. During the last five years, there has been an increase in the share of value-added of

trade and manufacturing (from 19% and 11% of GDP in 2014 to 21% and 12¼% in 2019, respectively), while the share of the public sector (administration, health and education) in value added shrank, from 18½% of GDP to 16½%. In terms of employment, the share increased slightly in trade and transport, while it declined in manufacturing, agriculture and energy production. However, the extent of the informal sector might mask important changes. The company structure registered some increase in the share of medium-sized companies, employing between 50-249 employees. However, the majority of new companies are micro companies (0-9 employees), which are often trading companies with lower value added. Some 95% of all companies are in the group of small and micro businesses, i.e. with less than 50 employees. Access to finance in terms of bank loans has slightly improved during the last year, although for many micro and small companies gaining access to credits is still difficult. Support schemes are in place for small and medium-sized enterprises, but benefitting from those schemes is often cumbersome.

Economic integration with the EU and price competitiveness

The volume of international trade declined slightly in 2019, while the country and commodity structure diversified. International trade slightly declined during 2019, mainly due to weaker commodity exports, dropping by about 3.4% in nominal terms in 2019, while imports increasing in nominal terms by 1.2%. About one third of this drop in exports is due to a sharp decline in trade with Kosovo, but also weaker exports to key trading partners, such as Germany, Croatia and Turkey, played an important role. The trading structure shifted slightly in favour of trade with Serbia, but also other countries, such as Austria, France and Switzerland. Exports to the EU-28 accounted for 73% of total exports in 2019, which is slightly higher than a year before. Exports to CEFTA countries rose slightly during 2019, by about half a point to 16.6% of total exports, as increases in exports to some CEFTA countries, such as Serbia, were largely compensated by the tariff-hike driven sharp drop in exports to Kosovo. The country's openness to trade increased over the last years, with a rise in the share of total exports and imports in GDP from about 88% in 2014 to nearly 95% in 2019. However, when taking into account the country's relatively small economic size, these ratios are still relatively low. The range of export commodities is not very sophisticated. While some further progress has been achieved in addressing non-tariff barriers to trade with the EU, such as required phyto-sanitary and sanitary standards, overall compliance with these requirements remains a problem.

The integration of the country's financial and capital markets with the EU is rather low, although a large part of the banking sector is owned by European banks. About two thirds of the country's stock in FDI is originating from EU countries. Annual FDI inflows largely show a similar pattern. Despite a relatively high wage growth, the country's overall international competitiveness appears intact.



The country's nominal effective exchange rate appreciated markedly during the last 5 years, mainly due to exchange rate movements of the US dollar, the Turkish lira and the Russian rouble. However, in real terms, the effective exchange rate remained more stable, benefitting from the country's low inflation rate, in particular when using the CPI as indicator for inflation.

4. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

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

Bosnia and Herzegovina remains committed to regional cooperation and plays a constructive role in building a more stable and secure region through participation in around 35 regional organisations and initiatives, such as the Central European Free Trade Agreement (CEFTA), the Energy Community, the Transport Community, and the Regional Cooperation Council, of which it hosts the seat.⁸ Bosnia and Herzegovina hosted the SEECP Summit in July 2019, concluding its one-year chairmanship, and completed chairmanship of MARRI in June 2019. In 2020, the country presides over the US-Adriatic Charter and the CEFTA Agreement.

During the COVID-19 crisis, inclusive regional cooperation has proven to be essential. By establishing green lanes for the transport of emergency goods, the region has proved it is able to address common challenges swiftly and efficiently. Inclusive regional organisations – the Regional Cooperation Council, the Transport Community, and CEFTA – have been instrumental in responding to the COVID-19 crisis. These achievements need to be turned into sustainable improvements.

Building on the results of the previous summits with the region, the July 2019 Western Balkans summit in Poznan focussed on strengthening regional cooperation in the fields of economy and trade, the digital agenda, connectivity, security, fight against corruption, promoting reconciliation and youth. The summit endorsed a number of achievements in these fields, in particular the clean energy transition declaration signed in Podgorica, the regional roaming agreement signed in Belgrade, a substantial connectivity package and the Roma integration declaration. It was also the occasion to kick-start the preparation of a Green

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

Agenda for the Western Balkans.

At the Zagreb Summit on 6 May 2020, EU and Western Balkans leaders agreed that deepening regional economic integration has to be a prominent part of recovery efforts of the Western Balkans. To do so, Bosnia and Herzegovina needs to continue playing a constructive role in building a common regional market, which will be critical to increase the attractiveness and competitiveness of the region. It will help Bosnia and Herzegovina to speed up the recovery from the aftermath of the pandemic – notably to attract investors looking for diversification of supply and shorter value chains. Such a common regional market has to be inclusive, based on EU rules and built on the achievements of the regional economic area multiannual action plan.

Bosnia and Herzegovina continues to closely cooperate with Croatia, Montenegro and Serbia under the Sarajevo Declaration Process aiming at sustainable solutions for some 74,000 people who became refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. Within the framework of the Regional Housing Programme (RHP) in 2019 approximately 450 units were built out of 1,200 housing units repaired in total. Significant challenges remain with regard to the economic and social integration and wellbeing for many families, required to ensure the sustainability of return.

The issue of *missing persons* is a matter of concern. Further efforts on a regional scale are needed to establish the unresolved fate of 7,206 people still missing as a result of the conflict, of which 242 were identified in 2019.

In April 2019 Bosnia and Herzegovina also signed a regional agreement on roaming fees at the Western Balkans digital summit in Belgrade, enabling “roam like at home” (RLAH) as of July 2021.

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

Relations with **Albania** are friendly and without open issues, with occasional high-level bilateral visits. The countries initialled an agreement on cooperation in the EU accession process and an agreement on economic cooperation. Trade flows remain low.

There are no official relations with **Kosovo**, as Bosnia and Herzegovina does not recognise Kosovo’s independence and the two maintain a strict visa regime. An initiative to simplify the visa procedure for all citizens of Kosovo is still pending. The 100% tariffs on goods originating from Bosnia and Herzegovina and Serbia, imposed by Kosovo in November 2018, were lifted in April 2020; the flow of goods has since resumed.

Concerning **Montenegro**, bilateral relations are good. There are no bilateral border issues but the agreed border demarcation is yet to be physically marked on the terrain. Protocols on cooperation in search for missing persons and on the non-statutory trafficking of persons were signed between the two countries in October 2019.

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

Bilateral relations with **Serbia** are overall good and stable although without concrete steps forward in tackling outstanding issues. A protocol on determining the tri-border point between Bosnia and Herzegovina, Serbia and Montenegro was signed in May 2019 in Sarajevo; it represents a good basis for negotiations on a bilateral border agreement. To this aim, the two countries also need to reach an agreement on two river dams on the Drina river and a portion

of the Belgrade-Bar railway which crosses into Bosnia and Herzegovina's territory. In December 2019 the two countries also signed a cooperation agreement on the construction of the Sarajevo-Belgrade highway. In June 2020, 3,449 citizens of Serbia cast their vote at 11 polling stations in Bosnia and Herzegovina for the Serbian parliamentary elections.

Turkey is a strong international supporter of Bosnia and Herzegovina's development and EU integration. Exchanges at high level are frequent. Turkey committed to finance the construction of Sarajevo-Belgrade highway.

Relations with **Croatia** are overall good, although affected by outstanding bilateral issues. Bilateral visits took place at foreign ministers' level. The 1999 border demarcation agreement has not been ratified by either side and there are open issues concerning land and sea borders. The implementation of the 2001 succession agreement is affected by open issues on private properties and acquired rights. Bosnia and Herzegovina established a State-level coordination body to dispute Croatia's plan to build a facility for radioactive waste and spent nuclear fuel storage at Trgovska Gora, near the border. There is no agreement on dual citizenship. 35,547 citizens of Croatia cast their vote at polling stations in Bosnia and Herzegovina for the Croatian presidential elections in December 2019 and January 2020, and 21,898 for the parliamentary elections in July 2020.

5. ABILITY TO ASSUME OBLIGATIONS FROM MEMBERSHIP

5.1. Chapter 1: Free movement of goods

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

Bosnia and Herzegovina is at an **early stage of preparation** in the area of free movement of goods. There was **no progress** in this area. Major steps need to be taken to align the legislative framework with the EU *acquis*, in particular on technical requirements for products, conformity assessment and on market surveillance.

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

- establish a list of technical regulations in force and start to repeal countrywide the domestic legislation that conflicts with the EU legislation, including ex-Yugoslav standards that conflict with those aligned with European standards;
- adopt a countrywide strategy for the quality infrastructure;
- appoint the members of the Metrology Council.

General principles

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

Non-harmonised area

No plans were made or steps were taken to ensure that legislation and administrative practices for the **non-harmonised area** are in compliance with **Articles 34-36** of the Treaty on the Functioning of the European Union and relevant case law of the European Court of Justice.

No specific body was established or empowered to fulfil the obligation of notifying technical regulations.

Harmonised area: quality infrastructure

The legal basis and administrative structure for technical regulations, standards, conformity assessment, accreditation, metrology and market surveillance are in place, but they are not aligned with the EU *acquis* and remain uneven and fragmented. The relevant administrative structures involve institutions set up at both state and entity levels, and the coordination between them remains weak. There is still no countrywide strategy to put in place the quality infrastructure, which would help Bosnia and Herzegovina to have a coherent countrywide approach.

On **standardisation**, the Institute for Standardisation of Bosnia and Herzegovina (ISBIH) is a full member of the European Telecommunications Standards Institute and an affiliate member of the European Committee for Standardisation (CEN), of the European Committee for Electro-technical Standardisation (CENELEC) and of the International Electro-technical Commission. It is also a full member of the International Standardisation Organisation. Between 1 April 2019 and 8 June 2020 ISBIH adopted 2,244 European standards (ENs) as national standards. On 8 June 2020, the percentage of European standards adopted stood at 88,76%. However, conflicting ex-Yugoslav mandatory standards have still not been withdrawn in a systematic manner across the country, and there is no countrywide register of current legislation.

The Institute for Accreditation of Bosnia and Herzegovina (BATA) is the single national **accreditation** body. It is a full member of the International Laboratory Accreditation Cooperation and an associate member of the European Cooperation for Accreditation. However, BATA is understaffed, with 21 employees out of the 28 required under the implementing legislation. There are 137 **conformity assessment** bodies in Bosnia and Herzegovina: 77 testing laboratories, 2 medical and 8 calibration laboratories, 4 product certification body and 46 inspection bodies. The Law on Accreditation is not aligned with the EU *acquis*, and the designation of conformity assessment bodies and conformity assessment procedures are still not applied consistently throughout the country.

The Institute of **Metrology** of Bosnia and Herzegovina (IMBiH) participates in technical committees, European development programmes and cooperation projects with EU metrology institutes. It is an associate member of the General Conference on Weights and Measures, the International Bureau of Weights and Measures (BIPM), the International Organisation of Legal Metrology, and the European Cooperation in Legal Metrology. It is also a signatory of the Mutual Recognition Agreement of the International Committee for Weights and Measures, and a full member of the European Association of National Metrology Institutes. In the reporting period, IMBiH published five new calibration and measurement capabilities (CMC) in frequency, time and pressure in key inter-comparison database in BIPM. Metrology institutes need to cooperate and coordinate their activities in implementing the legislation in this area. The appointment of the members of the Metrology Council has been pending since 2012. The Institute of Metrology remained understaffed, having 53 of the 72 members of staff required under the implementing legislation.

Over the reporting period, the **Market Surveillance** Agency and the inspection bodies of the entities and the Brčko District implemented 21 checks as part of proactive surveillance, and 26 were initiated on reactive surveillance. As a result of 210 product safety inspections, 6,222 unsafe products were withdrawn from the market (of which 4,473 were destroyed), and

businesses brought 9,337 products into compliance with safety requirements. The market surveillance system is still largely based on mandatory standards and pre-market control. The law on market surveillance is still not aligned with the EU *acquis*.

Harmonised area: sectoral legislation

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

No progress was made on aligning the legislation with the EU *acquis* on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) or on strengthening administrative capacities in this area. On the **pricing of medical products**, the conditions for refusing to add products to the reimbursement list are designed to be aligned with the EU *acquis*. On **civil explosives**, Bosnia and Herzegovina still lacks a comprehensive legal framework on the transport of dangerous goods. Legislation on returning **cultural objects unlawfully removed** from the territory of an EU Member State has not yet been aligned with the EU *acquis*.

As response to COVID-19, upon joint initiative by the Permanent Secretariat of the Transport Community and the CEFTA Secretariat, Bosnia and Herzegovina, alongside all the other governments in the Western Balkans, has successfully implemented measures to facilitate the transport and trade of essential goods within the region.

5.2. Chapter 2: Freedom of movements for workers

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

Bosnia and Herzegovina has **some level of preparation** in the field of free movement of workers. However, **no progress** was made in the reporting period.

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

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

Regarding **access to the labour market**, the legislation in place does not differentiate between EU workers and other foreigners, non-Bosnia and Herzegovina’s citizens. This legislation prohibits, like the anti-discrimination law and labour laws, direct or indirect discrimination on grounds of race, skin colour, language, religion, age, national or social origin, sexual orientation. At the same time, employment in public administration is reserved for Bosnia and Herzegovina’s citizens. In order to work in Bosnia and Herzegovina, with several exceptions, as provided for under the Law on Aliens, an EU citizen has to obtain a work permit and meet certain conditions to do so.

The laws of the entities’ and the Brčko District on the employment of aliens still need to be fully harmonised with the state-level Law on Aliens, especially when it comes to regulating the issuance/approval of a residence permit on the grounds of employment.

Bosnia and Herzegovina still lacks a countrywide database of vacancies.

As regards the **coordination of social security systems**, Bosnia and Herzegovina has 9 international bilateral agreements on social security in place, (of which 6 are with EU Member States) and an additional 16 agreements (of which 12 with EU Member States), which have been implemented on the basis of succession from the former Yugoslavia. The new agreement on social security between Bosnia and Herzegovina and Switzerland is currently in final stage of the ratification. The country's system of coordinating social security schemes remains fragmented, with limited administrative capacities and lack of formal cooperation among relevant authorities covering all levels of government.

There has been no progress on the European Health Insurance Card.

5.3. Chapter 3: Right of establishment and freedom to provide services

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

Bosnia and Herzegovina is at an **early stage** of preparation regarding the right of establishment and freedom to provide services. **No progress** was made in this area in the reporting period. The existing legislation remains to be aligned with the Services Directive and provide for the mutual recognition of foreign qualifications for regulated professions. A countrywide strategy for development of postal services needs to be adopted in order to create a consistent regulatory framework that is aligned with the EU *acquis*.

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

- establish a register of the relevant legislation in force and identify the legislation to be amended to ensure alignment with the EU Services Directive;
- elaborate a comprehensive inventory of all additional administrative and technical requirements for the registration of domestic and foreign undertakings economically active countrywide with a view to abolishing the ones hampering the creation of the single economic space;
- adopt a countrywide law on postal services, in line with the EU *acquis*, and open up the postal market to competition.

The legislation on **right of establishment** and **freedom to provide cross-border services** is not aligned with the EU Services Directive. No progress was made on developing a horizontal law enshrining the principles of the Directive and on reviewing the sector-specific legislation to identify laws that need to be aligned with the Services Directive. The point of single contact needs to be established. Aligning of the relevant legislation at all levels of government requires building up sufficient administrative capacity and having strong coordination between administrative bodies at all levels.

The legal framework for **postal services** is partly aligned with the EU *acquis*. A new state-level law on postal services, still being prepared, needs to be adopted, and a state-level strategy for developing postal services needs to be elaborated, in order to ensure a consistent regulatory framework aligned with the EU *acquis*. The legal framework for providing universal postal services across the country remains to be harmonised and the postal market need to be fully opened up to competition. The institutional and financial independence as

well as the administrative capacities of the Agency for Postal Traffic should be strengthened to enable it to perform its regulatory function.

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

5.4. Chapter 4: Free movement of capital

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

Bosnia and Herzegovina is **moderately prepared** in the area of free movement of capital. There was **limited progress** in the implementation of EU rules on the free movement of capital and payment system alignment with that of the EU. The newly introduced payment clearing system created some of the preconditions required to join the Single Euro Payment Area. The 2019 recommendations were therefore only addressed to a limited extent and remain valid.

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

- continue removing unjustified restrictions incompatible with the EU *acquis* on the free movement of capital, including restrictions related to short-term capital transactions and acquisition of real estate;
- introduce a register of beneficial ownership information for legal persons and a register of beneficial ownership information for legal arrangements.

As regards **capital movements and payments**, the country continues to apply full current account convertibility. Long-term capital transactions are mostly liberalised, but restrictions remain for short-term capital transactions, including financial credits and loans provided by residents to non-residents, and resident payments of life insurance premiums to non-residents. Investment rules for institutional investors are subject to limitations on investment in foreign securities.

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

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

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

As regards the **payment systems**, in June 2019, the Central Bank of Bosnia and Herzegovina (CBBH) modernised its payment system by introducing a new gyro clearing system. All interbank transactions up to a certain limit, namely KM 10,000, go through the new system. To adhere to the SEPA (Single Euro Payment Area) schemes for communities of banks or financial institutions outside the European Economic Area, among others, relevant legislation will need to be adopted to align with the Payment Service Directive II, the Electronic Money Directive II and the Single Euro Payment Area (SEPA) Regulation.

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

Regarding **anti-money laundering**, Bosnia and Herzegovina needs to adopt a law on anti-money-laundering and countering the financing of terrorism in line with international standards, and further align with the EU *acquis* on anti-money laundering and countering the financing of terrorism. The Commission has adopted a delegated regulation that removed Bosnia and Herzegovina from the EU list of high-risk third countries. However, Bosnia and Herzegovina should maintain its efforts to increase the effectiveness of its anti-money-laundering and countering terrorist financing framework, notably on the transparency of beneficial ownership.

