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Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union

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A. INTRODUCTION

1. Application for membership

Bosnia and Herzegovina presented its application for membership of the European Union on 15 February 2016. Subsequently, on 20 September 2016, the Council of the European Union invited the Commission to submit its opinion on this application. This is in line with the procedure laid down in Article 49 of the Treaty on European Union, which states that *'Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account'*. Article 2 states that *'the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail'*.

This is the legal framework within which the Commission submits this Opinion.

The European Council in Feira in June 2000 acknowledged that Western Balkan countries participating in the Stabilisation and Association Process are 'potential candidates' for EU membership. The European perspective of these countries was confirmed by the European Council in Thessaloniki in June 2003 which endorsed the 'Thessaloniki Agenda for the Western Balkans'. This agenda remains the cornerstone of EU policy towards the region.

The European Council in December 2006 renewed the EU's commitment *'that the future of the Western Balkans lies in the European Union'* and reiterated that *'each country's progress towards the European Union depends on its individual efforts to comply with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process. A country's satisfactory track record in implementing its obligations under a Stabilisation and Association Agreement (SAA), including trade-related provisions, is an essential element for the EU to consider any membership application'*.

In the February 2018 Western Balkans strategy the Commission stated that '*with sustained effort and engagement, Bosnia and Herzegovina could become a candidate for accession'*.[1] At the EU-Western Balkans summit which took place in Sofia in May 2018, EU leaders reaffirmed their unequivocal support for the European perspective of the Western Balkans, and the Western Balkan partners recommitted to this perspective as their firm strategic choice. The EU leaders agreed on the Sofia Declaration and the Sofia Priority Agenda, outlining new measures for enhanced cooperation with the region in key areas such as security, rule of law and migration

In the Opinion, the Commission assesses Bosnia and Herzegovina's application on the basis of the country's capacity to meet the criteria set by the European Council in Copenhagen in 1993, as well as in Madrid in 1995, notably regarding the country's administrative capacity and the conditions of the Stabilisation and Association Process (SAP). The Opinion also takes

[1] European Commission, Communication on a credible enlargement perspective for and enhanced EU engagement with the Western Balkans, 6 February 2018, COM(2018) 65 final, https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf.

into account Bosnia and Herzegovina's track record in implementing its obligations under the SAA, which entered into force on 1 June 2015.

In June 1993, in Copenhagen, the European Council concluded that:

'Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions required.

Membership requires:

– that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

– the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;

– the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union'.

The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.

In December 1995, in Madrid, the European Council referred to the need *'to create the conditions for the gradual, harmonious integration of [the applicant] countries, particularly through the development of the market economy, the adjustment of their administrative structures and the creation of a stable economic and monetary environment'*.

In December 2006, the European Council agreed that *'the enlargement strategy based on consolidation, conditionality and communication, combined with the EU's capacity to integrate new members, forms the basis for a renewed consensus on enlargement'*.

For the Western Balkans, the Council defined on 31 May 1999 the specific conditions under the SAP. These include cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) and regional cooperation. These conditions are integrated as a fundamental element into the SAA.

The Opinion has been prepared following a methodology similar to that used in previous Opinions. The Commission delivered a total of 3 897 questions covering all EU policies to Bosnia and Herzegovina. It took the country 14 months to answer the initial 3 242 questions and 8 months to reply to the 655 follow-up questions. Despite the establishment of a coordination mechanism on EU matters, the authorities could not agree to submit answers to 22 questions: 1 on the political criteria, 4 on regional policy, and 17 on education policies.

The Commission organised a number of expert missions to Bosnia and Herzegovina with a special focus on the areas covered by the political criteria. The Commission also took into account the contributions received from the consultations held with stakeholders such as civil society organisations, international organisations and EU Member States. This approach allowed the Commission to assess the administrative capacity of Bosnia and Herzegovina institutions and the way legislation is implemented. It also helped to better identify remaining challenges and priorities for future action. The Commission has analysed the current situation and has provided guidance to address issues in the short term as well as in the longer term.

In line with the renewed consensus on enlargement, this analytical report provides initial estimates of the impact of the future accession of Bosnia and Herzegovina in some key policy areas. The Commission will provide more detailed impact assessments for these policy areas at later stages of the pre-accession process. In addition, an EU accession treaty for Bosnia and

Herzegovina would involve technical adaptation of the EU institutions in the light of the Treaty on European Union.

2. Relations between the EU and Bosnia and Herzegovina

Relations between the EU and Bosnia and Herzegovina have developed since the independence of the country in 1992 and the signature of the General Framework Agreement for Peace (GFAP) at Dayton/Paris in 1995.

Bosnia and Herzegovina is participating in the Stabilisation and Association Process (SAP). The **Stabilisation and Association Agreement** between Bosnia and Herzegovina and the EU was signed on 16 June 2008 in Luxembourg, along with an **Interim Agreement**, which as of 1 July 2008 regulates trade and trade-related matters. While ratified by all EU Member States by February 2011, the SAA could not enter in force, since Bosnia and Herzegovina had not fulfilled the condition that was set on the compliance with the 2009 decision of the European Court of Human Rights (ECtHR) in the *Sejdić-Finci* case. Such ruling requires the country to amend the Constitution to remove discriminatory provisions from the electoral rules for the Presidency and the state-level House of Peoples.

In December 2014, the Council agreed on a renewed approach to Bosnia and Herzegovina, without changing the EU accession conditions, including the implementation of the decision of the ECtHR in the *Sejdić-Finci* case, and invited the Vice President/High Representative Mogherini and Commissioner Hahn to engage with the political leaders to secure their irrevocable commitment to undertake reforms towards EU accession.[2] Following the agreement upon a written commitment by the Presidency of Bosnia and Herzegovina in January 2015, its signature by the leaders of the 14 parliamentary parties and its endorsement by the Parliamentary Assembly, in March 2015 the Council agreed to the entry into force of the SAA, which started on 1 June 2015. With the entry into force of the SAA, Bosnia and Herzegovina opened a new chapter in its relations with the EU and confirmed its commitment to pursue EU accession. By establishing contractual relations among the parties, the SAA provides a framework of mutual commitments on a wide range of political, trade and economic issues as well as the legal basis for formalised policy dialogue.

The EU provides guidance to the country on reform priorities on the EU membership path. Political and economic dialogue between the European Commission and Bosnia and Herzegovina has been taking place since 2009 under the Interim Agreement, and since 2015 under the SAA.[3] Policy dialogue on the rule of law has taken place since 2011 in the context of the 'structured dialogue on justice', and since 2016 in the framework of the subcommittee on justice, freedom and security. A special group on public administration reform has also been meeting since 2017.

Bosnia and Herzegovina has developed appropriate administrative capacities to ensure the implementation of the SAA provisions, in particular concerning the smooth operation of the Stabilisation and Association Council, Committee and sectoral sub-committees. The protocol adapting the SAA to take into account the accession of Croatia to the European Union has been provisionally applied since 1 February 2017 and entered into force on 1 October 2017.

[2] Council of the European Union, Press release of the 3361st Council meeting, 15 December 2014, 16928/14, https://www.consilium.europa.eu/media/24768/146293.pdf.

[3] Policy dialogue between the European Commission and Bosnia and Herzegovina takes place within the framework of sectoral sub-committees on: trade, industry, customs and taxation; agriculture and fisheries; internal market and competition; economic and financial issues and statistics; innovation, information society and social policy; transport, environment, energy and regional development; justice, freedom and security.

However, concerns remain. To meet its legal obligations under the Agreement, Bosnia and Herzegovina needs, among other things, to ensure the functioning of the parliamentary dimension of the Agreement, and adopt a national programme for the adoption of the EU *acquis*.

The parliamentary dimension of the SAA is not properly functioning. The Stabilisation and Association Parliamentary Committee was established in November 2015 as part of the SAA bodies, but it failed to adopt its rules of procedure due to the insistence of some delegates from Bosnia and Herzegovina on the inclusion of ethnic voting provisions not in line with European standards. In spite of this, the European Parliament regularly discusses and adopts resolutions on the situation and developments in view of Bosnia and Herzegovina's EU path.

Bosnia and Herzegovina participates in an economic dialogue with the Commission and the EU Member States. The country submits every year to the Commission a medium-term **Economic Reform Programme** (ERP) setting out plans to strengthen macro-fiscal stability and tackle structural obstacles to growth. On the basis of the ERP, Bosnia and Herzegovina meets every year with the Commission, EU Member States and all other enlargement countries at the Economic and Financial Dialogue. This dialogue on economic governance is meant to prepare the country for its future participation in EU economic policy coordination, including the European Semester process. However, largely as a result of insufficient cooperation among key ministries and bodies at various levels within the country, the quality of the programme is low and the implementation of the jointly adopted policy guidance, which is a central part of the process, is limited.

Between 2015 and 2018 Bosnia and Herzegovina embarked on an ambitious 'reform agenda' to bring back economic growth and jobs opportunities. Its implementation allowed economic indicators and the macroeconomic situation to improve, including balanced public finances and steady economic growth. A new set of socio-economic reform measures needs to be agreed and implemented by the governments at all levels in the country, in full alignment with the ERP and the jointly agreed policy guidance.

Bosnia and Herzegovina started negotiations for **visa liberalisation** in 2008. Following a decision of the Council in consultation with the European Parliament, citizens of Bosnia and Herzegovina enjoy visa-free travel to the Schengen area as of November 2010. This decision was based on substantial progress in the areas of justice, freedom and security and fulfilment of the 174 specific conditions set out in the roadmap for visa liberalisation, such as the introduction of biometric passports. The Commission monitored and reported regularly on its implementation. The Commission presented its second report under the visa suspension mechanism in December 2018.[4] Overall, Bosnia and Herzegovina continues to fulfil the visa liberalisation benchmarks. An agreement on readmission has been in force since January 2008.

Bosnia and Herzegovina ratified the Energy Community Treaty in September 2006, the European Common Aviation Area Agreement in July 2007, and the Transport Community Treaty in April 2018.

The SAA and its Interim Agreement, applied since 2008, have allowed progressive **trade** liberalisation and mutual duty-free access for most goods. Since 2000 Bosnia and Herzegovina has also been benefiting from the 'autonomous trade measures'. Bosnia and Herzegovina joined the Central European Free Trade Agreement (CEFTA) in 2007. The negotiations for its accession to the World Trade Organisation are in the final stage. The EU is

[4] European Commission, Second report under the visa suspension mechanism, 19 December 2018, COM(2018) 856 final, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf.

the main trading partner of Bosnia and Herzegovina, followed by CEFTA countries. Trade integration with the EU is high. In 2017, 61% of the country imports worth EUR 5.6 billion originated from the EU (12% from CEFTA). Of the country exports, 71% went to the EU (15% to CEFTA). The country's trade deficit with the EU amounted to EUR 1.7 billion in 2017.

The EU deploys considerable resources in Bosnia and Herzegovina under the **common foreign and security policy** and the **common security and defence policy**. The enhanced presence ensured since 2011 by the combined Office of the EU Special Representative and EU Delegation in Bosnia and Herzegovina is instrumental in communicating EU priorities to the citizens of the country and in implementing the objectives of the EU agenda in key areas. Since December 2004 the EU has deployed the EUFOR Althea military operation in the country, helping to build capacities and train the armed forces of Bosnia and Herzegovina. This is in line with the strategic intent expressed by the Ministry of Defence to develop operational capabilities of dual use in support of civil authorities for the removal of physical remnants of war or disaster relief and deployment in peace support operations overseas. At the same time, EUFOR Althea has deterrence capacity to support a safe and secure environment. In November 2018, the UN Security Council extended for the fourteenth time EUFOR Althea's yearly mandate until November 2019. A framework agreement on the participation of Bosnia and Herzegovina in EU crisis management operations has been in place since September 2015.

The EU provides significant **financial assistance** to Bosnia and Herzegovina, which over the years allowed the country to recover from wartime destruction and to re-establish itself as a catching-up economy. From 1996 to 2000 Bosnia and Herzegovina benefited from EU financial assistance under the PHARE and OBNOVA programmes. From 2000 to 2007 the CARDS regulation foresaw financial support tailored to SAP priorities. Since 2007 Bosnia and Herzegovina benefits from EU assistance mainly under the Instrument for pre-accession assistance (IPA). Over the 2007-18 period, Bosnia and Herzegovina received EUR 1.5 billion from the EU, of which an estimated EUR 433 million from regional programmes. Since 2000 the European Investment Bank awarded EUR 2.4 billion in loans to support projects in Bosnia and Herzegovina. The EU Delegation to Bosnia and Herzegovina is responsible for implementing EU financial assistance via direct management as well as for ensuring the coordination of assistance with EU Member States. Implementation of the IPA I and IPA II programmes is ongoing. The indicative strategy paper for Bosnia and Herzegovina 2014-17 was revised in 2018 to include several additional sectors and extend it until 2020. Sector strategies are in place for environment, energy, transport and rural development, enabling IPA support in those sectors. The adoption of countrywide strategies such as on public financial management and on employment remains a key requirement for Bosnia and Herzegovina to benefit fully from IPA funding in 2018-20.

Bosnia and Herzegovina has progressively extended its participation to **EU programmes**, which has been partly co-financed via IPA funds. Bosnia and Herzegovina currently takes part in COSME, Creative Europe, Customs 2020, Europe for Citizens, Erasmus+, Fiscalis 2020, Horizon 2020, and the Third Programme for the Union's action in the field of health. Bosnia and Herzegovina also takes part in the **INTERREG** programme.

3. Contents of the analytical report

The analytical report takes into account the conclusions of the European Council in Copenhagen in 1993 and subsequent European Council conclusions.