Bosnia and Herzegovina is behind schedule on adopting its new law on anti-money laundering and terrorist financing and the establishment of an asset recovery office was delayed. Bosnia and Herzegovina needs to establish a beneficial ownership register on legal persons. Bosnia and Herzegovina also needs to improve its track record of financial investigations, prosecutions and convictions for related offences, make a more consistent use of legal provisions on asset confiscation, notably by setting up an asset recovery office. Preventive measures, supervisory action and sanctions in case of breaches – especially in the non-financial sector – also still need to be implemented.

5.5. Chapter 5: Public procurement

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

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

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

- withdraw the decision on preferential treatment of domestic bidders in awarding public contracts to ensure compliance in this area with the SAA;
- adopt the new law on public procurement;

→ strengthen the administrative capacities of the Public Procurement Agency and the Procurement Review Body by increasing their staff and providing appropriate training, and make the procurement process more transparent.

Institutional set-up and legal alignment

The current **legal framework**, enacted in 2014, is partially in line with the EU *acquis*. The Public Procurement Law aims at ensuring compliance with the principles of non-discrimination, competition, transparency and equal treatment. However, the principle of non-discrimination is not applied as the government of Bosnia and Herzegovina adopted, in May 2020, a decision on obligatory application of domestic preferential treatment for domestic bidders at the rate of 30% for a one-year period starting on 1 June 2020. The decision is in breach of the SAA, which bans any preferential treatment for domestic bidders as of 1 June 2020 (following the transitional period with gradual reduction of preferences). Furthermore, the law covers exemptions, which are not covered by the EU *acquis*. The country needs to further align with the 2014 Public Procurement Directives, including the Directive on public procurement, utilities and defence procurement. The legislative framework on concessions and public private partnerships is highly fragmented and needs to be aligned with the EU *acquis*. All legal and financial instruments used for public procurement and concessions, including inter-governmental agreement concluded with third countries, should comply with the principles of transparency, competition, equal treatment and non-discrimination.

The implementation of the 2016-2020 **strategy for the development of public procurement** has been delayed.

The **Public Procurement Agency (PPA)** of Bosnia and Herzegovina is the body authorised to initiate, implement and monitor public procurement reform in all sectors. Its administrative capacities are insufficient. Each contracting authority needs to be staffed with officials who have the relevant skills and expertise.

Implementation and enforcement capacity

In 2019, Bosnia and Herzegovina's **public procurement market** represented 8.7% of the country's GDP, slightly below the 2018 level. The average number of bids per tender was 2.0 in 2019, compared to 2.3 in 2018.

On monitoring the awarding and implementation of contracts, the Public Procurement Agency is the body authorised to initiate, implement and monitor public procurement reform in all sectors. However, the PPA's administrative capacities are insufficient to fulfil its tasks. Statistics collected from contracting authorities and published by the Public Procurement Agency provide a solid tool for monitoring the use of procurement procedures and show a decrease in the use of the negotiated procedure without prior publication (11.47% of the value of all contracts awarded in 2018, and even lower in 2019 at 8.55%). The Agency's monitoring role should be strengthened to enable it to identify potential weaknesses and irregularities in procurement procedures.

The Public Procurement Agency manages the central procurement portal, where tender and contract notices and other important information and guidance are published, and the relevant data from contracting authorities in the country is collected. The e-procurement system was enhanced with additional functionalities during 2019. The use of electronic procurement enables any interested person to download tender documents.

The capacity to manage public procurement processes is weak. Specialised procurement

functions need to be established in each contracting authority and be staffed with officials who have the relevant skills and expertise. There was no new development in **integrity and conflicts of interests**.

Efficient remedy system

The right to **legal remedy** is laid down in the Bosnia and Herzegovina Constitution and in the Public Procurement Law. The legislation on review procedures is broadly in line with the relevant part of the EU *acquis* although time limits are excessively short. The legislation on review procedures does not cover concessions and private public partnerships; these are covered by other regulations and need to be aligned with the EU *acquis*. The institutions responsible for the review procedures are the contracting authority, as the first instance body, the Procurement Review Body of Bosnia and Herzegovina, as the second-instance body and the Court of Bosnia and Herzegovina as the third instance body. The **implementation capacity** of the Procurement Review Body, with offices in three locations (Sarajevo, Banja Luka and Mostar), remains in the hands of 34 staff, which is insufficient to address efficiently the high number of complaints submitted. A formal mechanism to co-ordinate the three Procurement Review Body offices and ensure consistent decision-making and legal certainty is still missing.

The rising trend in the number of appeals submitted to the Procurement Review Body requires Bosnia and Herzegovina to strengthen the Body's capacity. Only a small number of the Body's decisions have been challenged before the Court of Bosnia and Herzegovina. The transparency of the Procurement Review Body's decision-making needs to be significantly enhanced.

Following the declaration of the state of natural or other disaster by the Council of Ministers of Bosnia and Herzegovina, on 17 March 2020 PPA issued an opinion on urgent procurement procedures to be applied for COVID-19 specific public procurement, clarifying two exemptions under available Public Procurement Law (PPL) to be applied in extreme urgency cases. After issuing the opinion, PPA noted certain misuses of emergency procurement procedures and warned the contracting authorities to act in line with the PPL. In order to prevent violations of PPL provisions related to misuse of COVID-19 related procurement procedures, PPA stepped up its monitoring activities of such procedures.

5.6. Chapter 6: Company law

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

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

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

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

Company law at all levels of government remain to a limited extent aligned with the EU *acquis* in this field. No central registry of businesses has been set up in Bosnia and Herzegovina nor has any cross-entity/Brčko District connection been made between the companies' registers. In the reporting period, the *Republika Srpska* entity created the legal basis for the electronic registration of limited liability companies, which will become operational once all the technical conditions are met. The Brčko District adopted legislation regulating the registration of business entities, including the procedure of electronic registration. A set of laws to simplify the registration process of business entities in the Federation entity is still pending adoption.

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

5.7. Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR) and of copyright and related rights. Rules for the legal protection of IPRs cover, for instance, patents and trademarks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, computer programmes and broadcasting.

Bosnia and Herzegovina is **moderately prepared** in the area of intellectual property law. **No progress** was made in this area during the reporting period. Significant efforts are required, in particular to improve enforcement and coordination.

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

- implement the strategy on enforcement of intellectual property rights;
- adopt the amendment to the Law on Patents.

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

The Institute for Intellectual Property of Bosnia and Herzegovina (IIP) operates as an

independent administrative body. The Institute's development strategy gives it the role of coordinator in the system of enforcing intellectual property rights. Copyright works and related rights were deposited and registered in the IIP.

Five organisations in the country are authorised for the collective management of copyright and related rights. However, in August 2019 IIP issued a decision on conditional revocation of the license for collective management of musical works authors' rights from the Association of Composers – Music Makers (AMUS). AMUS has 12 months to remedy identified deficiencies.

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

Regarding **enforcement**, the Indirect Taxation Authority received 108 requests for customs measures based on protected trademarks and issued 51 decisions on temporary retention and seizure of goods. The State Investigation and Protection Agency investigated 49 cases of which 14 were closed. It submitted 22 reports on activities to Bosnia and Herzegovina Prosecutors Office. In February 2020, the Council of Ministers adopted a decision to establish an Interagency Co-operation Body for the Acquisition and Enforcement of IPRs in the country.

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

5.8. Chapter 8: Competition policy

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

Bosnia and Herzegovina has **some level of preparation** in the area of competition policy. There was **no progress** in this area in the reporting period. Bosnia and Herzegovina should further align its legislative framework in the area of competition and State aid with the relevant part of the EU *acquis*. Recommendations from last year were not addressed and remain valid.

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

- improve the enforcement record of the State Aid Council by ensuring that State aid measures are notified ex ante by granting authorities;
- align the existing aid schemes with the SAA provisions;

→ ensure that the State Aid Council is operationally independent and obtains adequate financing.

Antitrust and mergers

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

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

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

Regarding **enforcement capacity**, the Competition Council is composed of six members assisted by 20 staff. The staff's level of expertise needs to be further developed through relevant training. On **implementation**, in 2019 the Competition Council took 49 decisions, including 7 on prohibited agreements, 3 on abuse of dominant position and 16 authorising concentrations. No fines were imposed. The Competition Council should continue to strengthen the enforcement of competition rules. The judiciary's capacity to handle complex competition cases is improving and it needs to be further reinforced.

State aid

As regards **State aid**, the legislative framework is partially aligned with the EU *acquis* and with the provisions of the SAA. It comprises the Law on the State Aid System in Bosnia and Herzegovina and the regulations adopted by the Council of Ministers and by the governments of the entities and of the Brčko. The implementing legislation is not developed evenly across the country and remains to be aligned with the EU *acquis*. A regional aid map still remains to be drawn up.

As for the **institutional framework**, the State Aid Council is responsible for ensuring the consistent implementation of the Law on the State Aid System. The State Aid Council is composed of eight members appointed by the Council of Ministers and the governments of the entities and of the Brčko District. As in the case of the Competition Council, the functioning of the State Aid Council is significantly impeded by ethnic-based decision-making procedures, which require decisions of the Council to be supported by at least one representative of each constituent people in order to have legal effect.

Under the Law on the State Aid System, the state aid grantor must notify all state aid measures to the State Aid Council before the aid measures may be granted. The State Aid Council can order the recovery of illegal aid, with interest, if the non-notified aid is deemed incompatible with state aid rules. It can launch *ex officio* investigations and carry out subsequent assessments of state aid granted if there are sufficient indications that the aid was illegally granted.

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

In April 2020, the State Aid Council published the Manual on application of State aid rules and a notification on application of the State aid law in the context of COVID-19 pandemic, designed to be aligned with the European Commission's guidelines set out in the Temporary Framework of 18 March 2020.

Liberalisation

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

5.9. Chapter 9: Financial services

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

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

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

- sign a Financial Stability Memorandum of Understanding;
- amend legislation on compulsory traffic insurance to liberalise its insurance market;
- demonstrate improvements in the coordination between corrective and enforcement powers of supervisory bodies (including banking agencies).

As regards **banks and financial conglomerates**, the banking sector appears adequately capitalised and liquid. The overall capital adequacy ratio was at some 18% at the end of 2020, well above the regulatory minimum of 12%. However, the fragmented market contributes to an only moderate profitability for the banking sector. Strategies on fully implementing Basel III are in place in both entities. One of the remaining issues is to adopt a common methodology for determining systemically important banks.

The deposit insurance system is operational, but the amount of insured deposits is not in line with the requirements of the EU *acquis*. The adoption of the Law on Deposit Insurance at the end of May 2020 enhances the bank resolution framework and ensures automatic membership in the deposit insurance scheme.

To be complete, the legal framework must notably strengthen supervisors' corrective and enforcement powers and introduce consolidated supervision of banking groups across the entities.

The ratio of non-performing loans declined to 6.6% of the outstanding loan portfolio at the end of Q1 2020. All banks have completed asset quality reviews on the basis of which banking agencies have approved plans to address identified weaknesses, including risk management and supervisory practices. A Financial Stability Memorandum of Understanding to improve cooperation and information sharing for bank supervision, crisis preparedness and management, and systemic risk oversight has been prepared but not yet signed by the relevant parties, including the Central Bank, the Deposit Insurance Agency and banking agencies.

In response to the COVID-19 emergency, in spring 2020 banking agencies have announced a six-month loan repayment moratorium for restructuring credit arrangements with aggravated circumstances due to COVID-19. Banks have also been asked to consider additional customer relief and not to pay dividends or bonuses. The Banking agencies, in a coordinated manner, amended decisions related to liquidity, credit and FX risk as well as capital calculation in order to ease the requirements and assist banks to deal with the COVID-19 consequences, thus stimulating lending activity.

Bosnia and Herzegovina made some progress on **insurance and occupational pensions**. The Insurance Agency of Bosnia and Herzegovina strengthened its supervisory and coordination role by organising regular meetings of its Management Board and by providing recommendations for the harmonisation and alignment with the EU *acquis* of draft insurance legislation submitted to it by both entities. In line with the Management Board's opinion, in July 2019 the *Republika Srpska* entity amended its law on insurance companies, to improve corporate governance and harmonise capital requirements in accordance with the EU *acquis* and with the other entity. Both entities amended rulebooks on the establishment and operation of insurance companies' branch offices in inter-entity business operations, with a view to implementing the protocol on cooperation and information exchange between the entities insurance agencies.

Preparations for the harmonised transposition of the Solvency II qualitative requirement (governance and risk management for and effective supervision of insurers) have been initiated through awareness raising activities in the Federation entity and an impact analysis performed by the Insurance Agency of the *Republika Srpska* entity.

Bosnia and Herzegovina has still not amended the legislation on compulsory traffic insurance to liberalise its insurance market. Relevant by-laws have not been adopted in a harmonised way across the country, preventing the formation of a single economic space for insurance services.

The *Republika Srpska* entity adopted amendments to legislation on voluntary pensions to increase long-term savings through collective pension plans. There were no developments on aligning the legislation governing the financial supervision of institutions for occupational retirement provision with the EU *acquis*.

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

As far as **securities markets and investment services** are concerned, coordination between the entities needs to be improved to ensure consistent alignment with key areas of the EU securities market *acquis*, such as market manipulation and market abuse rules. There is no regulated market in the meaning of markets in the financial instruments *acquis*. Since the end of 2019, the Federation entity Securities Commission has lost the quorum of three members required to operate even in technical mandate (under which this Commission had operated since 2009), making it unable to perform its regular duties. As a result, all requests for capital increase, mergers and acquisitions have come to a halt.

Regarding investment funds, the *Republika Srpska* entity amended its Law on Investment Funds to further align it with the Prospectus Regulation and to better protect investors and operators of management companies. The definition of investment services is not in line with the EU *acquis*.

5.10. Chapter 10: Information society and media

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

Bosnia and Herzegovina is at an **early stage of preparations** in the area of information society and media. **No progress** was achieved in implementing the last year's recommendations. The legislation and strategic framework are not in place and not aligned with the EU *acquis*. No progress was made on introducing the European emergency number 112.

In April 2019, Bosnia and Herzegovina signed the Regional Roaming Agreement, which will enable "roam like at home" as of 1 July 2021.

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

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

Regarding **electronic communications and information and communication technology**, the country made no progress in adopting a new law on electronic communications and electronic media in line with the 2018 EU regulatory framework. No progress was made in introducing the European emergency number 112 throughout the country. Bosnia and Herzegovina remains the only country in the region that does not have a broadband strategy, even though it introduced the 4G network in 2019. The Communications Regulatory Agency still lacks financial independence and no efforts were made to improve the procedure for appointing its management to ensure full political independence.

There are 67 internet providers and 3,080,859 internet users (87.25% penetration rate), with a penetration rate of 20.05% for broadband internet. Bosnia and Herzegovina signed the Regional Roaming Agreement in Belgrade in April 2019, which will enable "roam like at

home” as of 1 July 2021 and lead to a further decrease of the price of roaming services.

As for **information society services**, the 2017-2021 Policy for Development of the Information Society remains in place, but Bosnia and Herzegovina made no progress in adopting a countrywide strategy and an associated action plan. Bosnia and Herzegovina needs to adopt a law on electronic identity and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*. At the same time, no progress has been made in ensuring the interoperability of the electronic signature system throughout the country.

In October 2019, the Office for Supervision and Accreditation of Certifiers established within the Ministry of Communication and Transport registered the first trust service provider. The country made no progress in adopting a countrywide strategy on the security of networks and information systems and in designating a countrywide single point of contact responsible for coordination and cross-border cooperation. Bosnia and Herzegovina needs to establish a network of Computer Security Incident Response Teams to facilitate strategic cooperation and the exchange of information.

As regards **audio-visual policy**, Bosnia and Herzegovina needs to adopt a law on electronic communications and electronic media in compliance with the EU *acquis*. No progress has been made in adopting legislation on media ownership transparency, including a register of ownership structures, as well as legislation on advertising in the media. The country made no progress in completing the second phase of the digital switchover project, and therefore failed to meet the international deadline for it does not fulfil its obligations under the Geneva agreement GE-06 to meet the international deadline for switching-off analogue broadcasting in line with the Geneva agreement GE-06.

The three public service broadcasters remain exposed to strong political influence, in particular through politically controlled steering boards, with a worrying trend of self-censorship. The country has not introduced a suitable model to collect broadcasting fees that would ensure the public broadcasting system’s financial sustainability and political independence. The Public Services Broadcasting Corporation, as prescribed by the respective law, is yet to be established. The financing of local public broadcasters from the public budget also needs to be brought in line with the EU *acquis*, as it constitutes State aid and provides opportunities for political pressure and influence.

5.11. Chapter 11: Agriculture and rural development

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

Bosnia and Herzegovina is at an **early stage of preparation** in the area of agriculture and rural development. There was **limited progress** overall in implementing last year’s recommendations. While the development was encouraging on quality policy, progress on implementing the 2018-2021 strategic plan and state-level legislation on wine and organic farming has yet to materialise. The recommendations from 2019 were not fully implemented and remain valid.

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

→ effectively implement the 2018-2021 strategic plan for rural development, in particular by harmonising rural development programmes and support measures across the country, and

prepare a new post-2021 strategic plan for rural development;

→ adopt state-level laws on organic production and wine;

→ harmonise across the country the legislation on quality policy.

Concerning **horizontal issues**, there was no progress in establishing the necessary administrative structures required for the common agricultural policy (CAP), including a paying agency, nor was there any progress in developing elements of an integrated administration and control system, a land parcel identification system or a farm accountancy data network. Further efforts are needed to better coordinate the sector and strengthen administrative capacity at all levels of the government. An agreement on setting up the necessary institutional structures so the country can benefit from the Instrument for Pre-accession Assistance for Rural Development (IPARD) is still pending. Direct payments are yet to be aligned with the EU rules by decoupling them from production. Farm advisory services remain to be developed in a harmonised way across the country.

As regards sector-specific **common market organisation** schemes, the country still needs to prepare and set up the regulatory framework in line with the EU *acquis*. The state-level law on wine has not been adopted yet. A register of grapes and wine producers or a vineyard cadastre still has to be set up. Overall, it is important that the country ensures reliable countrywide statistics, particularly on the number and size of households, as well as on farms producing grapes.