The report:

- describes the relations between Bosnia and Herzegovina and the Union;
- analyses the compliance of Bosnia and Herzegovina with the political conditions established by the European Council (democracy, rule of law, human rights, protection of minorities; regional issues and international obligations);
- assesses the country's situation and prospects in respect of the economic conditions established by the European Council (functioning market economy, capacity to cope with competitive pressure);
- addresses the country's overall capacity to uphold the obligations of membership, i.e. the full body of EU law as expressed in the Treaty, the secondary legislation, and also the policies of the Union (*acquis* of the European Union);
- provides, in line with the December 2006 European Council conclusions, initial impact estimates in the fields of freedom of movement for workers (chapter 2), agriculture and rural development (chapter 11), regional policy and coordination of structural instruments (chapter 22), and financial and budgetary provisions (chapter 33). These have been identified as the main policy areas likely to require particular attention in the case of Bosnia and Herzegovina accession.

In assessing Bosnia and Herzegovina's situation with regard to the economic criteria and its capacity to assume the obligations of the *acquis*, the Commission has also estimated the progress which could reasonably be expected in the years ahead, before possible accession, taking account of the fact that the *acquis* itself will continue to develop.

As for previous Opinions, the Commission has drawn on a number of sources of information, starting with the answers provided by Bosnia and Herzegovina to a detailed questionnaire and additional follow-up questions. The Commission also took into consideration:

- reports of expert missions;
- reports by the Member States' embassies in Sarajevo;
- reports by the European Parliament;
- assessments by international organisations (including Council of Europe, Organisation for Economic Cooperation and Development, Organisation for Security and Cooperation in Europe, International Monetary Fund, World Bank);
- assessments by local and international non-governmental organisations;
- information submitted to the Commission by citizens of Bosnia and Herzegovina.

The Commission organised a large number of expert missions and peer reviews in Bosnia and Herzegovina with EU Member States' experts focusing on rule of law and fundamental rights matters as part of the political criteria. This methodology also allowed the Commission to prepare a sound assessment of the administrative capacities of the country institutions and of the implementation of legislation, in order to identify the key challenges and priorities for future action. The Commission has analysed the current situation and provided in this analytical report a comprehensive number of short-term priorities as well as structural issues which Bosnia and Herzegovina must address on its path towards EU accession.

B CRITERIA FOR MEMBERSHIP

1. POLITICAL CRITERIA AND RULE OF LAW ISSUES

1.1. Functioning of democratic institutions and Public Administration Reform

1.1.1 Democracy

Constitution

The Constitution of Bosnia and Herzegovina is an integral part of the General Framework Agreement for Peace (GFAP) (Annex IV), and establishes Bosnia and Herzegovina as a parliamentary democracy in which the executive powers are exercised by the Presidency and the Council of Ministers, and the legislative powers by the Parliamentary Assembly. The Constitution sets out the internal structure of the country as a state consisting of two entities, the Federation of Bosnia and Herzegovina and *Republika Srpska* as well as the Brčko District.[5]

The Constitution guarantees the **fundamental principles** of a democratic state, including the rule of law, free elections and the protection of human rights. It emphasises full freedom of movement of persons, goods, services, and capital throughout Bosnia and Herzegovina. The Constitution commits Bosnia and Herzegovina to ensuring the highest level of internationally recognised human rights and fundamental freedoms and stipulates that the rights and freedoms set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols are directly applicable and have priority over all other law. In its decisions U-5/04 and U-13/05 the Constitutional Court clarified that the ECHR does not have priority over the Constitution. The Constitution also commits Bosnia and Herzegovina to non-discrimination in the enjoyment of rights and freedoms, and establishes the right of all refugees and displaced persons to return freely to their homes of origin, including property restoration or compensation.

The Preamble to the Constitution lists 'Bosniacs, Croats, and Serbs, as constituent peoples (along with Others), and citizens of Bosnia and Herzegovina' as determining the Constitution. In its decision U-5/98 the Constitutional Court held that the Preamble contains a constitutional principle of equality of 'constituent peoples', which prohibits any privilege or domination of any group over the others in any parts of the country, establishing Bosnia and Herzegovina as a democratic multi-ethnic state. Entity constitutions and laws have been amended to be brought in line with the Constitution, to ensure equality and non-discrimination among members of constituent peoples across the whole country.

The Constitution enumerates the **competences** expressly assigned to the State, and attributes all other powers to the entities. As provided for by the Constitution and where relevant confirmed by the Constitutional Court, state-level competences also include powers that have been gradually attributed to or assumed by the State on the basis of transfer agreements concluded between the entities; of Annexes V through VIII to the peace agreements; and of implied powers when necessary to preserve the sovereignty, territorial integrity, political independence, and international legal personality of Bosnia and Herzegovina. The Constitution provides that additional institutions may be established as necessary to carry out such responsibilities.

[5] Following the final award of international arbitration, the Brčko District was established in 1999 as a unit of local self-government under the direct sovereignty of Bosnia and Herzegovina's state institutions. Since 2006, entity laws do not apply in the Brčko District anymore. The Constitution of Bosnia and Herzegovina was amended for the first time in 2009 to reflect the Brčko final award. The Constitution of the Federation entity also establishes 10 cantons as federal units of the entity, with extensive legislative competences.

Frequent disputes on the distribution of competences between the State and the entities affect their effective exercise and therefore the alignment of legislation with the *acquis* and its implementation in a large number of chapters. To prevent such systematic disputes and ensure effective implementation of the *acquis*, Bosnia and Herzegovina needs to ensure legal certainty on the distribution of competences among the levels of government.

There is also no procedure in the Constitution providing for the state level to prevent and remedy breaches of EU law by other levels of government. While the *acquis* may be implemented by other levels of government, according to the case-law of the European Court of Justice the liability for breaches of EU law rests with the State as a whole. To ensure the full compliance with EU membership obligations, a substitution clause should be introduced to allow the State upon accession to temporarily exercise competences of other levels of government to prevent and remedy breaches of EU law for which Bosnia and Herzegovina would be held liable as a whole.

The entities, cantons and Brčko District are obliged to fully comply with the Constitution, which has primacy over entity constitutions and laws. They must also comply with all decisions of the state-level institutions. The Constitution requires the entities to provide all necessary assistance to the government of Bosnia and Herzegovina in order to enable it to honour the country's international obligations.

The Constitution provides for the **separation of legislative and executive powers**. It guarantees specific collective rights for the members of the constituent peoples in the composition and decision-making procedures of the legislative and executive bodies.

The Parliamentary Assembly is composed of a directly elected lower house, the House of Representatives, and of an indirectly elected upper house, the House of Peoples, which comprises five members for each constituent people, elected among the members of the entity-level upper houses. Both chambers need to approve all legislation with at least one third of members elected from each entity voting in favour ('entity voting'). In the House of Peoples, a majority of members from each constituent people may declare a decision to be 'destructive' of their vital interest ('vital national interest' veto). Such ethnic-based veto rights affect the work of the Parliamentary Assembly, risking to delay the legislative process.

The Constitution may be amended by a decision of the Parliamentary Assembly, which must be taken by a two-thirds majority of those present and voting in the House of Representatives and a qualified majority of the House of Peoples. The protection of human rights and fundamental freedoms established in the Constitution cannot be derogated.

The Constitution establishes a collective **head of state** of Bosnia and Herzegovina, the Presidency, composed of one Bosniak and one Croat member, each directly elected from the territory of the Federation entity, and one Serb member directly elected from the territory of the *Republika Srpska* entity. The Presidency is in charge of foreign policy and international representation of the country, and has civilian command authority over the armed forces.

Citizens who do not declare themselves as Bosniaks, Croats or Serbs, as well as Serbs living in the Federation entity and Croats and Bosniaks living in the *Republika Srpska* entity, cannot stand for election to the Presidency or to the state-level House of Peoples. Since 2009 the European Court of Human Rights (ECtHR) has established in the *Sejdić-Finci, Zornić, Pilav* and *Šlaku* decisions that these restrictions are in violation of the ECHR and its Protocols.[6]

[6] European Court of Human Rights, decisions in the cases of *Dervo Sejdić and Jakob Finci* v. *Bosnia and Herzegovina* (27996/06 and 34836/06 of 22 December 2009); *Azra Zornić* v. *Bosnia and Herzegovina* (3681/06 of 15 July 2014); *Ilijaz Pilav* v. *Bosnia and Herzegovina* (41939/07 of 9 June 2016); and *Samir Šlaku* v. *Bosnia and Herzegovina* (56666/12 of 26 May 2016).

Significant reforms are needed to ensure that all citizens can effectively exercise their political rights, irrespective of their ethnicity and residence.

As for the **executive**, the Constitution establishes a Council of Ministers as government of Bosnia and Herzegovina, whose Chair is nominated by the Presidency and assumes office upon approval of the whole Council of Ministers by the House of Representatives. Two thirds of ministers are appointed from the Federation entity and one third from the *Republika Srpska* entity. The Chair and its two deputies must declare themselves as members of one of the constituent peoples each, and at least one position should also be allocated to a member of the 'Others' within the Council of Ministers or as its Secretary-General.

Save for the Constitutional Court, the **judiciary** is not explicitly mentioned in the Constitution but is regulated in the entity constitutions and in the Brčko District Statute. The judiciary in Bosnia and Herzegovina is organised into four systems (State, entities and Brčko District), each of them having its own jurisdiction and internal institutional structures.

The self-regulatory body of the judiciary, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC), is tasked with guaranteeing its independence. The HJPC was established in 2004, replacing entity-level judicial and prosecutorial councils, on the basis of a transfer agreement from the entities, confirmed by the Constitutional Court. The Court of Bosnia and Herzegovina and the Prosecutor's Office have been established in the period 2000-04 to fulfil the constitutional obligations of the State. The Constitutional Court confirmed their compliance with the Constitution in 2001. A separate state-level court of appeal is missing. The independence of the judiciary is not sufficiently guaranteed to shield it from all forms of politicisation and pressures. The Constitution needs to explicitly guarantee the independence of the judiciary and provide an explicit constitutional basis for the HJPC and the state-level court system.

The Constitution does not provide for a supreme court. The consistency of case-law across the four legal orders is promoted by voluntary harmonisation panels among the highest court instances, which issue guidelines. To safeguard the principle of independence of all judges, the consistency of case-law should rather be ensured through decisions of higher courts. Ultimately, Bosnia and Herzegovina needs to establish a judicial body to ensure the consistent interpretation of the law and the harmonisation of case-law, while fully ensuring the principle of independence of all judges.

The **Constitutional Court** is the final authority as regards interpretation of the Constitution. The Court possesses exclusive jurisdiction to decide on disputes arising between entities or between the state level and the entities or between institutions, including on compliance of the entities' constitutions or laws with the Constitution. Through its appellate jurisdiction over constitutional issues arising out of a judgment or pursuant to the request of any other court, the Constitutional Court is competent to decide whether a judgement or law complies with the Constitution, the ECHR, the legislation and the general rules of public international law. The Constitutional Court also takes final decisions on motions for the protection of the 'vital national interest' of constituent peoples brought by the Parliamentary Assembly.

The Constitutional Court is composed of nine judges, of which six are elected by the entity assemblies (four by the House of Representatives of the Federation entity, and two by the *Republika Srpska* National Assembly), and three are international judges appointed by the ECtHR President after consulting the Presidency. They remain in office until the age of 70. There are no specific criteria for their appointment, such as age or judicial experience, save for the eligibility requirement of being recognised as 'distinguished jurists of high moral standing'. Entity constitutions provide that judges are appointed by simple majority of the entity assemblies, which risks leading to politicised and ethnic-based appointments. The

professionalism and independence of Constitutional Court judges need to be strengthened, starting with improving their eligibility criteria and appointment procedures. The issue of international judges in the Constitutional Court needs to be addressed. The Constitution provides that the Parliamentary Assembly may decide by law a different method of selection of the three judges selected by the ECtHR President. Enacting this provision might ensure a stronger domestic participation in their selection process.

The decisions of the Constitutional Court are final and binding for all competent authorities, legal persons and individuals. The criminal code qualifies their non-implementation as a criminal offence. As of May 2019, eight decisions remain not implemented, without leading to prosecutions or convictions. Once the deadline for implementation expires, the Constitutional Court adopts a ruling on non-enforcement which repeals the unconstitutional legal provision. This practice risks creating a legal vacuum if the parliament does not adopt a compliant provision in due time.

The Constitutional Court has a key role in interpreting the Constitution and solving conflicts of competence between different levels of government which hamper legislative activity and the alignment with the acquis. The Court needs to be able to take a proactive and independent role, and its judges must act with full impartiality.

Annex VI to the GFAP provided for an internationalised Human Rights Commission, including the Ombudsman for Human Rights and the Human Rights Chamber. The Human Rights Chamber was later transformed into the Human Rights Commission within the Constitutional Court and discontinued by mid-2007. Since 2001 domestic institutions have assumed responsibility over the Institution of the **Ombudsman for Human Rights**, which is currently the national human rights institution, equality body, and supervisory body on freedom of access to information.