As for **rural development**, no progress was made in harmonising rural development programmes and support measures across the country. The country has yet to deliver the first report on the implementation of its 2018-2021 Strategic Plan for Rural Development – Framework Document, providing a performance measurement that can be used to prepare a new post-2021 policy document.

On **quality policy**, the country continued to strengthen its implementing legislation and necessary structures for the implementation and control of quality schemes. However, it is important that the country continues to further improve and harmonise its legal framework with relevant EU *acquis* in order to advance in this area, in particular as regards wine and spirit drinks, and to ensure a clearer distribution of competences.

As for **organic farming**, the country has yet to prepare and adopt the state level-law required by the EU *acquis* and subsequently ensure that regulatory frameworks across the different levels of the government are harmonised with it. Support measures remain unevenly implemented across the country.

5.12. Chapter 12: Food safety, veterinary and phytosanitary policy

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

Bosnia and Herzegovina has **some level of preparation** in this area. **Limited progress** was made in the reporting period in terms of compliance with the EU rules and requirements for the export to the EU of poultry meat and poultry meat products, as well as industrial eggs. The country should pursue further alignment with significant developments of the EU *acquis* and strengthen its administrative capacities, in particular those regarding official controls and

laboratories. The Commission's recommendations of 2019 were not fully implemented and remain valid.

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

- introduce inter-laboratory comparative tests to increase their administrative capacity, in particular inspection services and laboratories;
- speed up preparations for national reference laboratories, notably by increasing the accreditation of laboratory methods used in hygiene, veterinary and phytosanitary controls, food and feedstuff analysis;
- adopt the OECD seed schemes, notably for agricultural seeds and forestry material;
- maintain the vaccination against rabies.

In the area of **general food safety, food safety rules and specific rules for feed**, Bosnia and Herzegovina has complied with the EU rules and requirements for exporting poultry meat and poultry meat products, as well as industrial eggs, increasing the number of its products of animal origin that are EU compliant and therefore eligible to access the EU market. It is important that the country further works on aligning with the EU requirements for the export of other commodities, like table eggs and other categories of meat, such as bovine, ovine and caprine meat. Further alignment of its legislation needs to be accelerated, notably the state-level regulatory framework and particularly the laws on food and veterinary medicine, where there have been significant developments of the EU *acquis*. Effective implementation of the legislation is key. Fully implementing the hygiene package in a harmonised manner across the country remains a challenge.

The full national reference laboratories system is still not in place in Bosnia and Herzegovina. The country has yet to design and adopt the state-level strategy for the laboratory testing of samples, as required by the official food and feed controls system.

Bosnia and Herzegovina continued to implement its **veterinary policy** on the control, prevention and eradication of communicable animal diseases, including measures against brucellosis and rabies. In the light of recent outbreak of rabies in a hunting dog, it is very important that the country continue with its rabies vaccination campaign until this disease is considered eradicated. The country should intensify its animal disease control measures, particularly surveillance, and ensure sustainable resources for these measures in a long run. Nevertheless, due to budgetary constraints these remain a challenge in the long term.

The country's residue monitoring plan is being implemented. However, the country has to step up its efforts to improve the level of its effectiveness. The country's laboratories generally have satisfactory capacities. There is still need for more staffing, equipment and accredited laboratory methods for diagnosing animal diseases. It is important that Bosnia and Herzegovina works on setting up its central animal identification and registration systems for sheep, goats, pigs and equine.

With regard to the **placing on the market of food, feed and animal by-products**, the country's official food and feed control system is yet to fully align with the EU *acquis* and be effectively implemented. At all levels of the government, administrative capacities need to be strengthened. This is particularly true for the inspection services and laboratories, for which inter-laboratory comparative tests need to be introduced. The country needs to step up its efforts to further align, in particular its state-level regulatory framework, with the significant developments of the EU *acquis*, notably with the new Animal Health Law and official

controls. A countrywide strategy for management of animal by-products remains to be effectively implemented.

In the area of **phytosanitary policy**, the country continued to improve its implementing legislation. The legal framework, notably at state level, has yet to be further aligned with the significant developments of the EU *acquis*, particularly as regards the new Plant Health Law and official controls.

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

On **genetically modified organisms (GMOs)**, further efforts are required, notably to ensure alignment with the EU *acquis*, harmonise legislation across the country and ensure its effective implementation. Inspection services at all levels of government are to be strengthened. The country has to work on setting up its reference laboratory for testing, controlling and monitoring the presence of GMOs in food and feed.

5.13. Chapter 13: Fisheries

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

Bosnia and Herzegovina is at an **early stage of preparation** in this area. There was **no progress** in the reporting period. Major steps need to be taken to develop a countrywide fisheries policy document and implement it effectively across the country in line with the EU *acquis*. The Commission's recommendations of 2019 were not implemented and remain valid.

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

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

Bosnia and Herzegovina is yet to develop its framework policy and legislation on inland and marine fisheries, which is needed to prepare for the EU's common fishery policy (CFP). The effective countrywide implementation of the CFP should be ensured in line with the EU *acquis*.

Institutional capacity constraints and weak administrative structures remain a challenge. Current legislation has not been harmonised across the country. There are still no **specific structural actions for fisheries**.

Measures for **resource and fleet management** are lacking, and the administrative capacity to implement such measures is weak. In that context, the country needs to make progress as regards the setting-up of the system for management and control of fishing activities in alignment with the EU's CFP. A fleet register is yet to be in place and properly managed. The

collection of data on catches and landings per type of fishery needs to be improved and harmonised across the country. Furthermore, the system of collecting statistics on fish and fishery products has to be improved and harmonised across the country.

Concerning **market policy**, marketing standards for certain fishery products are in place.

Regarding **international agreements**, Bosnia and Herzegovina cooperates on sea fisheries with the General Fisheries Commission for the Mediterranean (GFCM) and the UN's Food and Agriculture Organisation (FAO). Bosnia and Herzegovina is also a party to the Malta MedFish4Ever Declaration.

5.14. Chapter 14: Transport policy

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

Bosnia and Herzegovina has **some level of preparation** in the area of transport policy. **No progress** was made in addressing last year's recommendations. The country needs to further align with and implement effectively the EU *acquis* in all areas of transport and at all levels of government. On road safety, Bosnia and Herzegovina needs to enhance its administrative capacity, in particular through developing concrete action plans and launching awareness-raising campaigns to reduce the high number of accidents and fatalities. It also has to finalise and adopt its laws on the transport of dangerous goods in full alignment with the EU *acquis* and the relevant international agreements, and establish the appropriate administrative structures. Road maintenance regulations have to be improved, both in terms of efficiency and of effectiveness. Administrative capacity needs to be strengthened to ensure implementation of the legislation and regulations, in particular as regards enforcement, inspection and investigation bodies for road transport, railways, inland waterways and aviation. Alignment with the EU *acquis* on rail passenger rights is pending. Bosnia and Herzegovina has taken over the responsibility for air traffic control of its national skies in December 2019. Last year's recommendations have not been sufficiently addressed and remain valid.

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

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

As regards the **general EU transport *acquis***, Bosnia and Herzegovina is implementing its framework transport strategy for the period up to 2030. The strategy determines the procedures and programmes to be carried out in the short, medium and long term (administrative reforms, regulatory alignment, capacity building and investment programmes) as well as the relevant distribution of responsibilities, the time frame and success indicators. A draft implementation report for 2016-2018 was updated with the progress achieved in 2019 and sent for consideration to the Council of Ministers in early 2020.

Transport remains insufficiently developed and the speed of structural adjustment and reforms

is slow. The necessary investments are being delayed by limited borrowing capacity, financial constraints due to delays in securing agreed external financing and lack of focus on key priorities and of coordination and cooperation between government levels. There was no progress in completing key sector reforms and the 2019 recommendations remain valid. Further efforts are required to ensure full alignment with the Intelligent Transport Systems (ITS) Directive and secure implementation of relevant national laws. An overall strategy for ITS is yet to be adopted and resources should be allocated for its implementation.

Bosnia and Herzegovina continues to actively participate in the EU strategy for the development of the Danube Region as well as the EU strategy for the Adriatic and Ionian Region.

The country is moderately prepared for **road transport**, but it only made limited progress in the reporting period, in particular in maintaining, developing and improving infrastructure. The Law on safety in road transport has reached a good level of alignment with the EU *acquis* through recent amendments. Implementation remains a concern, in particular as regards the improvement of road safety. Bosnia and Herzegovina still records a substantial number of accidents and fatalities. In September 2019, the Council of Ministers adopted a decision on establishing the Road Safety Council. There is lack of progress in developing a strategic framework for the implementation of ITS on the core road network, which includes transposing the relevant EU legislation (the Interoperability Directive) into national legislation. Bosnia and Herzegovina urgently needs to establish a countrywide system for the continuous collection of road crash data. Regulatory measures are now in place to regulate access to the international road transport market and to the occupation of road transport operator, including a functional system to license such operators.

The legislation and organisational arrangements for roadworthiness testing are in place. The national limits on the maximum weights and dimensions for road vehicles have been harmonised with the EU requirements.

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

On **rail transport**, Bosnia and Herzegovina is moderately prepared, but it only made limited progress in the period covered by this report, in particular when it comes to developing, maintaining and improving infrastructure.

Nearly half of the railway infrastructure is unsafe, outdated and unreliable, and cannot enable suitable international transit on the network. There is lack of progress in developing a strategic framework for implementation ITS on the core rail network. Further efforts are also needed regarding the adoption of the multiannual maintenance plan for the entire core network. As regards reconstruction and new construction of railway sections, Bosnia and Herzegovina should aim at using contemporary TSI and EU standards.

To a large extent, the law is aligned with the EU railway *acquis*, particularly with regard to the first, second and third EU railway Directives packages. Further revision is needed to align with the fourth EU railway package of 2016 and proceed with an opening of the railway market. Alignment with the EU *acquis* on rail passenger rights is also pending. Further efforts are needed to increase independence of the railway regulator and build its capacity.

The two vertically integrated, entity-owned railway companies have not yet fully completed

the process of separating the infrastructure management from the railway undertaking functions. Both companies are performing profitable freight transport operations but suffer from overstaffing, financial problems affecting the reconstruction of infrastructure, organisational problems and low levels of passenger traffic, in particular subsidised local commuter transport. Network statements are prepared but not published. In December 2019, the *Republika Srpska* entity government adopted an action plan for the financial and operational restructuring of the *Republika Srpska* Railways.

The Railway Accident Investigation Body is operational and delivering investigation reports. Further efforts are needed to increase its independence and build its capacity.

Negotiations on protocols concerning the railway border crossing procedures between Bosnia and Herzegovina and Croatia did not proceed in 2019 due to Croatia's reluctant approach.

On **maritime transport**, Bosnia and Herzegovina is at an early stage of preparation and it made no progress in the reporting period. Bosnia and Herzegovina has no maritime shipping fleet or maritime ports, relying fully on the port of Ploče in Croatia. Although Bosnia and Herzegovina has to align at some stage with the entire EU maritime *acquis*, maritime transport is not a priority on the agenda, given that the country has other priorities of greater importance it has to deal with.

Inland waterway transport is at an early stage of preparation, with little progress in the reporting period. The *Republika Srpska* entity adopted a Law on inland navigation. Apart from that, the legislative and regulatory framework is rudimentary and should be further aligned with the EU *acquis*.

Further efforts are needed to develop the institutional, legal and regulatory setup of waterway transport in Bosnia and Herzegovina. To ensure the safety of navigation on inland waterways, more needs to be done to harmonise with European and international regulations in this sector.

Functional navigation on the Sava River has not been restored yet. It has been delayed by a lack of funds to demine the Bosnia and Herzegovina bank (right bank). This means that designs by Croatia cannot be completed, designs by Bosnia and Herzegovina cannot be prepared and, therefore, interventions to restore the navigation route are not possible. This also slows down the reconstruction of Brčko Port on the Sava River, as normalising of the river navigation is not at the horizon yet.

The preparation of **civil aviation** is at a good level and some progress was made in the reporting period. The 2009 Law on Civil Aviation is being revised so that it becomes aligned with the requirements of the European Common Aviation Area (ECAA).

The European Aviation Safety Agency (EASA) continued its cooperation with Bosnia and Herzegovina's Directorate for Civil Aviation to address some open findings concerning the implementation of the first transitional phase of the ECAA.

Bosnia and Herzegovina's Air Navigation Services Agency, responsible for air traffic management and control, took over responsibility for air traffic control of its national skies in December 2019. The Agency is operational, but seriously lacks human resources to ensure sustainable long-term functioning. EU rules on ground handling have been implemented, but further efforts are needed to improve their application. More efforts are needed for accident investigations and air traffic security.

Bosnia and Herzegovina has partially aligned with the EU Regulation on Passenger Rights,

fulfilling its obligation under the ECAA Agreement. Bosnia and Herzegovina needs to progress in adopting the rules on the protection of the rights of disabled persons and persons with reduced mobility in accordance with the EU Regulation.

Regarding **combined/intermodal transport**, Bosnia and Herzegovina is at an early stage of preparation. The country has not started developing its policy, institutions, legal and regulatory framework in this area. The low level of priority in this sub-sector is caused by a physical infrastructural bottleneck at the Ivan tunnel and Bradina ramp on the railway in Corridor Vc, which prevents shipment of 40ft and high cube containers as well as the piggy-back shipment of trucks along this railway corridor. The EU is providing assistance in preparation of technical documentation, but removal of this infrastructural bottleneck would require a EUR 400 million investment in railway infrastructure.

5.15. Chapter 15: Energy

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

The country remains at an **early stage of preparations** in this area. **No progress** was made during the reporting period and some of the measures introduced (including for the Block 7 Tuzla thermal power plant) represent a step in the wrong direction. Bosnia and Herzegovina needs to make significant efforts in improving cooperation and coordination to start making progress. A fragmented, inconsistent, uneven legislative and regulatory framework prevents the country from moving forward and meeting its international obligations.

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

- adopt gas and electricity legal frameworks compliant with the third energy package;
- intensify its efforts to implement connectivity reform measures to support the functional operation of the regional market;
- adopt state- and entity-level legislation on renewable energy and energy efficiency in line with the obligations stemming from the Energy Community Treaty.

Following the adoption of the framework energy strategy, Bosnia and Herzegovina has yet to adopt concrete, comprehensive and binding action plan(s) in line with climate change commitments. Identified objectives and the implementation of priorities will contribute to the **security of supply**, but the production scenarios envisaged will lead to a bigger share of fossil energy in the total consumption, which is contrary to the country's climate change and decarbonisation commitments. Preparations for implementing the Block 7 Tuzla thermal power plant investment project, which will increase the country's security of supply, but at the same time prolong dependence on coal, reached its final stages. The Federation entity signed a public guarantee, which the Council of Ministers endorsed, for the project loan from China's Exim Bank. This unilateral action terminated the ongoing mediation procedure between the Energy Community and the State Aid Council on the possible violation of EU State aid rules. As a result, the Energy Community secretariat launched a formal infringement case against Bosnia and Herzegovina.

Authorities and relevant stakeholders at all levels acted promptly and undertook severe preventive measures to ensure safe and stable security of supply as the COVID-19 pandemic reached Bosnia and Herzegovina. Special attention is granted to safeguarding the control centre, and regular reporting to the state level ministry and the regulatory authority is put in

place.

The country needs to consider future investments in energy infrastructure, including power plants, in the light of its obligations under the Stabilisation and Association Agreement and the Energy Community Treaty. The level of security of electricity supply is hindered due to long-lasting issues with the functioning of the state-level transmission company (TRANSCO). This is caused by the lack of political agreement on the company's management and investments and on its overall operation. Already the weak security of supply for natural gas continues to be jeopardised by uneven and disharmonised legislative frameworks at entity level and the lack of legislation at state level, which is contrary to EU requirements. The Federation of Bosnia and Herzegovina is thoroughly preparing the project documentation for implementing the South gas interconnection pipeline with Croatia (Zagvozd – Posušje – Novi Travnik with a branch to Mostar), which, once developed and operational, will help to increase security of supply. In the *Republika Srpska* entity, two gas supply related projects are at an early stage: the development of a gas pipeline from the existing entry point at the border with Republic of Serbia to gasify the town of Bijeljina, and the construction of the new main gas pipeline from Republic of Serbia to Bijeljina – Banja Luka – Prijedor – Novi Grad.

Bosnia and Herzegovina did not take the necessary steps to adopt a legislative framework at state level that is relevant for oil stocks and aligned with the EU *acquis*, thus preventing the creation of a body on compulsory oil stocks and petroleum products at state level. During the reporting period, the Ministry of Foreign Trade and Economic Relations did not take any meaningful steps to follow up on the assistance it received from the Energy Community Secretariat on the oil stock model for the emergency stockholding system.

No progress was made in aligning the legislative framework for gas and electricity with the third energy package, thus delaying the creation and functioning of an **internal energy market**. The absence of state-level legislation is preventing the country from unbundling the transmission system operator. In the entities, electricity distribution remains bundled with supply and generation, which will trigger additional infringement procedures against the country by the Energy Community Secretariat. The absence of state-level legislation compliant with the third energy package also continues to prevent the creation of organised markets, i.e. power exchange or market coupling. The renewed control block agreement with the transmission systems of Croatia and Slovenia, as well as bilateral contracts on the cross-border delivery of energy for tertiary control, ensured the exchange of balancing services.

The new law on electricity in *Republika Srpska* which would, among other things, eliminate the regulation of electricity generation prices, remains to be adopted. The tariff methodologies currently applied in the country leave most of the consumers incumbent of electricity utilities that traditionally operate only within their respective servicing territory. The state regulatory authority carried out tariff proceeding and approved increase in tariff for independent system operator. The full independence of regulatory authorities continues to be hindered and is often susceptible to strong political interferences.