The Constitution establishes the **Central Bank** of Bosnia and Herzegovina as the sole authority for currency and monetary policy. Its governing board is composed of five persons and is appointed by the Presidency for a six-year term. The board chooses the Governor from among its members. Its goals and tasks, including monetary stability and managing the currency board between the euro and the Bosnian Mark, are laid down in the 1997 Law on the Central Bank. The Central Bank also coordinates the activities of the entities' banking agencies which are in charge of bank licensing and supervision. (*Also see chapter 17*)

The **Supreme Audit Office** is responsible for external audit at the state level. The two entities and the Brčko District also have their audit institutions. The functional, operational and financial independence of the supreme audit institutions needs to be guaranteed. (*Also see chapter 32*)

Annex X to the Dayton Peace Agreement established the Office of the international **High Representative** (OHR) as the final authority on the interpretation of the civilian aspects of the implementation of the peace agreement. Based on the 1997 conclusions of the Peace Implementation Council in Bonn, the OHR has been granted extensive powers to decree legislation in the place of domestic institutions and to remove from office those public officials who did not fulfil their duty to implement the peace agreement, including as regards cooperation with the ICTY. The OHR 'Bonn powers' were last used in 2011. In its 2005 opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative,[7] the Council of Europe's European Commission for Democracy through Law (Venice Commission), although recognising the use of the Bonn powers as beneficial for

[7] European Commission for Democracy through Law (Venice Commission), Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative, 11 March 2005, CDL-AD(2005)004, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2005)004-e.

post-war Bosnia and Herzegovina, noted that 'such an arrangement is fundamentally incompatible with the democratic character of the state and the sovereignty' of Bosnia and Herzegovina, in particular since these powers may be exercised without due process and judicial control. Such extensive international supervision is in principle incompatible with the sovereignty of Bosnia and Herzegovina and therefore with EU membership. A process towards closing the OHR has been underway since 2008; its outcome depends on an agenda of five objectives and two conditions[8].

The constitutions of the **two entities** and the statute of the **Brčko District** provide for the internal organisation and separation of powers at their level of government. While the *Republika Srpska* entity is a single administrative unit, the Federation entity consists of 10 cantons, entrusted with shared and exclusive legislative competences. The entity and cantonal constitutions, as well as the Brčko District statute, have been amended multiple times either by their respective legislatures or by decisions of the OHR. Each entity has its own constitutional court that ensures that legislation complies with the entity constitution, and which is the final instance on motions of vital national interest of constituent peoples brought by the respective entity or cantonal legislature. The constitutional court of the Federation entity is also competent to decide on disputes of competence between entity and cantons.

Overall, the **Constitution** of Bosnia and Herzegovina enshrines the basic principles necessary for a parliamentary democracy based on the rule of law, protection of human rights and division of powers. However, the Constitution needs to be amended to be brought in line with EU membership requirements. The complex constitutional architecture and the frequent disputes on the distribution of competences between levels of government affect the alignment of legislation with the *acquis* and its implementation in a large number of chapters. Bosnia and Herzegovina needs to ensure legal certainty on the distribution of competences across levels of government, and introduce a substitution clause to allow the state to temporarily exercise competences of other levels of government to prevent serious breaches of EU law for which the country would be held liable as a whole. All administrative bodies entrusted with implementing the acquis need to be based only upon professionalism and ethnic-based veto rights in their decision-making need to be removed.

The Constitution contains ethnic and residence-based provisions that are not in line with the ECHR and its Protocols. These concern the appointment, composition and decision-making procedures of the head of state and the executive and legislative bodies, as certain electoral rights are reserved for citizens who affiliate to the 'constituent peoples' – Bosniaks, Croats and Serbs. Significant incremental reforms are needed to ensure that all citizens can effectively exercise their political rights, in compliance with the *Sejdić-Finci* case-law of the ECtHR. Ethnic-based veto rights also adversely affect the work of the Parliamentary Assembly and of entity legislatures.

The Constitution needs to explicitly guarantee the independence of the judiciary, including the Court of Bosnia and Herzegovina, the Prosecutor's Office and the High Judicial and Prosecutorial Council as the self-governance institution of the judiciary.

Bosnia and Herzegovina needs to strengthen the professionalism and impartiality of constitutional judges and the independence of the Constitutional Court, and ensure sustained compliance with its decisions at all levels of authority. The issue of international judges in the Constitutional Court needs to be addressed. The executive powers of the Office of the High Representative needs to be phased out, as such an extensive international supervision is in principle incompatible with EU membership.

[8] Office of the High Representative, Agenda 5+2, http://www.ohr.int/?page_id=1318.

Parliament

Elections in Bosnia and Herzegovina are overall organised in an orderly manner and genuinely competitive, but are characterised by segmentation along ethnic lines. The legal framework is generally conducive to holding democratic elections, but the effective exercise of the voting rights of all citizens is not fully ensured.

The right to stand for election to the Presidency and the House of Peoples is restricted on the basis of ethnicity and residence, which is in breach of European standards, as the ECtHR has held since 2009 in its *Sejdić-Finci* case-law. Residents of the city of Mostar have not been able to vote in local elections since 2008, as the Parliamentary Assembly has not been able to replace the electoral provisions repealed in 2010 by the Constitutional Court. The Parliamentary Assembly also failed to revise the Electoral Law in line with the 2016 *Ljubić* decision of the Constitutional Court on the Federation entity House of Peoples, leading to further legal uncertainty. The results of the October 2018 general elections were implemented following an ad hoc decision by the Central Electoral Commission.

The electoral legislation was last amended in May and June 2016 to address some of the shortcomings identified by the OSCE/ODIHR and Council of Europe's Group of States against Corruption (GRECO) on campaign financing, the deregistration process of parties and independent candidates, the threshold for distribution of mandates on candidate lists, and fines for violating the election process. However, there is no strategy to address other outstanding recommendations, including the need for several levels of authority to regularly review constituency boundaries.

The country needs to conduct a comprehensive review of the election legislation to ensure compliance with ECtHR and Constitutional Court decisions and to ensure the transparency and legitimacy of the election process and outcomes. Persistent shortcomings include in particular those identified by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE) in the final report of its 2018 election observation mission.

The lack of transparency of media ownership and the influence of political and business interests over editorial policies raise concerns about the ability of most media to provide unbiased political coverage. Public broadcasters generally provide electoral contestants with free airtime during the official campaign period; however, some provide significant coverage to only one party or candidate.

The total number of registered voters in 2018 was 3 352 933. There are no women party leaders. At the 2018 elections, among the 7 497 candidates, 4 378 were men and 3 119 women (41%).

The **Parliamentary Assembly** of Bosnia and Herzegovina is a bicameral legislature. The lower house, the House of Representatives, is directly elected and consists of 42 members of which 33 men and 9 women (21%) in 2018. The upper house, the House of Peoples, consist of 15 members, 5 for each constituent people, indirectly elected from among the members of entity assemblies, of which 12 men and 3 women (20%) in 2018.

Each chamber requires as quorum the presence of at least 22 members out of 42 in the House of Representatives and of 9 members (3 for each constituent people) in the House of Peoples.

Both chambers need to approve all legislation with at least one third of members elected from each entity voting in favour ('entity voting'). In the House of Peoples, a majority of members from each constituent people may declare a decision to be 'destructive' of their vital interest ('vital national interest' veto). This term is not clearly defined and can therefore be very

broadly interpreted. The veto procedure also often requires the involvement of the Constitutional Court, thus risking to lead to delays in adopting legislation. The mere existence of a veto right is a deterrent to tabling legislative initiatives, including in the EU integration process, and should be clearly delimited at all levels. Such ethnic-based veto procedures adversely affects the work of the Parliamentary Assembly, risking to delay the legislative process.

An urgent procedure which includes only one reading but no amendments nor public debates is used for legislative proposals with a high degree of urgency or formulated in such a simplified way that they can be adopted or rejected in their entirety. Urgent procedures for the adoption of legislation have been used 36 times in the Parliamentary Assembly over the past five years.

The right of legislative proposal is granted to each Member of Parliament, as well as to committees, the Council of Ministers and the Presidency. Citizens may also submit legislative initiatives to the authorised proponents for consideration.

Parliament's oversight and control over the executive is primarily exercised through the right of its members to hold hearings, initiate reports, ask questions, submit initiatives and table interpellations, as well as establish thematic committees of inquiry. The parliamentary committees may decide to put a legislative proposal or a specific issue to a public debate.

Members of Parliament can table a vote of no-confidence on the Council of Ministers or its members. The motion requires at least three delegates from the House of Peoples or eight members from the House of Representatives in order to be valid. In the 2014-2018 parliamentary term, the no-confidence mechanism was triggered several times to initiate the removal of individual ministers. The House of Representatives is also entitled to put the candidate ministers and Chair through a hearing process. There is no mechanism in place to ensure a comprehensive impact assessment of the proposed legislation at all levels, with the exception of a fiscal assessment of the budgets.

All administrative authorities and publicly-funded institutions are required to present their work plans and annual work reports to the legislative assemblies. The Parliaments may decide on their budget or take other appropriate corrective actions. The Parliamentary Assembly or its committees may at any moment ask the Audit Office to conduct a special audit.

The Joint Commission for Defence and Security supervises the Armed Forces, Border Police, State Investigation and Protection Agency, and the Directorate for Coordination of Police Forces. A dedicated joint commission oversees the activities of the Intelligence and Security Agency. The Parliamentary Assembly is particularly active in exercising parliamentary oversight in the supervision of financial and budget spending, human rights related issues, and intelligence, defence and security issues.

Members of Parliaments at all levels enjoy functional immunity, which excludes criminal and civil liability for acts they carry out within the official scope of duty. This is defined as actions stemming from responsibilities of individual office holders as prescribed in respective constitutions. Immunity may be lifted by a decision of the respective institution or a judicial organ, though no such instances have been recorded.

The rules of procedure of the Parliamentary Assembly require respect for gender balance in the appointment of members of the collegiums, as well as of the members of delegations to international organisations, although this is largely ignored. In the 2014-18 term, there were 33 women out of 156 members and 2 women out of 16 chairpersons in standing and joint parliamentary committees; 11 women out of 45 members and 2 women out of 9 chairpersons in inter-parliamentary delegations; and 1 woman was chairperson in the Collegium of both

houses out of six. Parliamentary committees have not yet been established following the October 2018 elections.

The eligibility requirements for standing for election to the parliamentary assemblies are defined by the election law. Any citizen, upon turning eighteen, has the right to vote and to be elected. However, citizens who do not declare themselves as Bosniaks, Croats or Serbs cannot be appointed to the state-level House of Peoples. The ECtHR has held since 2009 in its *Sejdić-Finci* case-law that these restrictions are in breach of the ECHR and its Protocols.

Any person serving a sentence imposed by the ICTY or by a domestic court, or serving a sentence for serious violations of humanitarian law imposed by a foreign court, is not eligible for political office. Ineligibility ends with the end of the sentence.

The replacement of members of Parliament during their mandate is allocated to the next candidate from the list of the same political party from the same electoral unit.

The Parliament of the Federation entity and the National Assembly of the *Republika Srpska* entity are also bicameral legislatures. The members of their indirectly elected upper houses have to declare themselves as Bosniaks, Serbs and Croats or 'Others'. The 10 cantons of the Federation entity and the Brčko District elect a unicameral legislative assembly. All legislative assemblies in Bosnia and Herzegovina have a four-year mandate and are elected on the same date. No early elections are possible. Mandates start on the day election results are published in the Official Gazette.

In the **Federation entity**, the Federation Parliament adopts legislation and the budget, and oversees the executive. For the 2018-22 term, its House of Representatives consists of 98 members, of which 70 men (71%) and 28 women (29%). Its House of Peoples includes 58 members (17 for each of the constituent people and 7 for the 'Others'), indirectly elected from among the members of the cantonal assemblies, of which 13 women (22%) in the 2018-22 term. In the 2014-18 term, 23 laws out of 94 were adopted in urgent procedure, or 24%. Parliamentary oversight is performed through the joint committee responsible for auditing. If a House decides to start an investigation, the Committee on human rights and freedoms and the Committee on security of the House of Peoples may oversee the investigation. The Parliament may dismiss the Government after a no-confidence vote; this procedure was used successfully in 2012, and unsuccessfully in 2015 and 2017. Gender equality committees are tasked with reviewing legislative proposals to ensure their compliance with domestic and international obligations on gender equality and non-discrimination.

In the ***Republika Srpska*** **entity**, the National Assembly and its Council of Peoples adopt legislation and the budget and oversees the executive. For the 2018-22 term, the National Assembly consists of 83 deputies, of which 63 men (76%) and 20 women (24%). The Council of Peoples includes 28 members (8 for each constituent people and 4 for the 'Others') elected among the members of the National Assembly which may raise the 'vital national interest' veto. Laws may be proposed by the President of the entity, the Government, each member or at least 3 000 voters. In principle, fast-track procedures are reserved to exceptional cases. Yet, in the 2014-18 term, 88 laws out of 200 were adopted in fast-track procedure (44%). There are no specific standing committees on oversight and control of the *Republika Srpska* entity government. At least one third of members may table a motion of no-confidence in the government, which must be approved by an absolute majority of MPs. The no-confidence vote was last used in 2006. The assembly has an equal opportunities committee.

The **Brčko District** Assembly, which adopt legislation and the budget and oversees the executive, has 31 seats, of which 2 reserved to members of national minorities. In the 2016-20 term two councillors are women (6%). Urgent procedures are used relatively frequently, with

14 laws out of 78 adopted in urgent procedure since January 2013 (18%). The mechanism of interpellation has been used on a number of occasions. The assembly may dismiss appointees and express a vote of no-confidence. It cast a vote to dismiss the Mayor in 2011. Its gender equality commission has a limited impact on the quality of legislation.