Due to a continuous lack of alignment with the EU *acquis* in the gas sector, the country, as a signatory of the Energy Community Treaty, remains in serious and persistent breach of its commitments. The Energy Community Ministerial meeting of 2019 considered extending the measures that the Energy Community Secretariat introduced back in 2015 against the country. The absence of state-level legislation, and uneven and disharmonised entity-level legislation relevant for the natural gas sector created a supply crisis in late 2019. The supply of natural gas between the entities was restored on the basis of an annual contract signed between the

entity-level public companies responsible for natural gas. The market remains closed without adequate regulatory oversight and lacks transparency, particularly when it comes to setting prices for end consumers.

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

Regarding **renewable energy**, based on the 2017 Progress Report submitted to the Energy Community Secretariat, the country achieved a 36% share of renewable energy sources (RES) in gross final consumption. The number of reported environmental concerns rose, mainly from the non-governmental sector regarding the development of small, dispersed renewable energy projects and in particular small hydro power plants (HPPs). In June 2020, the Parliament (House of Representatives) of the Federation of Bosnia and Herzegovina has urged in a resolution to ban the further construction of small HPPs in the entity. The Federation government was given three months to analyse related legislation and draft law proposals stipulating the protection of rivers and environment, and to review all previously issued permits for already built small HPPs or those approved for construction. Stricter, more coordinated and harmonised legal frameworks introducing market based support schemes, efficient investment planning as well as registration of projects are needed to warrant the promotion of RES while ensuring that all environmental concerns are duly addressed.

As for investing in RES, the framework continues to be cumbersome for issuing authorisations and licensing. The procedures need to be simplified to ensure a more favourable environment for such investments. There needs to be a higher level of transparency and more prudent oversight by the authorities for the disbursement of funds promoting RES. There are serious concerns related to the work of the Operator for Renewable Energy Sources in the Federation of Bosnia and Herzegovina. Responsible authorities should undertake meaningful measures to ensure prudent management and prevent any misuse of available funds.

During the reporting period, no activities were initiated to adopt amendments by the Energy Community Secretariat to the existing entity-level laws on renewable energy and efficient co-generation. In the *Republika Srpska* entity, the Law on Renewable Energy and Efficient Co-generation was amended, limiting the growth of incentives to generate electricity from RES and limiting efficient co-generation. The changes to the law removed support for wind projects, which is a step in the wrong direction. A serious reform of the legal framework for renewable energy is needed. Further alignment with EU requirements is necessary for the issuance, transfer and cancellation of guarantees of origins and for the use of minimum levels of energy for RES in new buildings and in buildings undergoing major renovations. Similarly, the legislative framework needs to be aligned with sustainability criteria in order to rectify identified non-compliance with the EU *acquis*. The Brčko District, which remains without legislation in this area, will receive technical assistance to enable it to develop the required legislation.

In the area of **energy efficiency**, Bosnia and Herzegovina submitted its third Annual Report for Energy Efficiency to the Energy Community Secretariat in July 2019. Limited progress is noted in the reporting period, indicating that the implementation of energy efficiency legislation is not sufficient. Work on a new national energy efficiency action plan has, for the most part, been completed and the adoption of the plan is awaiting political endorsement. The country needs to take additional actions to achieve full compliance, which means transposing

the Energy Efficiency Directive and the new Framework Energy Labelling Regulation. The Brčko District will receive technical assistance to develop the required legislative framework for energy efficiency. More comprehensive and coordinated action between all levels of the government is required in order to achieve measurable progress. It is in particular necessary to adopt uniform secondary legislation at the cantonal level that is fully harmonised with entity-level legislation.

As for **nuclear energy, nuclear safety and radiation protection**, shortcomings were identified during the reporting period, such as a lack of adequate capacities as well as insufficient cooperation and coordination between relevant stakeholders responsible for submitting data. Random monitoring is still carried out on an ad hoc basis while data collection is not systematic or centralised. In December 2019, Bosnia and Herzegovina signed a financing agreement with the European Commission that would help it obtain radiation monitoring equipment in order to upgrade the national monitoring and detection system in the country, including a decision support system.

5.16. Chapter 16: Taxation

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

Bosnia and Herzegovina has **some level of preparation** in the area of taxation. **Some progress** was made with the signing of the OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC). The Parliament of Bosnia and Herzegovina ratified the MAC in June 2020 and the decision of the Presidency should follow soon. The Commission's recommendations of 2019 were not fully implemented and remain valid.

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

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

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

As regards excise duties on tobacco, alcohol, non-alcoholic beverages other than natural juices and water, fuel and coffee, there are considerable discrepancies with the EU *acquis*. This concerns the scope and classification of the excisable goods as well as exemptions, structures and minimum rates. The country needs to align its law on excise tax fully with the EU *acquis*.

On **direct taxation**, amendments were adopted in July 2019 in the *Republika Srpska* entity to the Law on Corporate Income Tax, which regulates, among other things, the reduction of the tax basis for investment in production. Moreover, the Federation entity Law on amendments and changes to the Law on Corporate Income Tax, published in February 2020, *inter alia*

envisages the deletion of the current provision on the obligation of legal entities to submit a hard copy of profit and loss financial statements to the Federation entity Tax Administration.

On **administrative cooperation and mutual assistance**, Bosnia and Herzegovina joined the OECD Inclusive Framework against Base Erosion and Profit Shifting in July 2019. Bosnia and Herzegovina signed the OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters on 26 November 2019; the Parliamentary Assembly ratified the Convention and following the Presidency decision of 22 July 2020, the country deposited the instrument of ratification with its coordinating body in Paris on 21 September 2020.

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

5.17. Chapter 17: Economic and monetary policy

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

Bosnia and Herzegovina is at an **early stage** of preparation on economic and monetary policy. There was **no progress** towards improved cooperation and coordination of macroeconomic and fiscal policies. The 2019 recommendations were not addressed and remain valid. Monetary policy underpins economic stability, but full independence of the Central Bank remains to be ensured.

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

- strengthen political ownership on economic policy essentials and reforms, and the cooperation and coordination among the different levels of the government;
- ensure consistent political support for and high visibility, countrywide ownership and coherence of the Economic Reform Programme (ERP); enhance administrative capacity to design, implement and monitor reforms;
- improve the ERP's medium-term macro-fiscal framework with a view to presenting a consistent and consolidated countrywide analysis and policy document.

As regards **monetary policy**, Bosnia and Herzegovina runs a currency board arrangement, with the convertible mark pegged to the euro at an exchange rate fixed by the Law on the Central Bank. The Central Bank's objective of keeping the domestic currency stable remains in contrast with the primary objective of monetary policy in the EU, which is price stability. The Law on the Central Bank is not fully aligned with the EU *acquis* as regards the prohibition of monetary financing.

The Law on the Central Bank does not ensure the Bank's unconditional functional independence. The Central Bank is required to report to the Parliamentary Assembly on its audited annual financial statements for parliamentary scrutiny and to the Presidency on the preliminary financial reports. This latter requirement could impinge on the Central Bank's independence. Legislative provisions governing the removal of the Governing Board members and the duration of appointment of replacement members remain to be fully aligned

with the EU *acquis*. The country should ensure the Central Bank's full independence in line with the EU *acquis*.

The efficiency of banking sector supervision is impeded by fragmented competences and insufficient coordination. Supervisory powers lie with the two entities' banking agencies.

Regarding the EU *acquis* on **economic policy**, the quality of Bosnia and Herzegovina's medium-term economic reform programme remains low as it reflects insufficient cooperation among key stakeholders. Implementation of the jointly adopted policy guidance remains limited. Capacities to design, implement and monitor structural reforms need to be significantly enhanced to meet the requirements of the European Semester. This means establishing a countrywide medium-term reform programme that is coherent and developing closer coordination of and between various governmental bodies.

The governments' response to the COVID-19 pandemic was uncoordinated and fragmented, in terms of both the substance and timing of the introduction. In May 2020, a task force was established aiming to coordinate the activities of all levels of the government in Bosnia and Herzegovina concerning socio-economic measures in response to the COVID-19 crisis and to facilitate mobilisation of funding for all levels of government through domestic funds and foreign financial assistance. However, its operationalisation proved to be difficult, with only one, inaugural meeting held during the first seven weeks.

The reporting of public sector data in line with the European System of National and Regional Accounts (ESA 2010) remains very limited and the alignment of the underlying statistical framework with ESA 2010 requirements and definitions is still very low. Data provision and transparency is severely hampered by a lack of cooperation between the main statistical bodies. Fiscal rules remain at entity level and there is still no independent fiscal institution to monitor and enforce compliance with countrywide fiscal rules. The medium-term budgetary framework remains insufficiently developed and underused as a policy-guiding instrument.

5.18. Chapter 18: Statistics

EU rules require Member States to be able to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.

Bosnia and Herzegovina is at an **early stage of preparations** in the area of statistics. **Limited progress** was made in implementing last year's recommendations, notably by updating the master sample frame for household surveys in view of implementation of a labour force survey on a quarterly basis. The 2019 recommendations therefore largely remain valid. The country will have to enhance cooperation, coordination, decision-making processes and the legal basis to develop the national statistical system in key statistical areas increasingly applying European and international standards. In order to better support policy analysis, improvement is needed on the provision of timely, exhaustive and countrywide statistics on government finance, national accounts and labour market. The classification of regions according to the NUTS classification remains to be finalised.

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

- adopt a master plan for production of national accounts;
- implement a standard living conditions survey;
- adopt a methodology, responsibilities and budgetary aspects of a future agricultural census

and adopt a roadmap for preparation of the next population census.

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

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

The use of administrative data is not sufficient. In order to produce official statistics, the Agency for Statistics needs to obtain access to administrative data other than that of the Indirect Taxation Authority.

On **classifications and registers**, there was limited progress in further developing the Statistical Business Register (including the introduction of an enterprise group unit in the register and improvement of data on agriculture, forestry and fisheries), but data received from relevant administrative sources remains insufficient. Business demography data is not submitted to Eurostat. The address list of agricultural households is in place and is being used to prepare a quality research framework necessary for the future agricultural census. The main classifications (NACE Rev.2, ISCO-08, CPA, GENOM and ISCED 2011) are in place. The NUTS II regions have only been provisionally defined and accepted by the European Commission until Bosnia and Herzegovina finalises and agrees the entire classification and includes it in the definition of the NUTS III level as well. Bosnia and Herzegovina did not provide any data on regional accounts.

On **macroeconomic statistics**, the production of and responsibility for national accounts are still not in line with the EU *acquis*. A master plan for the development of national accounts will need to be agreed among the three statistical institutes, as an appropriate national accounts system is not in place. Annual accounts are compiled using production, expenditure and income approaches, while quarterly accounts are compiled only according to the production and expenditure approaches. Supply and use tables and input-output tables are not compiled regularly. Annual sector accounts and quarterly sector accounts are not produced.

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

Little progress was made in compiling government finance statistics in line with ESA 2010. For the period 2015-2018, data was processed and transmitted to Eurostat.

On **business statistics**, some figures are produced in line with the EU *acquis*. Some progress was made by publishing results of structural business statistics by using an improved production method. Indicators and definitions for short-term construction statistics comply

with EU recommendations. Short-term statistics for industry, construction and services are not available and will need to be established in line with requirements of the EU *acquis*. The PRODCOM survey of industrial production is conducted and results are sent to Eurostat on an annual basis.

Foreign affiliates statistics are produced by the Agency for Statistics for inward statistics (the coverage was extended to enterprises with fewer than 20 employees) and by the Central Bank for outward statistics. Full compliance with FATS regulations needs to be ensured. Regarding tourism, Bosnia and Herzegovina is currently only producing accommodation statistics, but has conducted a private and business travel survey. The data collection methodology does not comply with the EU methodology for road transport of goods. Research and development statistics are compiled for four sectors – business, government, higher education and non-governmental organisations – and are published annually. The Community Innovation Survey is conducted on a regular basis.

On **social statistics**, preparation for the next population and housing census has hardly progressed. Related legislation has not been agreed among entity statistical institutes and the country is not prepared to participate in the 2021 census round. A new master sample frame is now available and will be used not only for the household budget survey, but also for upcoming surveys, such as the labour force survey and a full-scale survey of income and living conditions. The labour force survey was implemented annually and began to be conducted on a quarterly basis in January 2020 following a pilot continuous survey. The labour cost survey remains to be harmonised with Eurostat recommendations. Calculation of the labour cost index and introduction of the structure of earnings survey are not implemented. Job vacancy statistics are collected regularly. Social protection statistics are submitted to Eurostat. Intensified cooperation with the institutions responsible for monitoring migration flows is needed in order to obtain complete data on migration. In the area of education, all levels of the government are covered and statistics are published on an annual basis. Culture statistics include 15 cultural domains, although their coverage is not yet adjusted to Eurostat requirements. There have been some improvements regarding data on crime statistics, which is collected on a monthly basis and submitted annually for the UNODC questionnaire.

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

As for **energy statistics**, further work is needed to improve the quality of data in line with EU requirements, in particular annual data on renewable energy sources and basic monthly data on oil.

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

5.19. Chapter 19: Social policy and employment

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

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

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

- adopt the employment strategy at Federation level and the countrywide strategy on employment as a policy framework, while providing for additional capacities for implementation and monitoring;
- introduce a uniform minimum level of maternity leave benefits and protection throughout the country, starting by harmonising the definitions of maternity, paternity and parental leave;
- enhance social dialogue at all levels and conclusion of general collective agreements.

Labour laws are in place at the level of the entities and the Brčko District. The labour laws apply to all employees, except to civil servants, and guarantee a minimum level of protection of employee rights. They also regulate issues such as the conclusion and termination of labour contracts, the prohibition of discrimination, maximum working hours, minimum annual leave, salaries, and the conclusion of collective agreements and the peaceful settlement of collective labour disputes. In order to fully meet EU standards in this area, the legal framework still requires further improvement, especially when it comes to the protection of workers, which include protection against discrimination.

The right to strike is regulated by the entity-level labour laws and the laws on striking that are in place at all levels of the government. Legislation on an amicable settlement of labour disputes continues to exist in the *Republika Srpska* entity only.

Implementation of the labour laws remains inadequate, especially when it comes to social dialogue, protection for workers and the enforcement of labour inspection.

The outbreak of COVID-19 exposed some deficiencies in the legislation related to crisis management, such as lack of detailed provisions regulating work from home, paid and unpaid leave due to force majeure, temporary reduction of working hours as well as limited options for adequate response in order to protect jobs and provide socio-economic security for employees.

Laws on **occupational health and safety** are in place in the entities and the Brčko District. The level of their harmonisation with the EU *acquis* remains uneven across the country, whereas their enforcement and implementation is partial, especially when it comes to inspection capacities, proper prevention of injuries at work, investment in safety and relevant training or proper risk control.

According to available data, 157 cases of seriously injured workers and 28 fatalities at work were recorded in 2018. The most affected sectors were civil construction and the electro-industry.

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

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

Regarding **employment policy**, there is still no countrywide employment strategy in place. The *Republika Srpska* entity has an employment strategy for 2016-2020. The Federation entity has no employment strategy. A countrywide strategy needs to be developed and adopted.

According to the 2019 Labour Force Survey, the **unemployment rate** is 15.7% (13.6% men; 18.8% women), particularly affecting the 15-24 cohort (31.3% for young males and 37.9 for young females). The employment and activity rates are particularly low, with 35.5% and 42.1% respectively. The gender gap is relatively high, and so are the disparities between entities. The absence of coordination between entities and the lack of active labour market measures targeting women are most probably the sources of the problem. The activity and the employment rates are by far the highest in the 25 to 49 age group years (73.4% and 60.7%). Social contribution rates contribute to a high tax on the labour earnings of low income earners, resulting in a disincentive to work for this category and for their employers to formalise employment, therefore often confining them to informal work.

Public employment services are implementing various labour market programmes but the capacity of the public employment services to provide quality services to jobseekers is weak. The administration of social benefits further limits the ability of public employment services to assist active jobseekers.

In November 2019, the *Republika Srpska* entity amended its law on mediation, relieving its Employment Bureau of tasks related to the health insurance of unemployed persons and enabling it to perform mediation activities.

Entities have recently taken measures to facilitate the transition from informal to formal economy and improve the business environment.

There has been no progress in preparations for using the **European Social Fund**, given the status of Bosnia and Herzegovina as potential candidate.

On **social protection and inclusion**, there are still no countrywide strategies on poverty reduction, social inclusion and protection or a system at state level for monitoring policy implementation. For persons with disabilities, institutional care is still prevalent. Services within the community that enable independent living are not adequately supported and there is no comprehensive strategy for deinstitutionalisation. At entity level, there is a wide range of

strategies and laws related on social inclusion and protection, but they are not enforced due to lack of funding, inadequate procedures, standards and referral practices and a general lack of coordination.

The **social protection system** remains underdeveloped and the effectiveness of social transfers is limited. Social assistance is neither well targeted, nor needs-based due to the absence of adequate system for data collection. A large number of people in Bosnia and Herzegovina are not covered by public health insurance and as such are not entitled to the basic package of health care services. In addition, because of the highly decentralised governance structure, the eligibility conditions for social assistance differ between entities, districts and cantons. Along with differences in eligibility criteria, there are also differences in coverage, targeting efficiency and generosity. Cooperation between the social service centres and employment bureaus is not well established. The transformation of institutions for social protection and, in particular, of those for children without parental care is still ongoing. Some progress has been made in the *Republika Srpska* entity and the Herzegovina-Neretva Canton in the Federation entity, with financial support being ensured by local authorities to continue funding services established as part of their deinstitutionalisation strategy. However, there is still a need for comprehensive reform. In October 2019, the Ombudsman Institution issued a Special Report on the Status and Problems of Social Work Centres highlighting the need for capacity building and support to social service centres across the country.

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

The principle of equal opportunities and equal treatment of men and women in matters of employment and occupation is regulated by the laws on gender equality and antidiscrimination, and by the entity-level labour laws. These laws contain provisions on gender equality covering different areas (employment, education, training and professional qualification) but in practice the enforcement of non-discrimination legislation remains low.