Each of the ten **cantons** of the Federation entity has an assembly in charge of adopting legislation and the budget and overseeing the cantonal government. Out of the 289 members of cantonal assemblies elected in 2018, 236 are men (82%) and 53 are women (18%). In the last five years, the urgent procedure was used for the adoption of 2 laws in Livno canton, 9 laws in Zenica-Dobo canton, 13 laws in Herzegovina-Neretva canton, 9 laws in West Herzegovina canton, 21 laws in Sarajevo canton, 4 laws in Una-Sana canton, 6 laws in Posavina canton; in Tuzla canton 26 laws were passed in urgent procedure in 2010-2016 and 13 in the last two years. Cantonal assemblies do not generally have a standing committee for oversight and control of the executive. They may express no-confidence in the cantonal government. This happened in Sarajevo canton once in 2012, in Bosnia-Podrinje canton twice in 2012, in Tuzla canton once in 2018, in Livno canton twice in 2013 and 2017, while the Central Bosnia and Posavina cantons have not used the vote of no-confidence in the last several terms. Western-Herzegovina, Herzegovina-Neretva and Una-Sana cantons have used no-confidence vote in the last 5 years. Three cantonal assemblies have not established a gender equality committee.

A joint concept of cooperation on EU matters provides for some cooperation between legislative assemblies at all levels. A parliamentary forum on European integration holds quarterly meetings on EU issues. Members of sectoral committees of the four parliaments are also active in joint activities about the EU integration process of the country. However, the parliaments and assemblies have little capacity to review and assess draft legislation for EU compliance leaving this task to the executive. This results in misunderstandings and controversies about what is requested to comply with the EU *acquis*. Such a lack of legal capacities to assume the obligations resulting from EU integration is even more significant at the level of cantons, as cantonal assemblies have weak or no capacities to assess legal compliance with EU *acquis*. All legislative assemblies, including at cantonal level, needs to significantly improve their cooperation, in particular to ensure a harmonised countrywide alignment process on the basis of a national programme for the adoption of the *acquis*.

Due to the insistence of some delegates from Bosnia and Herzegovina on including an ethnic voting provision not in line with European standards, the Stabilisation and Association Parliamentary Committee could not adopt its rules of procedure and meet regularly since. The Parliamentary Assembly needs to address this issue in order to meet the country's obligations regarding parliamentary cooperation with the EU under the SAA.

The Parliament and other legislative assemblies in Bosnia and Herzegovina are generally in a position to adopt legislation and exercise democratic control and oversight on the executives. Significant reforms are needed to ensure that all citizens can effectively exercise their right to vote and stand for election. Ethnic-based restrictions for election to legislative bodies need to be removed to comply with the ECtHR *Sejdić-Finci* case-law. Local elections in Mostar, which have not been held since 2008, need to be organised. Outstanding OSCE/ODIHR recommendations need to be addressed without delay to improve the integrity of the electoral process. Ethnic-based veto procedures also adversely affect the work of the Parliament and of the entity legislative assemblies, and should be reconsidered.

Legislative assemblies at state and entities level display a tendency to use urgent procedures to pass legislation related to the *acquis*, adversely affecting the quality of the legislative alignment. The assemblies should, in particular, ensure that adopted legislation includes

impact assessments and step up the oversight of the governments, including monitoring the implementation of legislation. The cooperation among legislative assemblies as well as their capacities to address challenges stemming from the process of alignment with the *acquis* are weak and should be significantly enhanced, if necessary by pooling resources countrywide.

Bosnia and Herzegovina needs to ensure the proper functioning of the Stabilisation and Association Parliamentary Committee.

Governance

The Constitution establishes a collective **head of state** of Bosnia and Herzegovina, the Presidency, which is in charge of matters such as conducting foreign policy and representing the country in international organisations, and has civilian command authority over the armed forces. The Presidency is composed of three members: one Bosniak member and one Croat member, both directly elected from the territory of the Federation entity, and one Serb member directly elected from the territory of the *Republika Srpska* entity. Citizens of Bosnia and Herzegovina who do not declare themselves as Bosniaks, Croats or Serbs, as well as Serbs living in the Federation entity, and Croats and Bosniaks living in the *Republika Srpska* entity, cannot stand for election to the Presidency nor be appointed to the state-level House of Peoples. The ECtHR has held since 2009 in its *Sejdić-Finci* case-law that these restrictions are in breach of ECHR and its Protocols.

The Presidency adopts its decisions by consensus or by two members out of three, when all efforts to reach consensus have failed. In such a case, the dissenting member may declare a decision to be 'destructive' of a 'vital interest' of the entity and the entity legislature (*Republika Srpska* National Assembly, Bosniak or Croat caucus of the Federation House of Peoples) may stop the decision by two-thirds majority.

The Presidency has set EU integration as the key strategic goal of Bosnia and Herzegovina as witnessed with the country's application for EU membership in February 2016 and the Presidency declaration of December 2018 recalling the institution's commitment for the country to join the European Union. However, the functioning of the Presidency is affected by the divergent positions of its members on foreign policy decisions or the future of Bosnia and Herzegovina as a sovereign country within its existing borders.

As for the **executive**, the Constitution establishes a **Council of Ministers** as government of Bosnia and Herzegovina. The Presidency nominates the Chair of the Council of Ministers, who then appoints the ministers and their deputies. Two thirds of ministers are appointed from the territory of the Federation entity and one third from the territory of the *Republika Srpska* entity. The Chair and its two deputies must declare themselves as members of one of the constituent peoples each. At least one position should also be allocated to a member of the 'Others' as within the Council of Ministers or as its Secretary-General. The Chair and the Council of Ministers assume office upon approval of the House of Representatives and are accountable to the Parliamentary Assembly. In the 2014-2018 term, the Council of Ministers included 2 women among the 9 ministers (22%) with responsibility over defence and over human rights and refugees.

At entity level, the **Federation Government** comprises a Prime Minister and 16 ministers, including two deputy prime ministers. Ethnic quotas require that eight ministers be Bosniaks, five Croats and three Serbs; one minister coming from among the 'Others' may be appointed from the Bosniak quota. The Prime Minister and its two deputies, selected from amongst the ministers, must declare themselves as members of one of the constituent peoples each. In the 2014-18 term, it included two women as ministers (12.5%).

The ***Republika Srpska*** **Government** comprises a President of the Government and 16 ministers. Ethnic quotas require that eight ministers be Serbs, five Bosniaks and three Croats; one minister coming from among the 'Others' may also be appointed. In the 2014-18 term, it included three women ministers (18.5%) and a woman prime minister.

Each entity also has its own President and two vice-presidents, which must not be affiliated with the same ethnic groups of the Bosniaks, Croats and Serbs. The Constitutional Court has found this restrictions discriminatory in its decision U-14/12. In the absence of broader institutional reforms, such decision has not been implemented. Since 2018, a woman is President of the *Republika Srpska* entity.

In the **Brčko District**, the executive authority is the Mayor, who is elected by the District Assembly and presides the District government. Each of the ten **cantons** has a cantonal government with a prime minister and cantonal ministers. Cantonal governments must be confirmed by majority vote in seven of the cantonal assemblies, and by a two-thirds majority in Central Bosnia, Herzegovina Neretva and Canton 10.

The *participation of women* in the executives across the country stands at around 20%, with Tuzla canton scoring highest at 25%, and Herzegovina Neretva canton lowest with no woman.

The constitutional and legislative framework providing for *coordination on EU matters* in Bosnia and Herzegovina is broadly in place. The Chair of the Council of Ministers ensures cooperation between the Council of Ministers, the entities and other levels of government in the country. A Directorate for European Integration has been established in 2003 as the standing body of the Council of Ministers in charge of coordinating activities and supervising the implementation of decisions relevant for European integration. The Directorate's activities include coordinating EU affairs and legal approximation with the *acquis*, assessing compliance with the *acquis*, and coordinating EU assistance. The Directorate's coordination role, which is particularly important in view of the increasing workload resulting from the EU integration process, needs to be strengthened. The Directorate needs to be provided with the necessary political support to perform its mandated tasks.

In August 2016 Bosnia and Herzegovina established a system of coordination in the process of European integration. This 'coordination mechanism' aims at providing the country with a consistent position on all EU matters, including for the purpose of participation in the SAA bodies. The coordination mechanism involves over 1 400 civil servants from the 14 executives at all levels; the Directorate for European Integration acts as its secretariat. It includes 36 working groups covering all chapters of the *acquis*, as well as the political and economic criteria. A Commission for EU integration discusses and agrees on issues that could not be addressed at the level of the working groups. At the highest political level, a Collegium for European integration (comprising the heads of government of the State, the two entities and the Brčko District) discusses and agrees on issues which could not be addressed at other levels. Decisions taken under the coordination mechanism are not legally binding. Once an agreement is reached through the coordination mechanism, the 14 executives need to formally validate the decisions. The coordination mechanism was used in 2017/18 to deliver the answers to the Commission's questionnaire for the preparation of the Opinion, which were handed over in February 2018 as well as the answers to the follow-up questions in February 2019. The functioning of the mechanism needs to be improved in the light of lessons learned from the preparation of the answers to the Commission's questionnaire. Such process has highlighted the need to make full use of all the bodies of the coordination mechanism. A clear distribution of competences and enhanced cooperation between different levels of government will be essential for the successful management of the next stages of EU integration.

Bosnia and Herzegovina does not have a *national programme for the adoption of the acquis* (NPAA) or a similar strategic document as required under the SAA and needs to develop it as a priority. The NPAA needs to reflect the role of the different levels of government based on their respective legislative competences. In the absence of such a programme, Bosnia and Herzegovina cannot sufficiently ensure the approximation of legislation at all levels with the *acquis* as the distribution of competences is unclear. The annual work programmes of the governments at all levels are not sufficiently correlated with the implementation of the SAA and other relevant EU obligations; cooperation between different governments in approximation with the *acquis* and enforcement of the law is not ensured. The cantons have limited institutional capacity to deal with EU law approximation, implementation and enforcement.

In the two entities, different bodies are in charge of coordinating EU matters. Each cantonal government also has its own EU coordinator. While the Directorate for European Integration is responsible for assessing whether legislation adopted at state level complies with the *acquis*, the governments of the two entities and of the Brčko District conduct their own compliance assessment. This highly fragmented system may lead to discrepancies between the various levels of government and it is likely to prevent the country from adequately meeting its EU membership obligations, thus risking to significantly slow down the EU integration process of Bosnia and Herzegovina. The country should ensure that approximation with the EU *acquis* is done in a systematic and coherent manner in order to guarantee consistent application and enforcement of EU law.

The legislation provides for consultations with stakeholders in the preparation of legislative initiatives, including public consultations; this possibility is not efficiently used. Entity institutions may be involved in the legislative process at state level by participating in the related working groups, or by submitting written comments on a proposal. In the Federation entity, the legal framework provides for the possibility of close coordination and consultations between the Federation and cantons in preparing legislation in areas of shared competences but its implementation needs to be enhanced. At the same time, cantons do not consult the Federation entity on legislative initiatives, which may result in legislative divergences. In the *Republika Srpska* entity, the public may be consulted and participate on legislative initiatives. The transparency of the work of the government needs to be improved, in particular as regards restrictions to access to information. In the Brčko District, the Statute provides that local legislation be harmonised with state-level laws, but there is no institutionally established procedure for consultations with state-level authorities.

Local self-governance is regulated differently in the two entities, while most cantons also have their own laws on local self-governance. The basic form of local self-government is the municipality. Local self-government units have autonomy in performing their tasks. The *Republika Srpska* entity has a 2017-2021 strategy on development of local self-government, while there is no strategy on decentralisation at the state level or in the Federation entity. Municipalities in the *Republika Srpska* entity are tasked with the provision of services in the areas of education, social assistance, communal police and local roads, including the related financial responsibilities. In the Federation entity, most of such services are delivered by the cantons. The responsibilities of cantonal authorities may be delegated by law to cities and municipalities, taking into consideration the principle of subsidiarity, the capacity of the local authorities to efficiently carry out such activities, and the necessary financial allocations. Only 2 women have been elected mayor among the 79 mayors in the Federation entity and 5 among the 64 mayors in the *Republika Srpska* entity.

Bosnia and Herzegovina has a complex system of executive power, which is broadly functioning. While Bosnia and Herzegovina has expressed its intention to join the EU and to undertake the necessary reforms, the complexity of its institutions leads to significant issues related to coordination and harmonisation of the country's policy stances, notably with respect to the alignment with and implementation of legislation stemming from the EU *acquis*. With 14 executives across the country exercising competences relevant for implementing the EU *acquis*, either considerable efforts and significant strengthening of the country's capacities at all levels or some pooling of resources and capacities are needed for Bosnia and Herzegovina to cope with the obligations of EU membership. This is notably the case at cantonal level where capacities to deliver on EU membership obligations are insufficient.

The governments have taken some steps to improve coordination on EU integration matters, including by establishing the Directorate for European Integration and a coordination mechanism on EU matters, which is yet to become fully operational. These bodies must be strengthened and fully used at all levels.

The governments' capacities for policy planning and coordination across all levels of government are still insufficient. A national programme for the adoption of the EU *acquis* needs to be adopted as a matter of priority. The programme is a legal obligation under the SAA and is essential for planning and streamlining the EU legal approximation process throughout the country.

Civil society

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by the institutions. In Bosnia and Herzegovina, the legislative framework on public consultations differs across levels of government and there is no strategic framework for cooperation with civil society. An institutional mechanism for consultations, the e-consultation web platform, was launched in 2016 for the state-level institutions only. There has been no significant follow-up to the signature of the Charter on Cooperation between the Council of Ministers and civil society organisations in November 2017. The Council of Ministers needs to operationalise the Charter provisions including by developing regular cooperation and consultations with civil society organisations. Not all institutions at all levels of government have designated specific bodies or contact points in charge of dialogue and cooperation with civil society organisations. Sector-specific consultations are organised occasionally through dedicated working groups. More than 700 civil society organisations took part in providing alternative replies to the European Commission's Questionnaire which were annexed to the official replies from the authorities.