Bosnia and Herzegovina is a signatory of 83 conventions of the International Labour Organisation. Data from the Statistics Agency show that two out of three inactive persons are women and almost 60% of the working-age women are inactive. There is no sex-disaggregated data on occupational segregation in the labour market and gender pay gap. Estimates are that women earn around 78% to 85% of a man's salary for the same position. The provision of maternity leave and related compensation remain inconsistent across the country, with inequalities in the provision of maternity rights. In addition, there are not enough kindergartens, especially in smaller municipalities, to allow parents to go to work.

On **non-discrimination in employment and social protection**, although labour laws within the country address the issue of non-discrimination at work, apart from policy frameworks which target the increase of employment opportunities for persons with disabilities, there are no strategies or action plans in place specifically developed for employment-related discrimination. The Human Rights Ombudsman institution is the body in charge of protection from discrimination. In 2019, the Ombudsman dealt with 52 cases of employment-related discrimination, with the highest number of complaints in the reporting period relating to mobbing in the workplace. However, it still does not reflect the real situation on the ground as a significant number of citizens do not initiate proceedings before the Ombudsman, nor do they seek judicial protection for fear of being fired from their jobs. Most public bodies do not

have mechanisms to deal with complaints of mobbing and discrimination, which is not in line with the antidiscrimination law.

5.20. Chapter 20: Enterprise and industrial policy

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

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

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

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

According to some preliminary business surveys performed in March 2020, the COVID-19 crisis has affected 90% of micro- and small enterprises in the metal, wood, textile and agri-processing sectors, while some services, such as tourism, transport and hospitality are facing most severe reduction in business operations and employment. FDI inflows into the country have almost stopped during the COVID-19 pandemic and, compared to the previous trends, a sharp decline is forecasted for the rest of 2020. Further problems are linked to disruption in trade and supply chains, short-term liquidity, access to finance and a loss of markets, although some companies reoriented their production to medical devices and personal protective equipment to respond increased domestic demand. The governments of the entities and of the Brčko District have taken some immediate measures to support the recovery of industrial output and to preserve jobs. They introduced temporary wage subsidies and suspended taxes and contributions over the period of the lockdown. Stabilisation and solidarity funds as well as SME guarantee schemes were activated. However, there is a need to ensure a consistent countrywide approach in developing and implementing COVID-19 mitigation measures for small and medium enterprises in coordination with the private sector.

Regarding **enterprise and industrial policy principles**, Bosnia and Herzegovina still lacks a countrywide industrial development strategy. There is no state-level body promoting consistency between industrial strategies or coherence with other policies affecting industrial competitiveness. The Federation entity adopted a decision on drafting a new development strategy for 2021-2027, as its action plan on industrial policy expired in 2019. The Federation entity and some cantons adopted legislation on mitigation of negative economic consequences of the COVID-19. The *Republika Srpska* entity introduced a temporary moratorium on banking loans during the emergency period. This entity is yet to prepare a strategy for industrial development beyond 2020. The renewal of the 2008-2017 development strategy of

the Brčko District is still ongoing.

Bosnia and Herzegovina introduced a domestic price advantage in public procurement contrary to the SAA and EU rules. Such a preferential treatment is not considered effective as a means to raise industrial competitiveness and is incompatible with the principles of the EU industrial policy (*see also chapter 5 – public procurement*).

The reduction of the informal economy by improving inspections was identified as one of the priorities of socio-economic reforms in 2019-2022. Other aspects, including on rule of law in areas affecting industrial cooperation, remain unaddressed.

Common causes of informality like high barriers to starting a business and rules on taxes and para-fiscal charges continue to be among the most salient business environment issues, together with ‘red tape’ and the regulatory differences across various levels of the government. To improve access to information on the requirements for setting up and running a business, the *Republika Srpska* entity developed a web portal as an electronic single contact point grouping together administrative procedures and formalities for starting and performing business activities. It also created the legal basis for the electronic registration of limited liability companies founded by domestic natural and legal persons, whose implementation should start once technical conditions are met. The Brčko District adopted legislation regulating registration of business entities, including the procedure of electronic registration. The Federation entity prepared legislation on the register of fees and charges. A set of laws for establishing a one-stop shop system in the Federation entity is still pending adoption, while the digitalisation of business registers at municipal courts is ongoing.

The application of the regulatory impact assessment was systematically enforced across the country. Overall, the simplification of business-related legislation is being carried out on an ad hoc basis and is not harmonised throughout the country, e.g. as regards additional administrative and compliance requirements between entities. As expressed in the 2019/20 Global Competitiveness Index, businesses have a negative perception of public administration. The investment environment remains unsatisfactory. The Federation entity engaged in a comprehensive consultation with local stakeholders and foreign investors in view of developing legislation on business and science parks.

Public enterprises remain in need of governance reform and restructuring. The Federation government adopted the revised 2019 privatisation plan for three state-owned companies, while its efforts continue to put the telecom sector on a path to sustainability. The state capital of 12 companies in the *Republika Srpska* entity was offered for privatisation in 2019 and the restructuring of its railways should end in 2021.

A countrywide strategic framework to encourage foreign direct investments is not yet in place. The *Republika Srpska* entity adopted procedures for granting direct investments incentives and transferred the responsibility for foreign direct investments to the Ministry of Economy and Entrepreneurship in order to better connect foreign investors with domestic firms.

State-level coordination of the policy on small and medium-sized enterprises (SMEs) has somewhat improved as countrywide strategic guidelines are being prepared to harmonise the 2021-2027 SME strategies of entities and the Brčko District. In October 2019, the *Republika Srpska* entity adopted the strategy for development of women’s entrepreneurship until 2023 in order to promote female employment. A countrywide framework for SME policies is still not in place in Bosnia and Herzegovina and the level of harmonisation between its key business-

related legislations remains unclear. The *Republika Srpska* entity also adopted legislation in October 2019 on SMEs to harmonise the definition with the EU *acquis*. The entity strengthened SME support structures with its amendments to the legislation on SME development and by adopting a new law on incentives in June 2019.

Some cantons in the Federation entity are providing funding to support business infrastructure, for example the Zenica-Doboj cantonal government which in 2019 decided to support incubators, start-ups, business chambers and associations. However, technology extension services (advisory and support services for the adoption and diffusion of technology) are still non-existent. Bosnia and Herzegovina's level of assistance to innovation by SMEs is still the lowest in the region, despite both entities' financial allocations for innovation in 2019. SME skills programmes are still receiving support, mainly from international donors. Bank lending remains the dominant source of SME finance and financial instruments for innovative start-ups and high-growth enterprises are still absent.

In spite of limited steps to increase the capacity of institutions to do monitoring and perform evaluations, there is still a lack of funding to conduct evaluations of planned enterprise and industrial policy measures and evaluations are not systematically incorporated in action plans. Also, data to describe the structure and dynamics of industry remain insufficient.

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

Since 2017, Bosnia and Herzegovina has been participating in the EU's COSME programme on the competitiveness of enterprises and small and medium-sized enterprises. It has entity-based Enterprise Europe Network (EEN) consortia, which supported over 2,000 SMEs and uses the Loan Guarantee Facility that lent EUR 14.4 million to 161 beneficiaries through a sole intermediary. Bosnia and Herzegovina has not yet used the Equity Facility for Growth. Some 15 exchanges have taken place through the Erasmus for Young Entrepreneurs (EYE) programme. The potential of COSME to assist SMEs in accessing markets has not been fully used. The country did not participate in the Enterprise Innovation Fund (ENIF) of the Western Balkans Development and Innovation Facility, as it had not paid its financial contribution and had not identified eligible projects.

As regards **sectoral policies**, the Federation entity adopted action plans for implementing sectoral strategies in metal, wood and construction industries, which are valid until 2025.

5.21. Chapter 21: Trans-European Networks

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

Bosnia and Herzegovina has achieved **some level of preparation** in the area of trans-European networks. There was **no progress** in completing key sector reforms and the 2019 recommendations remain valid. The legislative framework needs to be aligned with the TEN-T and TEN-E regulations for implementing transport and energy projects. Transport and energy infrastructures are insufficiently developed. The implementation of connectivity reform measures in Bosnia and Herzegovina is slow.

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

→ continue with the development of the indicative extension of the TEN-T and TEN-E core

networks in line with the infrastructure investment priorities agreed under the regional connectivity agenda;

- accelerate the implementation of connectivity reform measures and continue with the adoption of the multiannual maintenance plans for the entire road and rail core network;
- align with Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure.

As regards **transport networks**, active involvement is necessary in the Regional Steering Committee (RSC) meetings and other technical committees on railway, roads and road safety transport facilitation under the Transport Community Treaty (TCT) secretariat . In the course of 2020, Bosnia and Herzegovina will take over the yearly chairmanship of the Regional Steering Committee from Albania. Implementation of the Transport Community Treaty will require sufficient resources and adequate administrative capacities. Therefore, Bosnia and Herzegovina is encouraged to continue cooperation under the TCT and intensify such cooperation.

Bosnia and Herzegovina continues to participate in the Western Balkans Six (WB6) processes, focusing on improving connectivity within the region and with the EU. As a reaction to the COVID-19 pandemic, green corridors were established and are functioning effectively throughout the major corridors. Bosnia and Herzegovina has intensified the preparation of priority connectivity projects on the indicative extension of the TEN-T core network to the Western Balkans in order to benefit from EU connectivity funds. Additional efforts are required to speed up their implementation, improve preparedness and ensure an effective use of available resources. A revision of the framework transport strategy and action plan is envisaged with EU support. Future infrastructure investments need to be implemented in compliance with the EU *acquis*, standards on public procurement, State aid and environmental impact assessments. Additionally, investments need to be implemented in accordance with cost-benefit analyses carried out in accordance with EU best practice. Projects should be channelled through a single project pipeline, confirming the strategic orientation towards trans-European networks. The implementation of connectivity reform measures remains uneven and should be improved. Road and rail multiannual maintenance plans have not been adopted yet, and border crossing agreements with neighbouring countries remain a challenge.

Bosnia and Herzegovina has made some progress on road networks, focusing on the completion of the Corridor Vc motorway. However, the same degree of importance should also be given to other/greener means of transport. The construction of the interstate bridge over the Sava River at Svilaj was finalised in mid-April 2020. It will be opened in 2020 if temporary border crossing procedures are established. This is the first connectivity project in the region that has been completed. Construction of the permanent border crossing at Svilaj started in May 2020 and its prompt finalisation will ensure full functionality of the already completed motorway section from Svilaj to Odžak and the international bridge in Svilaj. The construction projects for the motorway from the Johovac interchange to the Rudanka interchange as well as for the Zenica Tunnel started in 2019 and the digging of the Ivan Tunnel on sub-section Tarčin – Ivan in 2020. Most of the remaining sections are under preparation. The construction of a second international bridge on the core network route 2A, connecting Banja Luka with Gradiška, started in August 2019 and is progressing. In March 2020, in response to the COVID-19 crisis, protective measures for workers were introduced widely in all major construction sites in Bosnia and Herzegovina. Investments in the rail

network continue to be limited due to limited borrowing capacity and lack of adequate financial support. Inland waterways need improvement and regular maintenance. The navigability of the Sava River requires further demining and rehabilitation. The Project Agreement with the European Bank for Reconstruction and Development (EBRD) for the Brčko District rehabilitation project was signed in October 2019 and preparation for procurement has started.

On energy networks, Bosnia and Herzegovina continues to fail to transpose Regulation (EU) 347/2013 on the guidelines for trans-European energy infrastructure and, as a result, the Ministerial Council of the Energy Community considered further measures against the country at the end of 2019.

More needs to be done to speed up the development and implementation of electricity and gas projects included in the list of the Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI). Thanks to EU support, progress was made in the reporting period to prepare project documentation for the implementation of the South gas interconnection pipeline with Croatia (Zagvozd – Posušje – Novi Travnik with a branch to Mostar). Bosnia and Herzegovina needs to ensure proper maintenance of infrastructure and a greater security of supply.

5.22. Chapter 22: Regional policy and coordination of structural instruments

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

Bosnia and Herzegovina remains at **an early stage of preparation** in the area of regional policy. There was a gradual and steady, though still **limited progress** in the country's capacity to program and implement IPA assistance. In the coming year, Bosnia and Herzegovina should implement the pending recommendations from 2019, in particular:

- adopt pending countrywide strategies in the fields relevant to EU regional policy and ensure efficient coordination of cross-border, transnational and interregional cooperation programmes as an important step in preparing regional development strategies;
- improve public investment planning and develop a single project pipeline in all relevant sectors [to update if energy SPP is adopted at beginning of 2020], and ensure its endorsement by the National Investment Committee and its regular update.
- reach an agreement on coordination modalities for the effective use of pre-accession funds while respecting the NIPAC functions as provided for in the IPA Framework Agreement.

Bosnia and Herzegovina continues to lack a **legislative framework** to establish a system for managing EU structural funds. A proper allocation and implementation of future EU structural funds is only possible after key parts of the EU *acquis* have been transposed in all chapters relevant to EU cohesion policy. Bosnia and Herzegovina has yet to submit to the European Commission its GDP per capita figures, harmonised at NUTS II level. Relevant budget laws allow for both flexibility and multi-annual budgeting, but the multi-annual programmes need to be included in a more comprehensive manner in the entities' budgets and more consistently so across administrative levels. In the reporting period, no progress was made in adopting the necessary legislation and making budget provisions that would enable multiannual cohesion programmes to be co-financed. Legislative frameworks establishing

financial control and independent internal audit structures are in place at both state and entity levels.

The institutional framework for coordinating the planning, implementation and monitoring of EU financial assistance under direct management is in place. However, the current level of coordination among the numerous actors involved in the programming and implementation of EU funds needs strengthening. Bosnia and Herzegovina has still not reached political consensus on coordination methods to ensure an effective use of pre-accession funds. In particular, there were no relevant developments in the reporting period as to an agreement on how the coordination mechanism on EU matters could be utilised in certain IPA-related matters, while preserving the existing functions of the NIPAC. In all thematic areas relevant to regional policy, the institutions involved in the planning and programming of EU funds need to assume greater ownership. There was no progress in offsetting up countrywide institutional and administrative structures or in adopting legislative acts for managing and implementing future EU structural funds.

Administrative capacity to deal with the requirements of EU regional policy remains weak. Specialised competences and specific sector knowledge still need to be developed in most institutions. To prepare cohesion policy, a provisional plan still needs to be established for assessing the need to build capacity or for adopting training measures. In addition, there were no relevant developments concerning the establishment of any other systematic plan to help prepare administrative capacities to implement EU regional policy in the future. In the reporting period, the authorities continued to benefit from numerous training opportunities, including to build their capacity through various EU-funded projects.

On **programming**, the authorities of Bosnia and Herzegovina finalised the 2019 and 2020 annual national IPA programmes and agreed in March 2020 to adjust the planned financial assistance to the purpose of quickly responding to COVID-19 outbreak and mitigating its effects. Numerous countrywide sectoral planning and strategic documents remain pending, in particular on social inclusion, human rights, anti-discrimination, public administration reform, public finance management, employment, education and SME competitiveness. An efficient coordination of cross-border, transnational and interregional cooperation programmes remains to be established. There was no progress on the preparation of regional development strategies. Further efforts are needed to improve coordination between all levels of government when it comes to selecting, prioritising and implementing the planned strategic interventions. Medium-term financial planning for investments remains to be systematically introduced in line with the objectives of the strategic documents. There was some progress in establishing of investment pipelines. The revised transport and environment pipeline was adopted in February 2019, comprising 25 transport and 64 environment projects. An additional revision is underway. Preparations for establishing a single project pipeline in the energy sector are well advanced. A pipeline of investments in the social sector needs to be set up. Bosnia and Herzegovina should regularly update its existing single sector pipeline and ensure its endorsement by the National Investment Committee. The *Republika Srpska* entity still does not send its representatives to the meetings.

There was no progress in setting up institutions or bodies in charge of **monitoring and evaluating** public investment programmes. The capacities of the Monitoring and Evaluation Department of the NIPAC Office remain weak. There were no concrete plans to build such capacity at state level in order to ensure proper monitoring and evaluation of future cohesion programmes.

Bosnia and Herzegovina still lacks a **financial management, control and audit system** for EU funds, except for cross-border cooperation programmes. There were no relevant developments in the establishment of most of the structures and bodies defined in Annex A of the Framework Agreement.

5.25. Chapter 25: Science and research

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

Bosnia and Herzegovina has **some level of preparation** in the area of science and research. **No progress** was made in the reporting period.

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

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

On research and innovation policy, the legislative framework regulating science and research development remains fragmented and still needs to be improved throughout the country. There was no progress in developing the action plan for implementation of the 2017-2022 revised strategy for scientific development.

The country's estimated total allocations for research remain low at 0.3% of GDP. No progress was made to ensure reliable and comprehensive statistics on research and innovation. The country's research capacities remain very limited, while the trend of a brain drain continues, most notably in the health, medical, and IT sector, with no systematic measures having been introduced so far to address the issue.

Initial activities on the development of a smart specialisation strategy for Bosnia and Herzegovina have been undertaken, but the strategy remains to be developed and adopted.

The government's efforts in upgrading research and innovation policies and related activities (e.g. the Strategy for the Development of Science and the current adoption and implementation of the related Action Plan) as well as grants provided to organisations for submitting proposals under Horizon2020 have been intensified. Bosnia and Herzegovina has completed the preparatory work allowing for Framework Agreements on scientific and technical cooperation. This will greatly facilitate cooperation on research and innovation with international partners.

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

As regards **international cooperation**, Bosnia and Herzegovina continues to be active and

successful in Horizon 2020, having competitively already received EUR 8 million (more than double the amount of the previous 7th framework programme FP7), as well as in the European Cooperation in Science and Technology The entities have participated **104** times to **59** signed grants of **collaborative Instrument actions** of Horizon 2020, receiving EUR **8 million** of direct EU contribution.

A very good increase in the publications, 925 publications per 1000 researchers, above the EU average of 717 was observed, as well as a significant increase in the innovation activity, with 67 patents per 1000 researchers. It is important to note the success rate of applications from Bosnian entities is at 13,2%, above the overall Horizon 2020 success rate of 12%.

The country also cooperates at regional level, as co-signatory of the regional strategy on research for innovation, with the Central European Initiative and is also active in COST with an increasing number of participations in its actions. Bosnia and Herzegovina is taking part in the creation of the South East European International Institute for Sustainable Technologies. The country continues to participate in the European Research Area Committee and related advisory bodies and initiatives. It also participates in the European Strategic Forum on Research Infrastructure, but still has to develop the roadmap for research infrastructure. Bosnia and Herzegovina is still not included in the European innovation scoreboard as not all the indicators necessary to participate are available.

5.26. Chapter 26: Education and culture

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

Bosnia and Herzegovina is **at an early stage** of preparation in the area of education and culture. **Some progress** was achieved with the entry of two public universities from the *Republika Srpska* entity in the relevant State Registry and with the adoption of the policy recommendations on inclusive education. Efforts have to be undertaken to make progress on the accreditation of the study programmes. Bosnia and Herzegovina participated for the first time in the Programme for International Student Assessment (PISA) in 2018. Additional efforts are needed to ensure implementation of results as well as continued participation in international assessments. The education system still lacks common standards for the different levels of education, as well as in teacher training and performance evaluation. Quality assurance, accreditation of higher education institutions and new study programmes, as well as development of common standards in education, should be ensured. Bosnia and Herzegovina needs to align legislation at all levels of government with the framework laws on education, particularly in terms of mandatory application of the common core curriculum. Social inclusion at all stages of education needs to be ensured.

Youth strategies across the country should be developed and implemented.

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

- ensure a fully functional system of (re-)accreditation of higher education institutions and study programmes across the country;
- develop a vocational education and training strategy addressing labour market needs;
- establish an inter-sectorial commission for the national qualification framework.

In the area of **education and training**, policy recommendations on inclusive education were adopted by the Council of Ministers in November 2019. The adoption of relevant legislation on adult education was completed in the cantons. Some cantons still need to adopt relevant legislation in early childhood education and care, vocational education and training, as well as youth strategies.

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

Access to primary and secondary education in Bosnia and Herzegovina is satisfactory, with 97.6 per cent of children attending primary and 84.6 per cent attending secondary education. Among Roma children, 69 per cent attend primary and 23 per cent secondary education.

Comprehensive teacher training focused on developing students' key competences and a systematic approach for implementing the common core curriculum should be provided to complement the ongoing outcome-based curricular changes.

The education of children with special needs remains a challenge, particularly in terms of ensuring the necessary infrastructure, provisions, transportation and school assistants to support both children and teachers.

The legislative framework vocational education and training (VET) has yet to be completed at the cantonal level. Small-scale activities to help introduce dual education in the VET system need to be scaled-up in order to make vocational education and training more relevant for employment. As per figures from European Training Foundation, 46.4% of VET graduates are employed, as compared to 56.2% of those whom have passed general education. This rate improved over the course of the decade from 27.3% in 2010. Further development of qualification framework (QF) for Bosnia and Herzegovina is still on hold and cannot go forward until the nomination of the inter-sectorial group responsible for the action plan implementing the qualification framework. The process of developing qualifications and occupations in different parts of the country remains slow and needs better coordination and harmonisation. Bosnia and Herzegovina's qualification framework is not yet referenced to the European Qualification Framework. There is no mechanism for validation of prior learning in place yet.

The longstanding disputes between the two accreditation agencies, one at state level and one in the *Republika Srpska* entity, which hampers the accreditation of higher education institutions and study programmes, has progressed with the adoption of a decision on norms on the accreditation of higher education institutions and study programmes by the Steering Board of the state level agency. The issue of the entry of two public universities from the *Republika Srpska* entity (Banja Luka and East Sarajevo) in the State Registry of accredited higher education institutions has been successfully resolved. Additional efforts should be made for closer cooperation between the institutions to progress in accrediting the study programmes.

In 2018, for the first time Bosnia and Herzegovina participated in the OECD Programme for International Student Assessment (PISA) and ranked 62nd out of 79 countries, with the lowest results being recorded in natural sciences. The PISA results showed that 15-year olds are on average about 3 school years behind their peers in OECD countries. The minimum level of

functional literacy (i.e. above Level 2) is not attained by 58% of students in mathematics, 54 % in reading and 57% in science. (OECD averages are 24%, 23 % and 22% respectively). Very few students are among top performers (scores at level 5 or 6). The country also participated in the TIMSS 2019 assessment (Trends in International Mathematics and Science Study), with a report expected to be published at the end of 2020 as well as PIRLS 2021 (Progress in International Reading Literacy Study). Additional efforts to ensure continuous participation in international assessment studies, in particular PISA 2021, should be taken to track country's progress and enhance visibility and comparability in a larger context.

Bosnia and Herzegovina's participation in the Erasmus+ programme resulted in 3559 mobilities this year in the field of higher education. The overall quality of the proposals for capacity building in higher education has slightly decreased in relation to previous years. Issues related to the accreditation of study programmes have hampered the overall 2019 selection and reduced the percentage of projects devoted to curriculum development: 20% against 60% in the 2018 selection. In the area of **culture**, Bosnia and Herzegovina is implementing measures under the UNESCO Convention on the protection and promotion of the diversity of cultural expression. Bosnia and Herzegovina needs to recognise cultural industries as a sector with potentials for economic development and connectivity, and create a conducive legal and business environment for their rapid development.

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

Due to the spread of the COVID-19 pandemic, schools have been closed throughout the country as of mid-March and over 400,000 children of ECEC, primary, and secondary school age are affected by this measure. Continuation of education was ensured primarily through ad hoc solutions for distance learning as well as the delivery of learning content through TV. There are discrepancies in the scope and quality of these services within the country, mainly because of lack of necessary equipment and overall strategy for teachers and students on how to ensure quality in distance learning including the assessment of students' progress. As for enrolment into ECEC and first grade, the majority of institutions have issued instructions for online applications. Enrolment to secondary schools and universities will be conducted online in a limited number of institutions.

Although there are **youth** strategies at some levels of government, Bosnia and Herzegovina should work on a youth strategy that would ensure equal treatment of young people and stop them from leaving the country. Participation in Erasmus+ fosters young people's non-formal learning at international and national levels to enhance their competences, skills and employability.

Bosnia and Herzegovina actively joined the European Week of Sport (23-30 September 2019) for the second time, under the framework of the Commission's initiative *European Week of Sport Beyond Borders*. Sport activities were organised across the country.

5.27. Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the

environment. EU law contains provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Bosnia and Herzegovina is at **an early stage of preparation/has some level of preparation** in the area of environment and climate change. **Limited progress** was achieved during the reporting period. A countrywide harmonised approach in strategic planning needs to be ensured to address alignment with the EU environmental *acquis* at all levels of government in a consistent and comprehensive manner, including on air quality. Significant efforts are needed on implementation and enforcement.

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

- implement the countrywide environmental approximation strategy, and accordingly enhance the legal framework, strengthen administrative capacity and monitoring systems, and improve inter-institutional coordination among all relevant authorities;
- formalise the procedures for the appointment and functions of the national focal points (NFP) for Bosnia and Herzegovina for the implementation of all environmental conventions to which Bosnia and Herzegovina is a signatory;
- start implementing the Paris Agreement by putting in place policies and measures to deliver on its nationally determined contribution (NDC), update and implement the climate change adaptation and low emissions development strategy, and develop an integrated national energy and climate plan (NECP) in line with the Energy Community recommendation.

Environment

Horizontal legislation is, to a limited extent, aligned with the EU *acquis*. Bosnia and Herzegovina needs to align with the EU environmental *acquis* at all levels of government in a harmonised and coordinated manner and strengthen administrative capacities for efficient implementation. The countrywide environment approximation strategy adopted in 2017, and supplemented by more specific environmental approximation programmes for the entities and the Brčko District, needs to be updated and fully implemented. The plan for implementing and monitoring this strategy remains to be adopted. The sub-sector strategies at state and entity level, which are few in number, broadly remain non-harmonised between the entities for the respective areas covered, leaving the environment sector unevenly covered across the country. The countrywide environmental protection strategy for Bosnia and Herzegovina is now being developed. This will encompass sub-sector strategies for waste and water management, air quality and nature protection. The provisions of the environmental impact assessment (EIA) and strategic environmental assessment (SEA) have not been fully transposed in the legislation at entity level. Considerably stronger enforcement of SEA and EIA is needed to ensure that environmental concerns are adequately addressed when planning investments. The country remains without a standardised system or methods for gathering, transferring and reporting environmental data. A draft strategy also remains to be adopted to monitor the management and reporting of environmental data. There has been no progress in improving the public's access to information and its participation in the decision-making process. The legal framework regulating environmental inspections needs to be improved in line with the relevant EU *acquis*, and implementation needs to be enforced. Capacities need to be considerably strengthened. There has been no progress in aligning with a number of horizontal environmental directives such as the Directive on Environmental Liability, the

Directive on Infrastructure for Spatial Information in the European Community (INSPIRE)⁹ and the Directive on Environmental Crime. The procedure for appointing national focal points for Bosnia and Herzegovina and for determining their functions concerning the implementation of environmental conventions to which the country is a signatory party, remains to be formalised and systematised.

Alignment with the EU *acquis* on **air quality** remains limited. A well-functioning countrywide air quality monitoring network still needs to be established together with the programme for air quality improvement. Air quality plans for areas where levels of pollutants exceed limit values still need to be adopted. Air quality management needs to be addressed in a harmonised and consistent countrywide manner to efficiently combat air pollution and reduce as quickly as possible the levels of pollution in exceedance of the limit values in a number of cities. Progress is needed also in addressing national emissions of main pollutants and establishing national emission inventories and reporting. Bosnia and Herzegovina should develop a national strategy towards decarbonisation and cleaner energy production. No progress has been made in aligning with the EU *acquis* when it comes to reducing the sulphur content of certain liquid fuels (the limiting value for the sulphur content of heavy fuel oil being 1%). The country remains in serious and persistent breach of the Energy Community Treaty as stipulated in the Decision of the Energy Community Ministerial Council from 2018. There has been no progress on alignment with EU legislation on volatile organic compounds (VOC). There are no accredited bodies in Bosnia and Herzegovina for monitoring VOC emissions. Main emission sources in Bosnia and Herzegovina are the coal-power plants, industry, household heating and transport.

A consistent countrywide strategy for **waste management** has yet to be developed. Due to its administrative order, Bosnia and Herzegovina needs to ensure a coordinated and harmonised countrywide approach in dealing with waste management. This needs to be reflected both in the legislative framework and its strategic approach. The environmental protection strategy that is under development could provide for this. Bosnia and Herzegovina needs to align with the Landfill Directive, including by adopting a directive specific implementation plan and by closing down or rehabilitating non-compliant landfills. Substantial efforts and awareness-raising measures are required to reduce waste generation and promote reuse and recycling. Alignment is required with the EU *acquis* on sewage sludge, batteries, packaging, polychlorinated biphenyls/ polychlorinated terphenyls and end-of-life vehicles.

On **water quality**, the country still lacks a consistent and harmonised countrywide strategy and investment plans on water management that would include implementing legislation and monitoring. There is no water policy for Bosnia and Herzegovina. The sustainability of investments in the supply of water and in the management of urban waste water continues to be an issue. A consistent legal framework needs to be in place addressing water services to provide for sustainable investments. Regarding the growing development of hydropower investments, Bosnia and Herzegovina as a matter of urgency has to better enforce SEA, EIA, nature protection and water-related provisions of the EU *acquis* in order to adequately address growing environmental concerns. Specific plans for implementing EU legislation on drinking water, urban waste water and flood risk management are still to be adopted. A ‘Roof report on river basin management plans’ needs to be adopted for Bosnia and Herzegovina. An action

⁹ Directive 2007/2/EC of March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

plan for flood protection and river management in Bosnia and Herzegovina for 2014-2021 is being implemented. Flood hazards and risks are being mapped for the entire country.

Alignment with the EU *acquis* on **nature protection**, in particular with the Habitats and Birds Directives, is very limited. There is no progress on the pending adoption of the list of potential Natura 2000 sites and secondary legislation. The planning for and investments in renewable energy, including hydro, wind and solar power plants, requires compliance with the EU's environmental legislation, including SEA, EIA and the Birds and Habitats Directives. There has been no progress in establishing a system in Bosnia and Herzegovina for collecting information on and systematically monitoring biodiversity. Bosnia and Herzegovina needs to designate institutions, ensure the necessary human and financial resources and establish structures for implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Alignment with the EU *acquis* on **industrial pollution control and risk management** is very limited. The Pollutants Release and Transfer Register (PRTR) still needs to be fully operational for Bosnia and Herzegovina. This includes enforcing the obligation to report to PRTR countrywide, enabling public access to and the integration of the collected data and its transmission to the EU institutions. The PRTR Protocol to the Aarhus Convention remains to be ratified. Bosnia and Herzegovina needs to further align with the Industrial Emissions Directive (IED) and the Directives on Eco-labelling and Eco-Management and Audit Schemes (EMAS). Bosnia and Herzegovina is not aligned with the EU Directive on the control of major-accident hazards involving dangerous substances (Seveso III).

On **chemicals**, Bosnia and Herzegovina's alignment with the EU REACH Regulation concerning the registration, evaluation, authorisation and restriction of chemicals is uneven. It requires harmonisation at all levels of government and strengthening the administrative capacities necessary for its effective implementation. The EU Regulation on Classification, Labelling and Packaging of substances and mixtures (CLP) needs to be implemented. Relevant bodies responsible for receiving information to formulate preventative and curative measures should be appointed. Bosnia and Herzegovina needs to align with EU legislation on asbestos and on the protection of animals used for scientific purposes. Bosnia and Herzegovina, as a party to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, needs to progress with its implementation. Progress is required in acceding to the Minamata Convention.

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

Regarding **civil protection**, thanks to IPA support, the country is preparing, to become a participating state of the Union Civil Protection Mechanism (UCPM). Establishing secure trans-European services for telematics between administrations (sTESTA) is a pre-condition for connecting to the Common Emergency Communication and Information System (CECIS) of the European Commission in view of the Union Civil Protection Mechanism membership.

Bosnia and Herzegovina is encouraged to implement the recommendations of the TAIEX peer review carried out in 2018. There is a need for more systematic horizontal cooperation and enhanced vertical coordination, including on standardisation, statistics, rescue resources, professional training and risk assessment methodologies. Operational resources should be allocated at the municipal level, with specialised rescue units complementing these resources at cantonal and/or entity levels for disasters of larger scale or complexity. The Covid-19 pandemic highlighted the need to strengthen the legal framework and institutional capacities

as well as human and financial resources of civil protection authorities also with regard to health emergencies. One risk assessment for the country, systematic inspections, the establishment of civil protection stakeholder associations and civil protection education, including first aid training, will help to foster Bosnia and Herzegovina's resilience when facing disasters. The introduction of the 112 European unified emergency number (for police, ambulance and firefighters) is recommended.

Climate change

The level of alignment with the EU climate *acquis* remains limited. Bosnia and Herzegovina is currently revising its 2013 national climate change adaptation and low emission development strategy covering 2013-2025, which is consistent with the EU 2030 framework on climate and energy policies. Its implementation and integration into all relevant sectors should be a priority. Bosnia and Herzegovina is working on a national adaptation plan (NAP) which will identify the necessary resources and set timelines for implementing climate change-related policies and strategies. The focus will be on sectoral approaches, on aligning with the EU climate *acquis* and on building institutional capacities in the medium term. The development of an integrated national energy and climate plan (NECP) for Bosnia and Herzegovina, in line with the 2018 Energy Community recommendation and related policy guidelines, is underway.

As for the UN Framework Convention on Climate Change (UNFCCC), the fourth national communication and the third biennial update report on greenhouse gas emissions are in preparation. Bosnia and Herzegovina ratified the Paris Agreement in 2017 and should now give priority to implementing its national determined contribution (NDC). NDCs are being revised together with their implementation plan. There is no progress on alignment with the EU climate *acquis*, which includes the EU Monitoring and Reporting Regulation, the directives on fuel quality, ozone depleting substances, fluorinated gases, carbon capture and storage and other relevant legislation. Ratification of the Kigali amendment to the Montreal Protocol on substances that deplete the ozone layer is pending. To progress in aligning with the EU climate *acquis* and its implementation, Bosnia and Herzegovina needs to move away from a project-based approach. The country's administrative capacities should be significantly reinforced at all levels of government, covering all relevant sectors to ensure meaningful implementation of the required measures.

5.28. Chapter 28: Consumer and health protection

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

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

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

→ adopt legislation at all levels prohibiting smoking in public places in line with the EU

acquis and ratify the protocol to eliminate illicit trade in tobacco, and start to enforce both measures;

- conduct an assessment on the status of communicable diseases;
- further align its legislation with the EU *acquis* on substances of human origin and on medicines for human use and establish an oversight system in this field with a view to ensuring efficient coordination in the whole country;
- align the state-level Law on consumer protection with the EU *acquis*.

Consumer protection

On **horizontal aspects**, the legal framework for **consumer protection** is enshrined in the Law on Consumer Protection, adopted in 2006 at state level. The country needs to ensure alignment with the significant developments in the EU *acquis* that have taken place since then.

The Consumer Protection Council (CPC) acts as an expert advisory body for the Council of Ministers. The CPC proposes an annual state consumer protection programme, monitors its implementation, and defines the fundamentals of consumer protection policy and the direction of the scope of consumer protection activities funded by the state budget.

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

The legal framework for **product safety** is not yet aligned with the EU *acquis*. Over the reporting period, the Market Surveillance Agency and the inspection bodies of the entities and the Brčko District implemented 21 projects as part of proactive surveillance, and 26 cases were initiated on reactive surveillance. As a result of 210 product safety inspections, 6,222 unsafe products were withdrawn from the market (of which 4,473 were destroyed), and businesses brought 9,337 products into compliance with safety requirements.