Only some municipalities have a legal framework for transparent funding of civil society organisations on the basis of clearly defined criteria and monitoring and evaluation tools. The distribution of public funds to civil society organisations is not fully transparent and systematic. Public funding calls and, in some cases, the results of selections, have been publicly available, but certain mechanisms for distribution of funds are not legally binding and were not fully implemented. Overall, Bosnia and Herzegovina needs to ensure a framework for the transparent funding of civil society organisations.

Civilian oversight of the security and intelligence sector

Bosnia and Herzegovina's security forces comprise three main categories: the armed forces, the law enforcement agencies and the intelligence service.

The Armed Forces of Bosnia and Herzegovina (AFBiH) are governed by a civilian-led command-and-control structure, with the Presidency having the supreme command and control and a single Ministry of Defence at the state level. The Parliamentary Assembly is in

charge of their democratic parliamentary control and oversight. The armed forces, totalling 9,200 professional staff, are responsible for national defence, and provide support to the civilian authorities in case of emergencies. They also contribute to international peace-support operations. Recruitment in the armed forces is based on ethnic quotas.

The law enforcement agencies in Bosnia and Herzegovina include 16 different bodies: three at the state level, – the State Investigation and Protection Agency, the Border Police and the Directorate for the Coordination of Police Bodies – and one for each of the two entities, the Brčko District, and the 10 cantons. There are 16 845 members of police forces in the country. The independent board, the board for complaints of police officials and the public complaints board perform civilian oversight at state level. Similar structures are in place at other levels of government. The Directorate for Coordination of Police Bodies is competent to co-ordinate the state-level agencies. The exchange of information between the Ministry of Security and the police agencies across the country takes place only on a voluntary basis. As a result of such a fragmentation, the law enforcement sector in the country continues to be politicised, poorly coordinated, and dysfunctional. *(see also Chapter 24)*

The Intelligence-Security Agency of Bosnia and Herzegovina (OSA-OBA) is the civilian institution responsible for collecting, analysing and distributing intelligence in order to protect the security, including sovereignty, territorial integrity and constitutional order of the country. In the conduct of its activities the Agency is legally authorised to collect information from all publicly available sources within the country under the authority of its Director-General. Measures to secretly gather information by intercepting telecommunications and other forms of electronic devices must be authorised by the President of the Court of Bosnia and Herzegovina or a designated judge and must be justified by a threat to the security of the country. The Agency is accountable to the Chair of the Council of Ministers, who reports annually to the Presidency on the activities of the Agency. An Executive Intelligence Committee, including the Minister of Security and the Minister of Foreign Affairs, advises the Chair and coordinates intelligence matters. The Agency's Director-General, Deputy Director-General and Inspector-General are appointed and dismissed by the Council of Ministers. The Inspector-General is responsible for the internal control of the Agency. The legislation on the Intelligence and Security Agency needs to be amended to address a number of procedural shortcomings identified by the Constitutional Court in June 2017.

The Parliamentary Assembly and its committees have a key role in the oversight of the security forces. The Joint Committee on Defence and Security held 48 sessions over the 2014-18 mandate and adopted four annual reports. The Joint Security and Intelligence Committee held 17 sessions over the 2014-18 mandate and adopted two annual reports covering 2015 and 2016. However, no meetings were held since 25 July 2017 and a new Committee is not yet in place following the October 2018 elections. The Parliamentary Military Commissioner oversees the protection of human rights and freedoms of soldiers and personnel of the armed forces and of the Ministry of Defence and may conduct investigations at the request of the Parliamentary Assembly and the Joint Committee for Defence and Security. The Parliamentary Assembly's Joint Defence and Security Committee has called on the authorities to improve coordination in the work of police agencies within the Ministry of Security, especially with regards to the migration crisis. It has also pointed to the need to better equip and modernise the armed forces, as well as to strengthen procurement capacities as a prerequisite for modernising the defence sector and its functioning.

At entity level, each chamber of the Federation Parliament as well as the *Republika Srpska* National Assembly has its respective Committee for Security which is responsible for parliamentary oversight. The Assembly of the Brčko District has a Committee for Security and Oversight of the Police Forces.

The constitutional and legal framework for the democratic civilian oversight of security and intelligence sector is broadly satisfactory. The Joint Parliamentary Committee needs to be established following the October 2018 elections. Further efforts are needed to enhance the coordination and professionalisation of the fragmented law-enforcement sector, in line with EU standards. Certain provisions of the Law on the Intelligence and Security Agency have to be brought in line with the 2017 decision of the Constitutional Court.

1.1.2 Public administration reform

The Commission defines public administration reform (PAR) in the enlargement context according to six core areas, which are further detailed by the Principles of Public Administration. A well-functioning public administration requires a professional civil service; inclusive and evidence-based policy and legislative development; well-defined accountability lines between institutions and towards citizens; capacity to deliver services to citizens and businesses; and a sound public financial management system. A strategic framework on PAR ensures that reforms in different core areas are sequenced and inter-linked.

According to the constitutional framework in Bosnia and Herzegovina, each level of government is competent for the regulation and institutional set-up of public administration in the different core areas of PAR – policy development and coordination, public service and human resources management, accountability, service delivery and public financial management. This division of competences has resulted in differences in legislation, procedures, practices and administrative capacity as well as accountability and services to citizens and businesses. PAR efforts are coordinated by dedicated institutions, such as the Public Administration Reform Coordination Office at state level, the Institute of Public Administration in the Ministry of Justice in the Federation entity, the Ministry of Administration and Local Self Government in the *Republika Srpska* entity and the office of the Mayor of Brčko District. Cantonal ministries of justice and administration also perform administrative and professional tasks related to public administration. The current division of competences on PAR requires sound institutional coordination and cooperation between all government levels.

Strategic framework for public administration reform

The countrywide **strategic framework on public administration reform** (PAR) for 2018-22 has been adopted by the State, the Federation entity and the Brčko District, but not by the *Republika Srpska* entity. Bosnia and Herzegovina needs to adopt a common action plan for all levels of government. Public financial management (PFM) reforms are not addressed in a single strategic framework but they are addressed through various strategies. The *Republika Srpska* entity has not adopted a dedicated PFM strategy. Due to lack of a common PFM strategy, there is currently no countrywide reform direction on PFM. To ensure a harmonised approach across all levels of government, Bosnia and Herzegovina needs to introduce a coordinated countrywide public administration reform framework with a coordinated monitoring and reporting system.

Insufficient **political support** hinders the coordinated implementation of reforms by all levels of government. A decision-making body that guides PAR at the highest political level is not yet in place. Due to lack of political ownership, budgetary resources for implementation of reforms are insufficient. **Financial sustainability** is not ensured, and reforms are mostly donor-driven. Reform efforts so far have been supported mainly through the PAR Fund, an instrument to pool donor assistance. Bosnia and Herzegovina has yet to demonstrate political commitment to public administration reform by establishing a functioning political 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

Public administration institutions operate within a complex governance structure with separate decision-making competences in public policies.

Reflecting the institutional set-up, the **policy-making system** in Bosnia and Herzegovina is fragmented. Although there is a legal framework for sectoral strategies at entity level, harmonised legal provisions and guidance for countrywide strategic planning are lacking. The regulatory and legal framework on **medium-term policy planning** is in place at state and entity levels, but not in some cantons and in the Brčko District. Central planning documents such as the medium-term and annual government programme, framework budget document and action plan for implementation of priorities from the BiH report, are generally not aligned among them and with the sector strategies. There is no body tasked with policy quality review function to check the coherence, consistency and legal and financial scrutiny of policy proposals.

A **programme for EU integration**, including a consolidated plan for the adoption of the *acquis*, is required under the Stabilisation and Association Agreement and needs to be developed and adopted as a matter of urgency. Bosnia and Herzegovina needs to adopt policy planning guidelines for the NPAA, to align the government annual work plans with the NPAA, to earmark costs and to reflect such financial estimates in the annual and mid-term budgets.

The legal framework for **inclusive and evidence-based policy development** is incomplete especially at cantonal level, and is not consistently implemented. Legal requirements for **regulatory impact assessment** are set at state and entity level and in some cantons. The quality of analysis supporting policy proposals needs to be improved, and financial implications are not systemically calculated. Administrative data collection and its use for policy-making is not systematically ensured across the administration. The law requires inter-institutional consultation on legislative and policy proposals; the duration of the written consultation process is not regulated and there is no dispute settlement mechanism in case of diverging opinions among institutions. **Public consultations**, although generally required, in practice tend not to be implemented in line with legal requirements. The legal framework needs to be improved and applied consistently. Enhancing quality and ensuring coherence and financial affordability of public policies across the country remains a major challenge in the medium term. The existing legislative framework does not fully establish standards for monitoring and reporting on key government planning documents at each level of government, thus preventing concrete **public scrutiny over government work**.

Public financial management

Despite the lack of a countrywide strategy, there have been reform efforts in different PFM areas at various levels of government. These have led to partial alignment with international standards in the area of internal control and audit, debt management, treasury operations and external audit. PFM systems at all levels of government need to be further brought in line with international standards in the areas of budget formulation and execution procedures, monitoring, transparency of budget data and forecasting. A budget management preparation information system is the system most commonly used in the different levels of the administration for both the budget planning process and the medium-term framework budget document, while the public investments management information system needs further upgrading.

The **budget transparency** is not sufficient. At state level, the Ministry of Finance publishes annual budgets and annual reports on budget implementation. Charts of accounts of the state, entities' and Brčko District are not harmonised. This hampers access to consolidated data. There is no citizens' budget at any level of government. For the public to be in a position to understand the budget meaningfully, citizen participation in the budget process should be enhanced. In-year reporting remains to be improved. Social contributions and pension entitlements, which account for a significant portion of public funds, are managed by extra-budgetary funds that are in most cases integrated neither into the budget planning process nor into the budget documentation such as the medium-term or annual budgetary outlooks. Available budgetary information is thus incomplete and an assessment of the overall budgetary and fiscal policy is difficult. The institutions at all levels have insufficient internal audit capacity and the lack of fully adequate internal controls, especially in public procurement, makes the PFM systems in BiH vulnerable to inefficiency and waste.

Public service and human resources management

According to the constitutional framework, the state, the entities, the cantons and Brčko District are competent on regulating and managing their respective civil service, resulting in a fragmented legislative framework. The common policy framework on civil service has been adopted only by the State and by the Federation entity, but it is not used effectively to ensure a common approach to human resource management and civil service legislation. Ensuring a non-politicised, merit-based and professional civil service across the country remains a major challenge.

Even though the Federation and the cantons have a shared competence on the civil service, seven cantons have adopted their own civil service laws. This has contributed to further fragmentation of the civil service. Different requirements and practices in recruitment, promotion and dismissal hampers their mobility across the country. Political interferences at cantonal level exist particularly regarding the practice of excluding top-level positions from the scope of civil service law. Political influence in recruitment and promotion procedures occurs systemically across government levels, thereby distorting the merit-based principle in civil service.

While all civil service laws regulate **merit-based recruitment**, promotion and demotion procedures, the merit principle is not fully enshrined in the laws and procedures and safeguarded in practise. The quality of examination and recruitment procedures at all levels is low. A competency framework screening for the most competent candidates exists so far only for the state-level institutions. The appointment of members of selection committees needs to be more transparent and to ensure their professionalism and impartiality. In most cases, the political heads of the institutions choose any candidate from the shortlist produced by the selection committee. In certain recruitment procedures at cantonal level, ethnic background determines the final selection of candidates without consideration of best-ranked candidates; the legislation should ensure that ethnic criteria does not prevail over merit-based recruitment. Constitutional provisions on the general representation of the population in the public administration should not be interpreted as strict ethnic proportionality in civil service. Rather, stricter merit-based civil service procedures need to be introduced to ensure that constitutional provisions of ethnic proportionality are not wrongly applied against the merit principle. All civil service laws and recruitment practices need to ensure the primacy of the merit principle over ethnic-based criteria. Temporary employment is a common practice when entering civil service, including at managerial level. Data is generally not available, rendering it difficult to assess the use of temporary contracts in practice. The criteria for **dismissals** and disciplinary procedures, including the possibility to appeal, are also enshrined in the

legislation, but are insufficiently used. Termination of service is mainly only due to retirement.

Human resources management (HRM) is decentralised across all levels. Expansion of HRM units across public institutions and establishment of functional HRM information systems across the different levels of authority is key in contributing to enhanced planning on human resources. The administrative capacities of civil service agencies in the country need to be strengthened in order to adequately perform their functions.

The **remuneration system** of civil servants is neither coherent nor transparent. It is based on different salary legislation and different job classification and pay grades across government levels. Additionally, salaries are much higher in the public than in the private sector. The upgrade in salaries is not linked to appraisal procedures, and this has resulted in a promotion system which rewards seniority rather than performance.

With regard to **professional development**, training and performance appraisal are regulated in laws and secondary legislation and training strategies adopted at state, entity and at Brčko District level. Training of civil servants is carried out mostly by the different civil service agencies, with little resources provided for training across the various levels of government. Particularly, data on the number of training courses provided are lacking at cantonal level. The performance appraisal system is formally in place, but it is not used effectively to justify promotions. A coherent system for performance appraisal, promotion and training as a right of a civil servant needs to be established in the medium term.

Integrity in public service is regulated through anti-corruption and integrity plans, codes of conduct, rules on incompatibility of office and the work of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption. There are no systemic and consolidated data on practice of integrity of civil servants, both in terms of questionnaires on self-declarations on civil service integrity and verification of integrity of civil service to assess better this area. The public perception of corruption in the civil service is high.

Accountability of the administration

The structure and organisation of the administration is regulated at each level of government. The legislation does not specify the different functions of administrative bodies subordinated to the executive and legislative level or the conditions for establishing, merging or abolishing them. This leaves excessive discretion to restructure the administration without consideration of rationale and cost-effectiveness of the changes. Clear supervision and reporting lines between ministries and subordinated institutions are also lacking. The political level does not sufficiently delegate decision-making responsibility to senior civil servants and to the middle management. (*see Chapter 32*)

Although the legal framework has established oversight mechanisms, including Parliaments, the State Audit Institution and the Human Rights Ombudsman, their recommendations are rarely implemented. This compromises the **citizens' right to good administration**. The full implementation of Ombudsman's recommendations by the respective authorities is low and several addressed institutions do not even respond to its recommendations, although legally obliged to do so. (*see Chapter 23, Fundamental Rights*)

The **citizens' right to access public information** is regulated differently at the state and entity level. Proactive disclosure is not provided for at any level. Implementation deficits result primarily from administrative silence, delays in replying, incomplete information provided and insufficient institutional responsibilities in dealing with appeals. There are no mechanisms for monitoring whether the laws on free access to information are implemented effectively. (*see Chapter 23, Fundamental Rights*)

The **citizens' right to administrative justice** is ensured by law. The judicial review of administrative acts is decentralised and processed by courts. The efficiency of courts has improved in the recent years, but remains uneven across the country. There are no effective remedies against excessive length of judicial proceedings; though applicants may file a case to the Constitutional Court, this instrument does not enable acceleration of the pending proceedings. (*see Chapter 23, Fundamental Rights*)

The **citizens' right to seek compensation** for damage caused by unlawful actions or omissions of the public administration is explicitly ensured by law at State, entity and Brčko District level. However, there is no systematic collection of data related to implementation of public liability cases, and it is therefore not possible to assess the enforcement of these legal guarantees.

Service delivery to citizens and business

The legal framework for a **user-oriented administration** is partially in place, but varies substantially across levels of government. A policy on service delivery is integrated in the PAR strategic framework which has been adopted by all levels of government save for the *Republika Srpska* entity. This policy area provides good reform directions, but its implementation has been slow and has not led to tangible results so far.

Laws on general **administrative procedures** are in place at all levels of government and currently new amendments to those procedures are developed in state, entity and Brčko District level and already adopted during 2018 in the *Republika Srpska* entity and Brčko District; such and further amendments to these laws should be well coordinated. Bosnia and Herzegovina has to ensure a harmonised approach to modernisation, simplification and digitalisation of services. The legislative framework and infrastructure for interoperability of registries and e-signature is not complete and is not harmonised between State and entity levels, thus compromising the e-signature system. The Office for Supervision and Accreditation has been established since January 2017. Interoperability and the automatic exchange of information between public registries is very limited. Bosnia and Herzegovina has to create conditions for the provision of electronic services within their jurisdiction by undertaking efforts to ensure the interoperability of the e-signature system throughout a country. *(see also Chapter 10)*

Bosnia and Herzegovina should simplify and harmonise business registration procedures and ensure full mutual recognition between entities, including concessions and licensing. No one-stop-shop exists for either citizens or business, except in the *Republika Srpska* entity. Systematic monitoring of user satisfaction with service delivery is not carried out at any level.

Bosnia and Herzegovina is at an **early stage** with public administration reform.

The lack of sound institutional coordination and cooperation prevents the adoption and implementation of policies aimed at ensuring minimum standards of treatment of all citizens and businesses throughout the country. The country should make strong efforts to ensure a comprehensive and harmonised approach to public administration reform, in line with the principles of public administration. In particular, the country needs to ensure political support, sufficient financial resources from all levels of government and effective coordination structures to implement and monitor public administration and finance management reforms.

To ensure a countrywide approach to mid-term policy planning, Bosnia and Herzegovina should establish, and where necessary harmonise, the regulatory framework and methodology on central and sectoral policy development, monitoring and budgeting at all levels. The country needs to improve the quality of policies, and regulatory impact assessment and policy consultations should become integral part of policy-making.

To ensure a professional civil service, the legislation should be brought in line with merit principles on recruitment, promotion and dismissal; its practical implementation should be free from political interference. The capacities of civil service agencies need to be strengthened, human resource management should be modernised and training programmes should be upgraded. The administration should rationalise its structures and delegate responsibilities to senior civil servants. Measures to improve the citizens' rights to good administration, to access to public information, to administrative justice and to seek compensation should be introduced.

To foster a user-oriented administration, Bosnia and Herzegovina has to ensure a harmonised approach to modernisation, simplification and digitalisation of services. Amendments to laws on general administrative procedures need to closely coordinated across state, entity and Brčko District. The interoperability of the e-signature system needs to be guaranteed throughout the country.

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

→ adopt countrywide strategies and action plans for public administration reform and for public finance management, establish a common performance-based monitoring framework and ensure financial sustainability;
→ establish a political decision-making body and strengthen technical coordination structures to promote countrywide approach in public administration reform;
→ amend civil service laws by ensuring merit principle in all procedures of recruitment, promotion and dismissal, and strengthen the capacities of civil service agencies to improve human resource management and trainings.

1.2. Rule of law and fundamental rights

1.2.1. Chapter 23: Judiciary and fundamental rights

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

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

The constitutional and legislative framework on the **judiciary** is incomplete and its independence needs to be strengthened. Conflicts of jurisdiction in criminal matters need to be addressed and consistency of case-law enhanced across the country's legal orders. The legislative framework on preventing and combatting **corruption** presents significant gaps due to the non-harmonisation of legislation, strategies and action plans. Enforcement capacity is weak, notably due to the fragmentation of law enforcement agencies. Corruption is widespread and remains an issue of concern. All levels of government show signs of political capture, directly affecting the daily life of citizens, notably in health, education, employment and public procurement matters. The legislative and institutional framework for the protection of **fundamental rights** is largely in place; it needs to be fully implemented and substantially improved by harmonising legislation throughout the country and aligning it with European standards, strengthening administrative capacities and providing adequate resources for the effective enforcement of fundamental rights. Significant incremental reforms are needed to ensure the political and legal equality of all citizens and to ensure inclusive and quality education for all, overcoming the practice of 'two schools under one roof'.

According to the constitutional and legal framework, the competences in the area of judiciary and fundamental rights rest with the State, the two entities, the cantons and the Brčko District.

At the state level, the High Judicial and Prosecutorial Council is the self-regulatory body of the judiciary, with countrywide competences over the administration and career management of judicial office holders. The Ministry of Justice is responsible among other things for the state-level legislation and for coordinating the justice sector reform process throughout the country. Entities and cantons also have ministries of justice, while Brčko District does not have a ministry of justice but a judicial commission which is not part of the executive.

Four judicial systems are in place in Bosnia and Herzegovina at the level of the State, the entities and the Brčko District, each of them having its own jurisdiction and internal institutional structures. The Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina are established at the state level. Both entities have their own courts, including supreme courts, as well as prosecutors' offices. In the Federation entity, each canton has its own court system. The Brčko District also has its own Prosecutor's Office and court system.

The *Republika Srpska* entity contests the criminal jurisdiction of the Court of Bosnia and Herzegovina over criminal offences prescribed by entities' and Brčko District laws. The Constitutional Court has confirmed the constitutionality of that jurisdiction while noting that its inappropriate application can result in violation of the human rights in individual cases.

All levels of government have competences in the fight against corruption. The state-level anti-corruption agency has coordination functions; corruption prevention bodies exist also at all other levels of government. All judicial systems and law enforcement agencies are responsible for corruption repression.

In the area of fundamental rights, the main actors at the state level are the Human Rights Ombudsman, the Ministry of Human Rights and Refugees and the Ministry of Justice. The Ministry of Security, the Ministry of Civil Affairs and the Personal Data Protection Agency have specific responsibilities regarding the protection of human rights. In addition, at the level of the entities, Brčko District and cantons, various ministries are also responsible in this area, such as the ministries of justice, interior, health, social policy, and education.

Functioning of the judiciary

Strategic documents

A countrywide 2014-2018 Justice Sector Reform Strategy was only adopted in September 2015, and its action plan in 2017; their implementation is significantly behind schedule. The Council of Ministers needs to urgently extend the action plan. A monitoring and reporting mechanism is in place at technical and political level. A ministerial conference meets twice a year under the coordination of the Ministry of Justice to provide political oversight. A technical secretariat and functional working groups are operational. However, the measures set out in the strategy are not sufficiently funded by the respective levels of government.

Legal and institutional framework

The courts and prosecutors' offices are established under separate laws and apply four distinct sets of substantive and procedural rules in civil, criminal and administrative matters. Except for the Constitutional Court, judicial power is not explicitly mentioned in the Constitution and there is no supreme judicial body with countrywide appellate jurisdiction in all matters. Entity constitutions and the Brčko District Statute provide for judicial and prosecutorial authorities at the respective levels of government.

At the state level, the Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina were established in the period 2000-04 to ensure the effective exercise of the competences of the State and the respect for human rights and the rule of law. The Court of Bosnia and Herzegovina has jurisdiction on (i) war crimes; (ii) international and inter-entity serious crime (organised crime, corruption, terrorism and money laundering); and (iii) administrative and civil cases involving state-level institutions, including in electoral matters. In 2001 the Constitutional Court held that the Court of Bosnia and Herzegovina had been established in conformity with the Constitution.

The Court of Bosnia and Herzegovina has three divisions: criminal, administrative and appellate. The appellate division has second-instance jurisdiction as there is no state-level appellate court. The Prosecutor's Office of Bosnia and Herzegovina is responsible for prosecuting crimes falling within the jurisdiction of the Court. It comprises a general crime department and two specialised departments – for war crimes and for organised crime, economic crime and corruption.

The Court of Bosnia and Herzegovina and the Prosecutor's Office apply state-level legislation. They also have jurisdiction for criminal offences stipulated in the laws of the entities and Brčko District, when these criminal offences: (a) endanger the sovereignty, territorial integrity, political independence, national security and international personality of Bosnia and Herzegovina; (b) might have serious repercussions or detrimental consequences to the economy of Bosnia and Herzegovina; (c) might cause other detrimental consequences for Bosnia and Herzegovina; or (d) might cause serious economic damage or other detrimental consequences beyond the territory of the respective entity or Brčko District. Following legal challenges to some of these provisions, in 2009 the Constitutional Court confirmed the constitutionality of this criminal jurisdiction while noting that its inappropriate application can result in violation of the human rights in individual cases. This jurisdiction has been used rarely. The Court of Bosnia and Herzegovina has not developed consistent criteria for the application of this provision and has not used it since 2013. The Venice Commission recommended clarifying this provision on criminal jurisdiction[9]. As some circumstances do not sufficiently guarantee the legal certainty which is essential in criminal matters, the European Commission has been providing detailed recommendations on the subject within the Structured Dialogue on Justice since 2011. However, Bosnia and Herzegovina failed to adopt the Law on the Courts of Bosnia and Herzegovina in line with EU standards, including the definition of criminal offences and sanctions in specific areas of particularly serious crime on the model of Article 83 of the Treaty on the Functioning of the European Union. The country needs to adopt this law with no further delay with a view to reinforcing legal certainty and the functioning of the judiciary, notably in the fight against serious crime. 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.

Each entity has its own judicial system, which is hierarchically organised.

In the *Republika Srpska* entity, the court system comprises a Supreme Court, 6 district courts and 19 basic courts. District courts have second-instance jurisdiction; they act as courts of first instance for criminal offences punishable with at least 10 years imprisonment, in which case the Supreme Court acts as second-instance. In addition, there are courts of special jurisdiction: the district commercial courts and a Higher Commercial Court. The entity prosecutorial service includes a Prosecutor's Office and six district prosecutors' offices. The

[9] Venice Commission, Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina, No. 648/2011, 15-16 June 2012, CDL-AD(2012)014, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)014-e.

entity Prosecutor's Office has a special department for fighting corruption, organised crime and the most serious forms of economic crime.

In the Federation entity, the court system comprises a Supreme Court, 10 cantonal courts and 32 municipal courts**.** Cantonal courts have second-instance jurisdiction; they act as courts of first instance for criminal offences punishable with at least 10 years imprisonment, in which case the Supreme Court acts as second-instance. There is no specialised court on commercial matters, which are adjudicated by commercial and civil departments in ordinary courts of first and second instance. The entity prosecutorial service includes a Prosecutor's Office which supervises the work of 10 cantonal prosecutors' offices, each being governed by different rules of organisation. With 11 laws governing the entity prosecutors' offices, such a fragmented prosecutorial system needs simplification and harmonisation. The special department for fighting corruption and organised crime within the entity Prosecutor's Office, provided for by the 2014 Law on fighting corruption and organised crime, has not yet been established.

The Brčko District judiciary comprises a Basic Court and an Appellate Court as well as the District Prosecutor's Office. The Court of Bosnia and Herzegovina has administrative jurisdiction over state laws applied in the Brčko District and the appellate division of the Court of Bosnia and Herzegovina is the final appellate authority over the Brčko District judiciary.

Management body

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC) is the single managing body responsible for guaranteeing the independence of judges and the autonomy of prosecutors throughout the country and regulating their careers.

Budgetary matters of the judiciary are the responsibility of executive and parliamentary authorities at each level of government. The executives are also responsible for some administrative issues concerning non-judicial staff. In Brčko District, ministerial administrative and budgetary competences are carried by the Judicial Commission.