Public health

On **horizontal aspects**, there was no progress in drafting a **health strategy** at the state level or in the Brčko District. The relevant legislation is not aligned with the EU *acquis* across the country. There is no state-level health information strategy or integrated **health information system** in place.

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

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

For **serious cross-border health threats**, including **communicable diseases**, the legislation

has not yet been aligned with the EU *acquis* at all levels of government. Measures to promote healthy lifestyles in connection with the prevention of **non-communicable diseases** are regulated and partially implemented by the competent institutions of the entities and the Brčko District.

In relation to COVID-19, authorities at all levels reacted promptly and introduced mitigation measures to slow down the transmission of the virus similar to EU countries but these were not well coordinated throughout the country. The official COVID-19 information is gathered, presented and reported locally and internationally through existing mechanism of International Health Regulations. Protocols for healthcare institutions for combating COVID-19 are in place, but hospital preparedness and response plans are not synchronised across the country. Lack of testing kits, bed-unit capacities, respirators, personal protective equipment and alternate locations for patient processing and treatment marked the beginning of the COVID-19 crisis. Despite initial success of the health authorities throughout the country to quickly incorporate emerging international and local evidence and international best practice to prevent and to control the spread of the virus, early relaxation of the restrictive measures caused an epidemiological peak during the summer months. Overall, the response of health systems in Bosnia and Herzegovina was effective in addressing the initial COVID-19 outbreak, however, coping with the peak in the summer proved to be challenging. Bosnia and Herzegovina joined the EU Joint Procurement Agreement and received material from JRC to control COVID-19 tests, as well as EUR 7 million in EU funding to enabling it to buy urgently needed medical equipment and supplies. As for **cancer screening**, Bosnia and Herzegovina has no countrywide cancer control plan, or a countrywide early detection programme. The Federation entity has no systematic solution for cancer registers or screening programmes for the treatment of cancer, due to legislative imbalance and limited financial capacities. Both entities have cancer registers. The *Republika Srpska* entity has an early detection programme in place. The Brčko District has no register or early detection programmes.

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

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

On **health inequalities**, a key challenge facing the health care system is to improve accessibility for all citizens, although the legislation stipulating equal access to health is in place. Ensuring good quality accessible public health care for all citizens including the marginalised groups of society is one of the key reform priorities.

5.29. Chapter 29: Customs union

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

Bosnia and Herzegovina has **some level of preparation** in the area of customs union.

Customs legislation is not fully aligned with the EU *acquis*. **No progress** was made in the area of customs union during the reporting period. The Commission's recommendations from 2019 were not implemented and remain valid.

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

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

The body in charge of implementing **customs legislation** and policies is the Indirect Taxation Authority (ITA). Further alignment with the Union Customs Code is needed, notably on custom procedures and simplified procedures. The 2015 Law on Customs Policy, which is partially aligned with the EU *acquis*, has still not been implemented; its implementation is set for 1 July 2021. This law also provides for the introduction of authorised economic operators and for additional simplified customs procedures requiring the use of the e-signature, which has not yet been implemented by the ITA. This leads to difficulties in the practical implementation of taxation and customs legislation. The ITA is committed to start the implementation of e-signature, which should be countrywide, as of January 2021.

The customs tariff and custom valuation of Bosnia and Herzegovina is harmonised with the Combined Nomenclature (CN). Regarding the rules of origin, the country applies the Pan-Euro Mediterranean Convention, which went through substantial revisions in 2019. Bosnia and Herzegovina is among the countries that support the revisions of the Convention with the new revised rules.

The country is an observer in the Common Transit Convention (CTC) and intends to join it once it has met all legal and technical requirements, especially the implementation of New Computerised Transit System (NCTS); phase 5 of the NCTS implementation in Bosnia and Herzegovina is foreseen for July 2021.

Bosnia and Herzegovina should also continue aligning its provisions on the protection of intellectual property rights (IPR) when it comes to customs enforcement. Also, further alignment with the EU *acquis* for authorised economic operators (AOP), which has to be achieved through implementation of CEFTA Additional Protocol (AP) 5.

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

Bosnia and Herzegovina's customs laboratory of has been equipped with additional new instruments but further modernisation is needed.

Bosnia and Herzegovina, together with other CEFTA Parties, adopted some measures to mitigate the effects of the new situation. The opening of the so-called Priority Green Lanes to allow a priority treatment of vital products at the predetermined border crossings where the

border control is required for 24 hours. The common lists of vital products of the CEFTA Parties were adopted and updated as needed.

5.30. Chapter 30: External relations

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

Bosnia and Herzegovina has reached **some level of preparation** in the area of external relations. **Limited progress** was made during the reporting period. The capacity to tackle key challenges in trade policy is yet to be strengthened. The Commission's recommendations from 2019 were not fully implemented and remain valid.

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

- finalise the accession to the World Trade Organization (WTO);
- implement actions under the multiannual action plan to develop a Regional Economic Area (REA), in particular implement the Additional Protocol (AP) 5 on trade facilitation to the Central European Free Trade Agreement (CEFTA), ratify CEFTA AP 6 on trade in services, negotiate and ensure a swift adoption of CEFTA AP 7 on dispute settlement;
- start the process leading to the establishment of a development and humanitarian aid policy.

On the **common commercial policy**, no progress was made on Bosnia and Herzegovina's accession to the WTO, although membership negotiations are at a very advanced stage. The Russian Federation is the only WTO member that has not completed its bilateral negotiations with Bosnia and Herzegovina on market access for goods and services, and has raised an issue in the multilateral discussions on the pending amendments to the legislation on the quality of liquid petroleum fuels. The decision on the amendments to the legislation has yet to be approved by the Council of Ministers.

Concerning the implementation of the REA multiannual action plan, in May 2019 Bosnia and Herzegovina nominated its negotiating team and adopted the negotiating mandate for CEFTA AP 7 on dispute settlement. In December 2019, the Presidency adopted the negotiation report for the conclusion of CEFTA AP 6 on trade in services, which is now in the process of ratification. As response to COVID-19, upon joint initiative by the Permanent Secretariat of the Transport Community and the CEFTA Secretariat, the six governments in the Western Balkans have successfully implemented measures to facilitate the transport and trade of essential goods within the region.

Bosnia and Herzegovina applies export controls on **dual-use goods** in accordance with its legislation. The country should consider applying for accession to the multilateral export control schemes, such as the Wassenaar Arrangement, which can facilitate the preparations to implement the EU *acquis* for dual-use goods export control.

As regards **bilateral agreements with third countries**, in the reporting period Bosnia and Herzegovina signed no new agreements.

On administrative capacity, Bosnia and Herzegovina needs to further strengthen the administrative capacity and improve cooperation and coordination between ministries and different levels of competent authorities in order to ensure consistency of implementation and enforcement.

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

5.31. Chapter 31: Foreign, security and defence policy

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

Bosnia and Herzegovina has **some level of preparation** in this area. There was **no progress** in 2019. Taking into account the improving trend in 2020, the country should continue stepping up its alignment with the EU foreign policy statements and restrictive measures towards third countries and entities. The country needs to appoint the persons in charge of performing the functions of ‘political director’ and ‘European correspondent’. Bosnia and Herzegovina is yet to join a number of international arms control regimes as well as strengthen the monitoring regime regarding weapons and military equipment. Bosnia and Herzegovina continued to participate in EU crisis management missions.

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

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

The **political dialogue** between the EU and Bosnia and Herzegovina on foreign and security policy issues continued.

Bosnia and Herzegovina’s 2018-2023 foreign policy strategy includes as main goals and priorities the following: full membership in the EU, activation of the NATO Membership Action Plan, fight against terrorism, cooperation at regional level, and bilateral and multilateral cooperation. Its implementation in the reporting period was affected by frequent divergent positions of the three members of the Presidency.

It is important that Bosnia and Herzegovina appoints within the Ministry for Foreign Affairs the persons in charge of performing the functions of ‘political director’ and of ‘European correspondent’, and to ensure the adequate training of diplomatic staff.

Regulations and practices based on ethnic quotas, applied in the process of appointment of diplomatic and consular network, negatively impact on the capacity of the Ministry of Foreign Affairs to perform its tasks effectively, eventually resulting in adverse effects on the implementation of the overall country’s foreign policy objectives.

Bosnia and Herzegovina has expressed its commitment to the objectives of the **Common Foreign and Security Policy** of the EU outlined in the Global Strategy of June 2016 and is willing to contribute to the implementation of the Strategy in accordance with its capacities. The country expressed its readiness to act regionally and to be a reliable partner of the EU. In 2019, Bosnia and Herzegovina aligned with 55 relevant EU declarations and Council decisions out of a total of 90, representing an average alignment rate of 61%. Bosnia and

Herzegovina improved its alignment rate in the first half of 2020, with an average of 75%. The country did not align with EU Council Decisions on restrictive measures related to the Russian Federation, Venezuela, and Syria in particular.

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

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

Bosnia and Herzegovina supports all EU measures and the long-term and short-term instruments in the area of **conflict prevention**, acts in accordance with the principles of the UN Charter and rules of international law, and fully supports the EU programme for the prevention of violent conflicts endorsed by the Göteborg European Council and the communication from the Commission on conflict prevention. Bosnia and Herzegovina does not possess any chemical, biological or nuclear weapons and there are no capacities for the production of these weapons. The country has ratified a series of treaties and international agreements in this area and participates in related international activities. Bosnia and Herzegovina is yet to join international control regimes such as the Wassenaar arrangement, the Australia group, the missile technology control regime and the nuclear suppliers group.

With regard to trade in conventional weapons, military equipment (WME) and dual use items, the country's overall legal and institutional framework is broadly in line with the EU *acquis*. Further improvements are required regarding the monitoring regime of WMEs produced and traded within the country.

Bosnia and Herzegovina ratified the Chemical Weapons Convention (CWC) in 1997. Legislation on the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemicals and on their Destruction is in place, together with a state-level Coordination Body on CWC-related matters.

Bosnia and Herzegovina remained actively engaged in the implementation of the 2018 Regional Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans. A countrywide 2016-2020 strategy for control of small arms and light weapons (SALW) is in place, together with an action plan. An assessment of the strategy implementation is to be done, followed by the adoption of a new strategic document and action plan for its implementation. All weapons of the country's security forces are to be marked and registered into a single registry to ensure adequate traceability of small arms and light weapons in the country. In addition, Bosnia and Herzegovina is to develop post-manufacture marking and record-keeping requirements for seized and confiscated weapons, and weapons earmarked for deactivation.

Regarding **cooperation with international organisations**, Bosnia and Herzegovina is a member of and actively participates in the work of the United Nations (1992), the Council of Europe (2002), the Organisation for Security and Cooperation in Europe (1992), the World

Bank (1993), the International Monetary Fund (1992) and other major international organisations. Due to failure to appoint its parliamentary delegation after the 2018 election, Bosnia and Herzegovina could not participate to the works of the Council of Europe Parliamentary Assembly (PACE); a parliamentary delegation from Bosnia and Herzegovina was appointed to join PACE only in January 2020. Bosnia and Herzegovina acts as an observer in the Non-Aligned Movement (1994) and the Organisation of Islamic Cooperation (1994). The country is in the process of negotiating its membership in the World Trade Organisation. In addition, it participates in NATO's Partnership for Peace Program since 2006 and, in that context, submitted a 'reform programme' to NATO in December 2019. Bosnia and Herzegovina also participates in the observation of elections in other countries as part of the OSCE, including the observation delegations of the Council of Europe.

On *security measures*, an agreement on security procedures for the exchange of classified information is in place since October 2004 between the EU and Bosnia and Herzegovina. The agreement was ratified in February 2006 and entered into force on 1 May 2006. The agreement was amended in October 2018. The agreement applies to classified information and materials in any form, either delivered or exchanged between the EU and Bosnia and Herzegovina. Regular exchanges of classified information, up to the level of EU Restricted, are taking place.

Regarding the **common security and defence policy** (CSDP), the agreement between Bosnia and Herzegovina and the EU on the establishment of the framework for the country's participation in both civilian and military crisis management operations entered in force in 2016. Three members of Bosnia and Herzegovina armed forces are deployed in the EU Training Mission (EUTM) in the Central African Republic. The financing threshold for the 2019 defence budget, as prescribed in the Budget Framework Document 2019-21, represents less than 1% of GDP. Currently, 83% of the budget is used for salaries, and less than 1% goes to investments. Equipment, weapon systems and infrastructure are not being maintained or replaced due to lack of funding and a centralised and dysfunctional procurement system. This also affects the Demining Battalion that is a key player in humanitarian demining and an essential partner for the successful implementation of the country's Mine Action Strategy 2018-2025.

5.32. Chapter 32: Financial control

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

Bosnia and Herzegovina is at an **early stage** in this area. **Limited progress** was made in fulfilling last year recommendations, notably in defining a strategic framework on managerial accountability in public internal financial control. Detailed strategic documents need be prepared for each level of government once the framework is adopted. All central harmonization units need to strengthen their administrative capacities and monitor the effectiveness of internal control functions in the public sector. The financial and operational independence of supreme audit institutions must be ensured in practice, particularly in the Federation entity. The supreme audit institutions should also improve the quality of their audit reports, and step up their communication efforts to reinforce the public awareness of their work.

In the coming year, Bosnia and Herzegovina should:

- adopt a comprehensive common framework on public internal financial control (PIFC) and managerial accountability;
- improve the quality of PIFC monitoring framework and implementation of the PIFC report recommendations across budget entities;
- ensure the functional, financial and operational independence of supreme audit institutions (SAIs) at all levels of government and the impact of SAIs work through Communication Strategies 2020-2025.

Public internal financial control

A new comprehensive medium-term **strategic framework** for PIFC for some levels of government still needs to be developed by means of the adoption of 2020-2025 PIFC strategies. The PIFC strategy and its action plan for the State-level institutions have been adopted by the Council of Ministers beginning of June 2020. A coordinated monitoring and reporting framework for all these strategies needs to be put in place. The enabling conditions for implementing managerial accountability are not yet in place, as the countrywide strategic framework on public administration is still lacking.

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

The legal framework for the functioning of **internal control** is in place at state and entity level, except in Brčko District. Risk management is performed only in 60% of the institutions and low level of coordination between different levels of government hampers further this area. The current laws on internal control lack further implementation in the internal regulations, business processes and management information systems at all levels of government and in the public enterprises.

Internal audit practice is regulated at state and entity levels, except in Brčko District, and is in line with international audit standards. Some progress was noticed in regulating better the internal audit function at state level. The internal audit function remains to be extended to all public entities. Internal audit units remain weakly staffed and many of them operate with only 50% of vacancies filled. The majority of the internal auditors are certified, but their value added in contributing to effective practices remains low across levels of government. Various decisions regulating improved certification and training programmes on internal audit were adopted at the state level and in the *Republika Srpska* entity. However, more needs to be done to increase professional development of audit staff, especially on risk assessment, using IT and work with analytical tools.

Central harmonization units (CHUs) have been established at state and entity levels. The three CHUs, except Brčko District, prepare yearly-consolidated reports to their respective governments on PIFC implementation. PIFC reports do not assess risk mitigation. Their

quality and impact on internal control remains weak, as and the PIFC reports' recommendations remain not well implemented across public entities at all levels. CHU capacity and its institutional mandate remain not sufficient to effectively provide methodological guidance, promote and monitor PIFC reforms across levels of government. The CHUs should start to implement quality reviews on internal control and internal audit. Their capacities should be strengthened in order to fulfil better their tasks.

External audit

With regard to **constitutional and legal framework**, while there is no constitutional anchorage of any of the supreme audit institutions (SAI), the functional, operational and financial independence of the SAIs at all respective levels of government is regulated in the specific SAI laws broadly in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). Instances of executive interference in the budget setting of SAIs have been observed in practice and particularly so in the Federation entity.

The institutional capacity of SAIs needs to be strengthened across levels of government. The Federation entity faces a particular challenge in ensuring external audit coverage of its cantonal level. All SAIs, except the SAI of the Brčko District, implement their respective strategic development plans. SAIs should continue to work closely with the prosecution authorities to see how to best handle instances of possible fraud and corruption, that the SAI uncovers during an audit.

With regard to the **quality of audit work**, all the SAIs have a broad mandate, which covers financial, compliance and performance audit. The SAIs should consider improvement of the quality of their audit to bring up the causes of the identified weaknesses and increase the number of performance audits.

The **impact of the audit work** of all SAIs is limited. The rate of implementation of audit recommendations still remains low across levels of government (tbc with data). While parliaments have procedures in place for examining audit reports, the level of parliamentary scrutiny to these reports varies across levels of government. The audit results need to be presented and communicated in a more efficient manner in the audit reports and in the media. Additionally, the SAIs should develop communication strategies in order to improve the impact of their work.

Protection of the EU's financial interests

The legislation at all levels of government ensure some degree of EU **acquis alignment** as it covers many elements of the Directive on the fight against fraud to the EU's financial interests by means of criminal law. These include Directive 2017/1371 and its predecessor, the Convention on the protection of the EU's financial interests and its protocols, such as on the treatment of suspected cases of fraud, money laundering, definitions of active and passive corruption, misappropriation, the liability of legal persons and related penalties. The scope and definitions of the offences are not always in line with the Directive: for example in the case of corruption and misappropriation offence. Further alignment of the legislation is needed, including on the freezing and confiscation of criminal assets. Effective implementation and enforcement of the legislation also needs to be ensured.

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

needs to be adopted.

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

Protection of the euro against counterfeiting

Bosnia and Herzegovina has not ratified the 1929 Geneva Convention for the suppression of counterfeiting currency. The level of EU **acquis alignment** for technical aspects needs to be determined. The Central Bank has a regulation in place that obliges commercial banks and other entities to withdraw all suspect banknotes and coins from circulation. However, no sanctions are imposed for failure to fulfil this obligation. There is no legal obligation for credit institutions and other payment service providers to ensure that euro banknotes and coins are checked for authenticity and that counterfeits are detected.

5.33. Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; and (iii) a resource based on value-added tax.