The HJPC is not mentioned in the Constitution. It was established by law in 2004, replacing entity-level judicial and prosecutorial councils, on the basis of an agreement on the transfer of certain competences from the entities to the State in the area of the judiciary. In 2009 the Constitutional Court held that the HJPC had been established in conformity with the Constitution. However, the *Republika Srpska* entity has not repealed the conflicting provisions of its Constitution providing for an entity-level HJPC.

The *Republika Srpska* entity adopted some amendments to its law on courts regarding the appointment of judges, thus legislating on a matter that had been transferred from the entity to the State by virtue of the transfer agreement. In spite of commitments taken in the context of the Structured Dialogue on Justice since 2012, the *Republika Srpska* entity has not yet amended its legislation to render it compatible with the Law on HJPC. The *Republika Srpska* entity Law on the public prosecution service is equally incompatible with the state-level legislation as regards the conditions for the appointments of prosecutors and needs to be brought into line with the Law on HJPC and the transfer agreement with no further delay.

To strengthen the role of the HJPC as a guarantor of the independence of the judiciary, the HJPC needs to be provided with an explicit constitutional status, including clear rules on its composition and powers.

The HJPC is composed of 15 members with a four-year mandate, renewable once. Of these, 11 members represent various judicial and prosecutorial structures and are elected by their

peers. The other four members represent non-judicial bodies: two are elected by entities' bar associations among their members, one by the Council of Ministers and one by Parliament. The HJPC members elect its president and two vice-presidents. Of the 15 HJPC members 9 are women.

The HJPC is primarily in charge of appointing all judicial office holders in the country, including the judicial associates in the municipal courts of the Federation entity. It also takes part in the selection procedure for judges in the entity constitutional courts, notably by interviewing candidates and proposing a ranking of candidates to the entity parliaments. It sets also criteria for the evaluation of the performance of judges and prosecutors by the respective court presidents and chief prosecutors. The HJPC issues codes of ethics, supervises the judicial and prosecutorial training centres in the entities (including deciding on minimum training needs and induction training) and provides information and communication technology services to all courts and prosecutors' offices. Its Office of the Disciplinary Prosecutor is tasked with overseeing judges and prosecutors. The HJPC appoints separate disciplinary commissions to hear first and second instance disciplinary cases. In plenary, it acts as third instance in disciplinary proceedings. A Secretariat was established to support the professional, financial and administrative work of the HJPC.

However, the Law on the HJPC has several deficiencies concerning judicial appointments, performance appraisal, disciplinary procedures, conflict of interest and declaration of assets. Moreover, it does not provide for the right to an effective legal remedy against final decisions of the HJPC, except those on the dismissal of judges and prosecutors. In order to align the Law on the HJPC with European standards, in its related opinions[10] issued in 2012 and 2014 the Venice Commission recommended in particular to: (i) improve the rules on selecting the HJPC members; (ii) establish two sub-councils, for judges and prosecutors respectively; (iii) avoid setting quotas along ethnic lines as they may undermine the effective functioning of the system; and (iv) avoid an increased risk of politicisation of appointment procedures. The Ministry of Justice has not implemented those recommendations by finalising a consolidated draft law.

In the context of the Structured Dialogue on Justice, the European Commission recommended stepping up the level of independence and accountability of the judiciary by addressing shortcomings in particular in relation to appointments, integrity and disciplinary matters. It also recommended significantly improving the quality criteria in performance appraisal. In June 2018, the HJPC submitted to the Ministry of Justice a legislative initiative to amend the Law on the HJPC with a view to complying with those recommendations. The Law on the HJPC needs to be finalised on the basis of that initiative and adopted in Parliament as a matter of priority.

Within the current legislative framework, a number of rules were adopted in 2018-19 by the HJPC on the basis of its self-regulatory powers. They aim to address some deficiencies of the judiciary, in particular regarding the criteria for the appointment and performance appraisal of judges and prosecutors. A 2018-20 HJPC action plan is in place, covering most notably measures to strengthen the fight against organised crime and corruption, by strengthening the autonomy of the main actors in the criminal procedure chain, improving the quality of financial investigations, increasing the impact of assets seizure and improving the courts' sentencing policy, including on sentences pursuant to plea bargain agreements. However, the

[10] Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina adopted by the Venice Commission at its 91st Plenary Session (Venice, 15-16 June 2012). Opinion on the Draft Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted by the Venice Commission at its 98th Plenary Session (Venice, 21-22 March 2014). https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)008-e

implementation of some reforms decided by the HJPC, notably on integrity and efficiency, has met resistance from within the judiciary in particular with regard to declaration of assets and performance appraisal. This is worrying. The HJPC needs to pursue reforms with determination, also through reinforced monitoring, to increase accountability. There is also a need to ensure a better distribution of human resources throughout the judiciary and to improve judicial transparency through better interaction with media and society.

Independence and impartiality

The independence of the judiciary is not guaranteed explicitly under the Constitution, which only refers to the general principle of the rule of law. The constitutions of the entities and the Brčko District Statute includes the principle of independence of the judiciary. In practice, judges and prosecutors are vulnerable to pressures, including through self-censorship. Judges and prosecutors have been subject to politically motivated threats. Judicial independence and prosecutorial autonomy must be further strengthened. In particular, the HJPC needs to be provided an explicit constitutional status and the rules on appointment, conflict of interests and disciplinary measures need to be strengthened in line with European standards. Judges and prosecutors throughout the country need to act independently and impartially.

Regulatory safeguards aiming at ensuring impartiality are generally in place. There are rules on disqualification of judges, notably for conflict of interests in court cases. The case management system for judges and prosecutors provides for random case allocation. However, reassignments without a specific justification are possible, in particular in small courts; moreover, there is overall no control system in place. The security features of the case management system for courts and prosecutors' offices need to be improved to prevent possible abuse.

Accountability

The regulatory and institutional framework ensuring the accountability of the judiciary is in place as part of the general competence of the HJPC, notably its monitoring powers.

Separate **codes of ethics** for judges and prosecutors have been in place since 2005, and guidelines for drafting and implementing the integrity plans in judicial institutions have applied since 2016. All courts and prosecutors' offices have integrity plans. Their implementation needs to be closely monitored by the HJPC. The recommendations of the integrity plans should feed into the anti-corruption policy for the justice sector. There is no specific disciplinary measure for violation of the codes of ethics. Rules on conflict of interests in the judiciary only cover the HJPC members. Other measures to prevent conflict of interests are provided for in non-binding guidelines issued by the HJPC, which should be enforced by the courts and prosecutors' offices. Enforcement should be strengthened also through closer monitoring by the HJPC.

The revision of the Law on the HJPC should introduce stricter rules on conflict of interests for both judges and prosecutors who are already in place and for candidates for judicial positions, including judicial associates. Failure to declare a conflict of interests in the appointment procedure should be a reason for disqualification. In the area of declarations of assets for judges and prosecutors, the HJPC has adopted a rulebook aiming to clarify and improve the system of submission, verification and processing of financial statements, which were in the past collected and shelved without any meaningful verification and follow-up. This rulebook also provides for the publication of the financial statements, while aiming to protect sensitive personal information. Due to some objections of the Data Protection Agency the rulebook has been suspended pending a solution to the legal controversy. The absence of an effective system of submission, verification and processing of financial statements seriously affects the

credibility of the efforts to strengthen the integrity within the judiciary. The transparency and credibility of the system need to be further strengthened by adopting legislation allowing to cross-check financial statements with databases of other relevant administrations, notably the tax administration.

The legal framework regulating **disciplinary procedures** is weak. Enforcement has improved but is not satisfactory, with too little dissuasive effect. In 2018, there were 33 disciplinary proceedings initiated, the biggest number over the past years, and 30 disciplinary proceedings completed. 27 cases resulted in disciplinary measures, of which 16 involved disciplinary plea bargaining. Two judicial office holders were dismissed. Significant legislative changes are needed, in particular to ensure that disciplinary sanctions serve as more effective deterrents and to introduce guarantees for the judicial review of final disciplinary decisions of the HJPC. The scope of some disciplinary offences also needs further clarification in order to ensure legal certainty. The Disciplinary Prosecutor alone has discretion to decide whether to prosecute a disciplinary complaint, and there is no possibility to seek judicial review of that decision. The first and second instance disciplinary panels are almost exclusively composed of HJPC members and are appointed by the President of the HJPC without clear selection criteria. When the HJPC acts in its plenary composition as the third instance in disciplinary proceedings, there are no rules guaranteeing full independence and impartiality with respect to those HJPC members who sat in the disciplinary commissions. Only final decisions on the dismissal of judges and prosecutors may be subject to judicial review before the Court of Bosnia and Herzegovina, while decisions imposing other disciplinary sanctions cannot be reviewed. The HJPC needs to ensure the publicity of relevant statistical information as well as final decisions, including the rejections of disciplinary suits, also providing a comprehensive reasoning. The administrative and functional position of the Office of the Disciplinary Prosecutor within the HJPC needs to be revised to further strengthen its operational autonomy and independence in decision-making and to reduce the potential for undue interference. When deciding on final appeals in disciplinary matters, the HJPC must ensure that the sanctions pronounced are proportional, appropriate and with deterrent effect for the judiciary as a whole. While respecting the presumption of innocence the HJPC should consider suspending any appointment or promotion until the disciplinary proceedings have been concluded.

Professionalism and competence

The system of **appointment** and career advancement of judges and prosecutors is not sufficiently based on merit, especially regarding presidents of courts and chief prosecutors. Ethnic criteria often prevail over merit, which is a source of serious concern and is in conflict with EU principles. To improve the system, the conditions for the first entry into the judiciary should be distinguished from those applying to transfer and promotion during the career.

Criteria on **performance appraisal** for all judges and prosecutors have been in force since January 2019 with the aim to reform the previous appraisal system based on quantity which could be abused by prioritising easy cases to fill in the quota or by neglecting the quality of the legal reasoning. The new system also takes into account quality of performance. This reform has met with significant resistance within the judicial community. With a view to strengthening the independence and the impartiality of the judiciary, there is a need to undertake a thorough and balanced appraisal of performance of judges and prosecutors along the criteria adopted by the HJPC and based on EU standards, which promote a merit-based career and ensure that quality of work is better reflected in the overall evaluation of judicial professionals. There is no effective judicial appeal against final HJPC decisions concerning either appointment or performance appraisal; such appeal needs to be guaranteed in the relevant legislation.

Quality of justice

The justice system is not sufficiently transparent. Even when complying with data protection standards, key court decisions and confirmed indictments are not widely available online, in particular in corruption cases. The judicial documentation centre of the HJPC administers a judicial database with search functions which is accessible to all judges and prosecutors, as well as other parties upon payment of an annual fee. This database needs to be strengthened to foster the establishment of a harmonised case-law across the country. Dedicated case-law departments should also be established in all highest judicial instances.

Case-law lacks consistency as there is no judicial body with countrywide jurisdiction tasked with ensuring consistent interpretation of the law across the four legal orders in Bosnia and Herzegovina. Since 2014, panels for harmonisation of case-law in civil, criminal and administrative matters have been in place to address this issue. They are composed of representatives of the entity supreme courts, the Brčko District Appellate Court and the Court of Bosnia and Herzegovina. However, they meet only on a voluntary basis in the context of a project run by the HJPC judicial documentation centre. According to the authorities, the legal positions of the panels are binding for the highest instance courts and are of an instructional character for the lower instance courts, while their effect on harmonising case-law depends on the strength of the argumentation. The legal status of these panels needs to be better defined in order to formalise and upgrade their work to be able to effectively contribute to the consistency of case-law, without calling into question the independence of all judges. According to European standards, the consistency of case-law needs to be ensured through decisions of higher courts rather than through instructions or guidelines. There is ultimately a need to establish a judicial body to effectively ensure the consistent interpretation of the law and the harmonisation of case-law across the legal orders in the country, in order to guarantee a more uniform application of the law, while fully ensuring the principle of independence of all judges.

There are 1 013 judges and 377 prosecutors, including court presidents, chief prosecutors and their deputies. 60% of the total number of judges and prosecutors and 47% of managers are women. In the Federation entity, judicial associates in municipal courts can issue judicial decisions in enforcement matters and in small claims; they are appointed by the HJPC as all other judicial office holders. The planning of the overall budget of the judiciary is coordinated by the HJPC but the responsibility for adoption is divided among 14 budgetary authorities at the various levels of government, often with court presidents and chief prosecutors negotiating the budget allocations directly with the relevant executives. In most cases, ministries of finance or justice can reduce the budget of judicial institutions without any justification. This affects the efficient administration of justice. The 2018 budget for the judiciary was EUR 130.5 million (0.81% of the GDP), which amounts to EUR 37 per inhabitant, covering the HJPC as well as all prosecutors' office and courts including *ex officio* defence. The 2017 budget was EUR 122.2 million (0.8% of GDP). Around two thirds of the budget is spent on salaries. Domestic funds are not sufficient to cover investment needs, including improving the judicial infrastructure. The fragmented and unsustainable financing of the judiciary must be addressed to ensure allocation of sufficient funds throughout the country.