Bosnia and Herzegovina is at an **early stage** of preparation in the area of financial and budgetary provisions. There was **no progress** in strengthening administrative capacities for coordination and management of own resources. Significant further efforts are needed to ensure sound capacities, institutional set-up and cooperation of institutions and bodies to be involved in application of the own resources system.

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

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

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

Certain aspects of the country's law on VAT, concerning special schemes and exceptions, remain to be aligned with the EU *acquis*.

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

In terms of administrative infrastructure, both human and administrative resources remain insufficient to ensure full and correct application of EU rules concerning payments into the

EU budget. Better coordination among administrative structures and implementing rules are needed to ensure correct forecasting, calculation, accounting, collection, payment and control of own resources.

ANNEX I – RELATIONS BETWEEN THE EU AND BOSNIA AND HERZEGOVINA

The **Stabilisation and Association Agreement (SAA)** entered into force in June 2015. Bosnia and Herzegovina continued to implement the SAA. Political and economic dialogue took place regularly via the joint bodies under the agreement, except for the parliamentary committee (SAPC), which has yet to adopt its rules of procedures. The country also participates in the ministerial dialogue between the economic and finance ministers of the EU and the candidate countries, where joint recommendations are adopted.

In February 2016 Bosnia and Herzegovina **applied for EU membership** and in September 2016, the European Council invited the Commission to submit its opinion on the country's application. In May 2019 the Commission adopted its **Opinion (Avis)** and accompanying analytical report. The Opinion identified **14 key priorities** in the areas of democracy/functionality, rule of law, fundamental rights, and public administration reform that Bosnia and Herzegovina needs to fulfil in order to be recommended for opening EU accession negotiations. In December 2019, the EU Council welcomed the Opinion and invited the Commission to focus its annual reports on Bosnia and Herzegovina, starting with the one in 2020, on the implementation of the key priorities.

Visa liberalisation for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since December 2010. A readmission agreement has been in force since 2008. The Commission's July 2020 third report under the visa suspension mechanism concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks.

The EU continued to deploy considerable resources in Bosnia and Herzegovina under the **common foreign and security policy** and the **common security and defence policy**. The enhanced presence of the combined Office of the EU Special Representative and the EU Delegation in Bosnia and Herzegovina has continued to be instrumental in communicating EU priorities to citizens and in implementing the objectives of the EU agenda in key areas. The **EUFOR Althea** military operation remained deployed in the country, assisting on capacity building and training of the armed forces of Bosnia and Herzegovina in line with the strategic intent expressed by the defence leadership to develop operational capabilities of dual use in support of civil authorities for removing physical remnants of war or disaster relief and deployment in peace support operations overseas. At the same time, EUFOR retained deterrence capacity to support a safe and secure environment. The UN Security Council extended EUFOR's mandate until November 2020.

In 2019, Bosnia and Herzegovina aligned itself with 55 out of 90 relevant EU declarations and Council decisions (61%). The country improved its alignment rate in the first half of 2020, with an average of 75%. Bosnia and Herzegovina did not align itself with EU Council decisions on restrictive measures related to the Russian Federation, Venezuela, and Syria in particular. A framework agreement on the participation of Bosnia and Herzegovina in EU crisis management operations is in place since September 2015.

The EU provided **financial assistance** to Bosnia and Herzegovina under the **Instrument for Pre-accession Assistance (IPA)** with a total allocation of EUR 530 million in 2014-2020. The assistance is implemented under direct management by the EU Delegation in Sarajevo. The 2019 and 2020 action programmes include an EU contribution totalling up to EUR 170 million. As part of the response to the COVID-19 crisis, Bosnia and Herzegovina is benefiting of EUR 7 million for urgent medical equipment and EUR 73.5 million for socio-economic recovery measures under IPA II; negotiations for macro financial assistance (up to EUR 250 million in loans) are ongoing. The EU has supported Bosnia and Herzegovina in migration

management with EUR 60.5 million since 2018 in both IPA and humanitarian (ECHO) funds. The adoption of countrywide sector strategies such as on public financial management, energy, and employment remains a key requirement for Bosnia and Herzegovina to benefit fully from IPA funding in the future. Bosnia and Herzegovina benefits from the IPA multi-country and regional programmes and participates in three cross-border cooperation programmes, as well as in transnational cooperation programmes.

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

STATISTICAL DATA (as of 03.04.2020)
Bosnia and Herzegovina

Basic data	Note	2007	2014	2015	2016	2017	2018
Population (thousand)		3 844	3 831	3 825	3 516	3 510	3 503
Total area of the country (km ²)	1)	51 209	51 209	51 209	51 209	51 209	51 209

National accounts	Note	2007	2014	2015	2016	2017	2018
Gross domestic product (GDP) (million national currency)		:	27 359	28 589	29 905	31 376	32 778
Gross domestic product (GDP) (million euro)		:	13 988	14 617	15 290	16 042	16 759
GDP (euro per capita)		:	3 650	3 980	4 350	4 580	4 780p
GDP per capita (in purchasing power standards (PPS))		:	7 450	8 070	8 750	9 100	9 470p
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		:	28.1	29.4	31.1	31.1	31.3p
Real GDP growth rate: change on previous year of GDP volume (%)		:	1.1	3.1	3.1	3.2	3.1
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2010 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		:	7.0	7.3	7.5	6.6	7.0
Industry (%)		:	21.3	21.9	22.6	23.3	23.0
Construction (%)		:	4.7	4.6	4.6	4.7	4.7
Services (%)		:	67.0	66.2	65.3	65.4	65.3
Final consumption expenditure, as a share of GDP (%)		:	107.1	103.8	100.9	98.9	97.4

Gross fixed capital formation, as a share of GDP (%)		:	19.5	17.8	17.4	18.0	18.5
Changes in inventories, as a share of GDP (%)		:	-0.4	0.8	2.3	3.0	3.3
Exports of goods and services, relative to GDP (%)		:	34.0	34.9	35.6	40.1	41.4
Imports of goods and services, relative to GDP (%)		:	56.6	53.3	52.3	56.4	56.9
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2007	2014	2015	2016	2017	2018
Industrial production volume index (2015 = 100)		85.8	97.2	100.0	104.4	107.6	109.4
Number of active enterprises (number)		:	64 963	65 800	67 205	68 761b	68 085p
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	71.4	71.5	72.0	69.5b	69.1p
Value added by SMEs (in the non-financial business economy) (EUR million)		:	4 406	4 701	5 043	4 845b	5 289p
Total value added (in the non-financial business economy) (EUR million)		:	6 738	7 168	7 594	7 681b	8 434p

Inflation rate and house prices	Note	2007	2014	2015	2016	2017	2018
Consumer price index (CPI), change relative to the previous year (%)		1.5	-0.9	-1.0	-1.6	0.8	1.4
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2007	2014	2015	2016	2017	2018
Balance of payments: current account total (million euro)		-1 046.5	-1 014.0	-741.5	-720.3	-696.8	-633.4
Balance of payments current account: trade balance (million euro)		-4 335.7	-4 025.7	-3 668.9	-3 624.6	-3 792.2	-3 831.4
Balance of payments current account: net services (million euro)		952.2	868.0	1 001.8	1 090.6	1 191.3	1 269.7
Balance of payments current account: net balance for primary income (million euro)		342.4	114.4	99.0	20.4	-58.1	-49.4

Balance of payments current account: net balance for secondary income (million euro)		1 994.6	2 029.3	1 826.6	1 793.3	1 962.3	1 977.7
Net balance for primary and secondary income: of which government transfers (million euro)		179.9	120.9	85.7	44.4	61.7	46.4
**3 year backward moving average of the current account balance relative to GDP (%)		:	-7.1	-5.9	-5.7	-4.7	-4.3
**Five year change in share of world exports of goods and services (%)		:	:	0.2	10.8	31.7	29.9
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		1 308.8	400.8	260.1	281.3	329.7	428.3
Foreign direct investment (FDI) abroad (million euro)		47.2	7.4	85.2	2.6	85.1	-16.7
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)		1 356.0	408.3	345.3	283.9	414.9	411.6
of which FDI of the EU-27 countries in the reporting economy (million euro)		:	:	:	:	:	:
**Net international investment position, relative to GDP (%)		-30.7	-56.7	-54.8	-51.0	-47.1	-43.3
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		:	6.4	2.9	2.5	8.5	2.1

Public finance	Note	2007	2014	2015	2016	2017	2018
***General government deficit / surplus, relative to GDP (%)		1.1	-2.0	0.7	1.2	2.6	1.6
***General government gross debt relative to GDP (%)		18.1	41.6	41.9	40.5	36.1	40.8
Total government revenues, as a percentage of GDP (%)		43.6	43.8	43.2	42.7	43.0	43.1
Total government expenditure, as a percentage of GDP (%)		42.5	45.8	42.6	41.5	40.4	:

Financial indicators	Note	2007	2014	2015	2016	2017	2018
Gross external debt of the whole economy, relative to GDP (%)		:	76.2	72.2	71.2	67.5	68.0
Gross external debt of the whole economy, relative to total exports (%)		2.2	2.2	2.0	2.0	1.7	1.6
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	2) 3)	2 930.7	3 737.8	4 182.8	4 755.5	5 405.6	6 209.0
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	2) 4)	6 111.6	8 829.5	9 534.2	10 326.8	11 307.9	12 368.0
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	2)	5 877.6	8 422.8	8 623.9	8 794.8	9 419.3	9 964.7
**Annual change in financial sector liabilities (%)	5) 6)	34.1	5.2b	4.6	5.5	8.3	8.8

**Private credit flow, consolidated, relative to GDP (%)	5) 7)	11.4	2.0	-2.2	1.2	3.2	3.4
**Private debt, consolidated, relative to GDP (%)	5) 7) 8)	49.5	93.3	87.1	84.5	83.3	87.3
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	9)	7.17	6.32	5.74	4.97	3.88	3.52
Deposit interest rate (one year), per annum (%)	10)	0.39	0.09	0.09	0.09	0.06	0.05
Euro exchange rates: average of period (1 euro = ... national currency)		1.956	1.956	1.956	1.956	1.956	1.956
Trade-weighted effective exchange rate index, 42 countries (2005 = 100)	11)	94	101	100	101	102	104
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100)	11)	:	2.8s	1.5s	1.4s	0.8s	3.6s
Value of reserve assets (including gold) (million euro)		3 424.9	4 001.2	4 400.3	4 873.2	5 427.0	5 944.1

External trade in goods

	Note	2007	2014	2015	2016	2017	2018
Value of imports: all goods, all partners (million euro)		:	8 283	8 105	8 263	9 298	9 855
Value of exports: all goods, all partners (million euro)		:	4 440	4 595	4 815	5 653	6 085
Trade balance: all goods, all partners (million euro)		:	-3 843	-3 510	-3 448	-3 646	-3 770
Terms of trade (export price index / import price index * 100) (number)	12)	:	100.3	102.5	104.1	103.8	105.4
Share of exports to EU-27 countries in value of total exports (%)		:	71.5	70.9	71.0	70.4	72.2
Share of imports from EU-27 countries in value of total imports (%)		:	58.0	59.9	61.1	60.0	59.7

Demography

	Note	2007	2014	2015	2016	2017	2018
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		-0.3	-1.5	:	-1.8	-2.0	:
Infant mortality rate deaths of children under one year of age (per thousand live births)		6.8	:	:	:	:	:
Life expectancy at birth: male (years)		:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:

Labour market	Note	2007	2014	2015	2016	2017	2018
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		57.1	59.2	59.2	58.8	58.4	58.4
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		40.9	43.2	43.2	44.2	46.6	47.7
Male employment rate for persons aged 20–64 (%)		54.2	54.6	53.9	56.4	58.1	59.5
Female employment rate for persons aged 20–64 (%)		27.8	31.9	32.4	32.0	35.1	35.8
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		25.0	28.5	28.2	29.7	32.5	32.6
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	17.1	17.9	18.0	18.9	15.7
Industry (%)		:	22.1	22	22.7	22.2	23.5
Construction (%)		:	7.9	7.5	8.6	7.3	8.7
Services (%)		:	52.9	52.6	50.8	51.6	52.1
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	13)	17.3	19.9b	20.0	17.8	18.4	18.4
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	13)	82.7	80.1b	80.0	82.2	81.6	81.6
Unemployment rate: proportion of the labour force that is unemployed (%)		29.1	27.6	27.9	25.5	20.7	18.5
Male unemployment rate (%)		26.8	25.3	25.9	22.6	19.0	17.3
Female unemployment rate (%)		33.1	31.2	30.9	30.2	23.3	20.5
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		58.4	62.7	62.3	54.3	45.8	38.8
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		25.1	23.4	22.8	21.7	17.0	15.2
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		31.3	31.6	27.7	26.2	19.5	19.1
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		10.0	17.2	16.4	18.9	14.6	13.9

Social cohesion

Note	2007	2014	2015	2016	2017	2018
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Average nominal monthly wages and salaries (national currency)	14)	645	830	830	838	851	879
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100)	14)	109.7e	102.4e	102.1e	103.1e	101.4	103.8
GINI coefficient	15)	34	:	31	:	:	:
Poverty gap	15)	18.4	:	:	:	:	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		11.3	5.8	5.2	4.9	5.1	5.4

Standard of living

	Note	2007	2014	2015	2016	2017	2018
Number of passenger cars relative to population size (number per thousand population)		171.7	209.1	216.7	245.0	252.0	262.9
Number of mobile phone subscriptions relative to population size (number per thousand population)		637.6e	920.7	887	981.1	981.7	989.9
Mobile broadband penetration (per 100 inhabitants)		:	30.1	36.2	40.4	43.4	52.7
Fixed broadband penetration (per 100 inhabitants)		:	15.4	18.0	18.8	18.9	19.8

Infrastructure

	Note	2007	2014	2015	2016	2017	2018
Density of railway network (lines in operation per thousand km ²)		20.0	20.1	20.1	20.0	20.0	20.0
Length of motorways (kilometres)		28	128	128	163	172	198

Innovation and research

	Note	2007	2014	2015	2016	2017	2018
Public expenditure on education relative to GDP (%)		:	:	:	4.3	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	0.24	0.22	0.24	0.20	0.20
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	0.05	0.05	0.04	0.04	0.06
Percentage of households who have internet access at home (%)		10.9	:	:	61.5b	66.0	69.2

Environment

	Note	2007	2014	2015	2016	2017	2018
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		54.9	76.1	:	:	:	:

Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)		:	446.2	445.7	472.7	457.3	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		:	44.5	41.1	40.4	27.5	:
Road share of inland freight transport (based on tonne-km) (%)	16)	:	:	:	76.6	78.9	:

Energy	Note	2007	2014	2015	2016	2017	2018
Primary production of all energy products (thousand TOE)		:	4 306	4 367	4 742	4 624	:
Primary production of crude oil (thousand TOE)		:	0	0	0	0	:
Primary production of solid fuels (thousand TOE)		:	3 073	3 165	3 520	3 612	:
Primary production of gas (thousand TOE)		:	0	0	0	0	:
Net imports of all energy products (thousand TOE)		:	1 693	2 083	2 133	2 299	:
Gross inland energy consumption (thousand TOE)		:	6 003	6 183	6 767	6 754	:
Gross electricity generation (GWh)		:	17 023	16 438	17 767	16 438	:

Agriculture	Note	2007	2014	2015	2016	2017	2018
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)	17)	1 751e	1 711e	1 733e	1 781e	1 762e	1 780e
Livestock numbers: live bovine animals (thousand heads, end of period)		468e	444e	455e	455e	445e	438e
Livestock numbers: live swine (thousand heads, end of period)		535e	533e	564e	545e	548e	542e
Livestock numbers: live sheep and live goats (thousand heads, end of period)		1 103	1 099	1 093	1 091	1 090	1 086
Raw milk available on farms (thousand tonnes)		:	719e	720e	724e	704e	700e
Harvested crop production: cereals (including rice) (thousand tonnes)	18)	1 038e	1 082e	1 138e	1 658e	1 163e	1 744e
Harvested crop production: sugar beet (thousand tonnes)		0	0	0	0	0	0
Harvested crop production: vegetables (thousand tonnes)		255e	229e	280e	361e	292e	299e

Source: Eurostat and the statistical authorities in Bosnia and Herzegovina

: = not available

b = break in series

e = estimate

p = provisional

s = Eurostat estimate

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

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

Footnotes

- 1) Inland waters estimated at 210 km².
- 2) Based on IMF monetary and financial statistics manual, 2000.
- 3) M1 money supply comprises cash outside banks and transferable deposit in domestic currency of all domestic sectors (except central government deposits).
- 4) M2 money supply is comprised of money supplies, M1 money and QM quasi money. QM money supplies cover other deposits in domestic currency, transferable and other deposits in foreign currency of all domestic sectors (except the deposits of the central government).
- 5) Data for monetary financial institutions.
- 6) 2018: includes data for the central bank and other banks for the end of December 2018, while data for other financial institutions are given for the end of June 2018.
- 7) 2018: 2017 data have been used for GDP
- 8) 2007: debt excludes external private sector debt.
- 9) Short-term lending rates in national currency to non-financial corporations (weighted average). 2018: data for November 2018.
- 10) Demand deposit rates in national currency of households (weighted average). 2018: data for November 2018.
- 11) Calculation of effective exchange rate indices is against a group of 21 most important trading partners. 2015 = 100.
- 12) Based on Paasche export and import unit values.
- 13) 2007: the public sector includes NACE Rev. 1.1 Sections L, M and N while the private sector includes other NACE Sections. 2014-2018: the public sector includes NACE Rev. 2 Sections O, P and Q while the private sector includes

other NACE Sections.

- 14) Net earnings.
- 15) Total household consumption expenditure is used for the calculation, instead of Income.
- 16) Data not collected on inland waterways. Road share of inland freight transport based on road and rail transport only.
- 17) The utilised agricultural area consists of arable land, kitchen gardens, permanent crops and permanent grassland as cadastral data (not as UAA).
- 18) 2007: excluding triticale and buckwheat. 2017 and 2018: excluding rice.