Training for judges and prosecutors is provided through the two judicial and prosecutorial training centres in the entities and through the internal training structures of the Court of Bosnia and Herzegovina and of the Brčko District Judicial Commission. Both training centres need sufficient budgets to maintain sustainable training programmes. They have not undertaken a regular, comprehensive and analytical assessment of training needs on the basis of career development, job-related skills and regular performance reports. Better targeted

judicial training is needed to ensure professionalism as well as efficiency. Training should address practical skills in performing judicial and prosecutorial activities, judicial ethics and communication with the parties in judicial proceedings and the media. Court presidents and chief prosecutors need to be more involved in identifying the training needs of their staff. The HJPC is legally required to supervise and coordinate all judicial training activities. The current legal requirements include eight days compulsory initial training for newly appointed judges and prosecutors in their first year without links to the incumbent's future post or the necessary skills. During the career, the annual compulsory training amounts to three days on subjects often of theoretical nature. Compulsory initial and ongoing legal training needs to be more comprehensive. A mentorship system, in place in a number of prosecutors' offices, needs to be fully established throughout the courts as well.

Monitoring and measuring of the day-to-day activities of courts and prosecutors' offices take place through the case management system, making it possible to check 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. Reliable statistical data on the performance of the judicial system need to be systematically collected and analysed, particularly on case reallocations and on serious crimes. The HJPC needs to step up oversight of the managerial aspects of courts and prosecutors' offices operations on the basis of statistical data in order to strengthen managerial capacities and accountability.

Efficiency

Plans are in place for reducing the backlog of the oldest cases. Their implementation, together with annual quotas for measuring the performance of judges, has led to a progressive reduction in the number of pending cases and their duration. However, the overall backlog for pending court cases amounts to 2.2 million cases, out of which approximately 1.9 million are unpaid utility bill cases. 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 at all levels to make debt collection more efficient, in particular in the Federation entity, and by finding an appropriate model for transferring these cases from courts to other bodies, public or private. The reform initiated in the *Republika Srpska* entity and the Brčko District on enforcement procedure helped decreasing the backlog, but has not managed to disburden the courts from uncontested claims. Establishing debtor's registers at all levels and a payment order procedure instead of authentic documents should help in this regard and make the procedure more expedient. The average length of court proceedings in 2018 was 444 days and the clearance rate was 105%. The average duration of pending non-utility-related civil cases before first instance courts (464 days) is high but in decrease compared with 2017 (494 days) and 2016 (502 days). Modifications of the instruments for measuring the performance of judges and persecutors – such as annual quotas and backlog reduction plans – leading to a longer duration of the proceedings would jeopardise efficiency. Backlog cases tend to concentrate in the courts of bigger cities. Measures need to be taken to temporarily increase the workforce in such courts in order to swiftly reduce the number of pending cases. **Alternative dispute resolution** methods, in particular court settlement and mediation, need to be improved, promoted and used more widely.

Domestic handling of war crime cases

The backlog of *war crimes cases* has been reduced in the context of the implementation of the National War Crimes Strategy adopted in 2008. From an estimated amount of 1502 war crimes cases in December 2008, as of end of 2018 the total number of the most complex cases

was reduced by 409 out of 693 (-59%) and the number of less complex cases was reduced by 602 out of 809 (-74.5%) However, the objective of processing of the most complex cases by end-2015 was not achieved. The capacity of the prosecutor's offices and courts throughout the country was reinforced with significant EU support. Conviction rates in recent years in the entities and Brčko District are over 60%, at the state level they are at 40%. Over the last five years, the entity level prosecutors' offices have reduced their backlog of cases by 62% and the Prosecutor's Office of Bosnia and Herzegovina has reduced its backlog by 28%. A supervisory body is in place to oversee implementation of the strategy. It is established by a decision of the Council of Ministers and composed of representatives of the ministries of justice and finance from all levels government as well as the HJPC. The mandate and capacities of this body are weak. The Supervisory Body main weakness is the non-binding nature of its decisions. It cannot send instructions to authorities nor request accountability for prosecutors or judges failing to abide by timelines or defined parameters for processing of war crimes. Regional cooperation in the area of war crime cases processing is largely ineffective. *(See part C. Obligation stemming from the Stabilisation and Association Process – Regional issues and International Obligations)*

In recent years, there has been an increase in the number of confirmed indictments for war crimes cases involving sexual violence. Efforts in this area need to continue steadily. The in-court victim and witness support has improved since the court police was formally authorised to ensure protection in both entities. However, its long-term sustainability is linked to the continued guarantee of domestic financing.

The Council of Ministers needs to adopt the revised National War Crimes Strategy. This document aims at setting new timelines for the completion of all war crimes cases by 2023, including around 340 complex cases out of a total of 693 pending cases; defining new criteria to identify the complexity of the cases and their distribution between levels of government; improving harmonisation of case-law; increasing human resources; and strengthening the supervisory body's oversight on the implementation of the strategy.

Bosnia and Herzegovina is **at an early stage/has some level of preparation** in the area of the judiciary. The constitutional and legal framework governing the judiciary is incomplete and does not provide sufficient guarantees of independence, accountability and efficiency. The Law on the High Judicial and Prosecutorial Council (HJPC) needs to be revised to better regulate the appointment, appraisal and disciplinary procedures of members of the judiciary, and provide appropriate legal remedies against final decisions of the HJPC, in line with European standards. A Law on the Courts of Bosnia and Herzegovina in line with European standards should also be adopted to prevent conflicts of jurisdiction in criminal matters and ensure the required legal certainty. In order to strengthen the guarantees of judicial independence and prosecutorial autonomy, including from all forms of politicisation and pressures, the HJPC and the state-level court system should be provided with an explicit constitutional status. In view of the plurality of legal orders in the country, Bosnia and Herzegovina needs to establish a judicial body to ensure the consistent interpretation of the law and the harmonisation of case-law, while fully ensuring the principle of independence of all judges. Political will and adequate capacities are needed to effectively implement the Justice Sector Reform Strategy and to reduce the backlog of war crime cases. Further efforts are required to improve the functioning of the judiciary, in particular as regards impartiality and efficiency by upgrading the existing case management system and reforming the enforcement procedure laws to relieve the courts of the burden of uncontested civil and commercial claims. Initial and continuous training need to be significantly improved, including by establishing a functioning mentorship system.

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

→ adopt the revised Law on the HJPC and Law on the Courts of Bosnia and Herzegovina in line with European standards; implement the measures in the area of criminal procedure as set out in the HJPC action plan; apply consistently and improve rules on the appointment, performance appraisal, integrity and training of judges and prosecutors;
→ adopt the revised National War Crimes Strategy;
→ revise the enforcement procedure laws in the entities and Brčko District, in particular with a view to reducing the backlog of utility bill cases by relieving the courts from the burden of uncontested claims.

Fight against corruption

Institutional framework

Prevention of corruption

The **Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption** (APIK) was set up at state level in 2009 as an independent body, accountable to Parliament. It became operational only in 2014. Its mandate include to develop the anticorruption strategy and action plan and monitor their implementation; design a uniform methodology for collecting data on civil servants' assets and for developing integrity plans; coordinate the work of public institutions in preventing and combating corruption; monitor implementation of anticorruption legislation, and conflict of interests. The Agency carries out some limited anti-corruption activities in the private sector, notably through training. It is also responsible for taking action upon receiving information on corruption-related acts and developing educational programs.

The Parliament appoints APIK's director and two deputies through open competitions. The selection committee is composed of nine members (three from the House of Representatives, three from the House of Peoples, two from the academic community and one from civil society). The APIK reports to the Parliament. The APIK has an appropriate budget but 20% of its 41 positions are vacant, including in key areas. Its premises are not adequate.

Corruption prevention bodies have also been set up in both entities, in Brčko District and in all cantons. In most cantons, corruption prevention institutions have been set up as ad hoc bodies without full-time professional members. The mandate of these bodies is usually linked to the duration of cantonal government and they need to be reappointed when new cantonal government are in place. The Sarajevo canton has a professional body with full-time staff. Corruption prevention bodies at all levels of government need to be permanent, fully resourced and independent institutions ready to cooperate among themselves and with the APIK. Prevention corruption bodies at all levels have the legal obligation of cooperating with the APIK. The APIK has, in total, 26 memoranda of understanding for cooperation and information exchange with the other corruption prevention bodies as well as with the HJPC, government agencies, NGOs, and several higher education institutions.

The APIK, however, does not have direct access to the databases of other bodies, such as interior ministries, real estate agencies, tax authorities, land registers and registries of vehicles. It cannot cross-check data in real-time or automatically detect potential incompatibilities of functions. It does not have any legal basis to impose administrative sanctions if institutions do not cooperate, for example by failing to forward reports on the implementation of anti-corruption strategies or related action plans.

There are a large number of mechanisms for citizens to report corruption. They can do so through APIK or any corruption prevention body, inspection bodies, law enforcement

agencies, dedicated phone lines, and directly through the prosecutors' offices. Anonymous reporting is allowed.

Notwithstanding the legal and organisational constraints, the APIK should play a much more proactive role, particularly in responding to citizens' complaints concerning allegations of corruption, following up on reports of corruption and enhancing citizen's education for corruption prevention, including through countrywide awareness raising campaigns.

Parliaments and governments at various levels of government have codes of ethics in place.

The Commission on Deciding on Conflict of Interests, established in September 2015, is not independent. As six out of nine members of the Commission are Members of Parliament, the Commission's mandate is limited to the term of the Parliament. Furthermore, the Commission adopts its decisions by a majority of votes of its nine members, including a minimum of two from each constituent people. Both the Commission's composition and the decision-making methods need to be changed. In *Republika Srpska* entity, a Commission for the Prevention of Conflict of Interests in public institutions has been established within the entity parliament. In the Federation entity, there is no institution effectively dealing with conflict of interests. The entity law assigned such task to the Central Election Commission. This is in contrast with the state-level legislation regulating the functions of the Central Election Commission. The Brčko District Electoral Commission, which is in charge of enforcing legislation on conflict of interests, does not perform this function due to uncertainties about the available legal remedies and insufficient human resources.

The implementation of the legislation on whistle-blower protection is entrusted to the APIK at the state level, to the judiciary in the *Republika Srpska* entity and to the District's Office for Corruption Prevention in the Brčko District. In the Federation entity there is no law providing for the establishment of a similar institution.

The Central Election Commission is responsible for implementing the Law on political party financing throughout the country.

Audit offices are in place but they do not play an effective role in the fight against corruption.

Law enforcement

The State Investigation and Protection Agency (SIPA) has a dedicated unit for the prevention and detection of financial crime and corruption. Similar structures exist within the police administration in the entities.

A special prosecution department has been established at the state level and in the *Republika Srpska* entity. In the Federation entity, specialised departments in the Prosecutor's Office and in the Supreme Court have not been established, although the relevant legislation has been adopted.

The capacity to investigate economic, financial and public procurement-related crimes – including financial investigations – needs to be substantially enhanced in terms of staff numbers and equipment, the degree of autonomy, the level of specialisation of staff and their cooperation.

Legal framework

Bosnia and Herzegovina is party to all international anti-corruption conventions, including the United Nations Convention against Corruption. The Council of Europe Group of States against Corruption (**GRECO**) concluded in its compliance report adopted in December 2018 that Bosnia and Herzegovina had implemented satisfactorily only 10 of the 22 recommendations it had issued in 2011 on incriminations and transparency of party financing.

Prevention

The state-level Law on the APIK regulates the area of corruption prevention. The legislation on **whistle-blower protection** provides administrative protection to all staff employed in the institutions and bodies established at state level. The legislation grants pre-emptive protection to employees before retaliation may occur. Anonymous reporting is allowed. In the *Republika Srpska* entity, legislation on whistle-blower protection provides for judicial protection against retaliation and applies to all persons who report corruption in the public or private sector. It also provides for a reversed burden of proof, a non-exhaustive list of possible harmful consequences from which protection can be requested and access to an urgent court procedure. No legislation is in place in the Federation entity. In Brčko District legislation on whistle-blower protection is in place and provides for administrative protection. The legislation on whistle-blower protection needs to be aligned with the new *acquis* on this issue.

As regards **conflict of interests**, the legal framework at all levels is weak as regards both the rules themselves and the way in which they are implemented. Legislation on the declaration of assets is fragmented and not harmonised across levels of government, making its implementation ineffective, including on the penalties imposed. To step up anti-corruption efforts, new legislation needs to be adopted at all levels on the declaration of assets and conflict of interests in line with international standards, in particular relevant GRECO recommendations. At the state level, the Law on conflict of interest in the governmental institutions of Bosnia and Herzegovina is not in line with international standards. In the *Republika Srpska* entity, legislation on conflict of interests is in place but needs to be aligned with international standards. The Federation entity has legislation regulating conflict of interests which is not implemented due to legal uncertainty on the institution in charge. Similarly, the Brčko District has legislation on conflict of interests in the public institutions but is not implemented The Sarajevo canton has a Law on asset declarations of public functions holders in the canton, covering conflict of interests.

There is no legislation to effectively prevent corruption in the private sector and no regulation of **lobbying**. Bosnia and Herzegovina also needs to introduce a comprehensive and effective system of electronic procurement to foster transparency and to reduce opportunities for abuses.

The Law 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 is only partly in line with international and European standards. Access to information is hampered by the legislation on data protection, which is interpreted in a way that protects private rather than public interests. Lack of transparency seriously hinders the fight against corruption. (*see section on Fundamental rights)*

Repression

The legislative framework for the repression of corruption in Bosnia and Herzegovina is fragmented, as there are numerous laws at various levels of government regulating the issue, without sufficient consistency between them.

In the framework of criminal legislation, corruption-related offences are primarily regulated in specific chapters of the four criminal codes. Corruption-related offences are defined in line with the provisions of key international agreements which have been ratified by Bosnia and Herzegovina.

Provisions of the state-level criminal procedure code regarding the use of special investigative measures, witness immunity, and how to complete an investigation and issue an indictment were amended in September 2018 to comply with a 2017 decision of the Constitutional Court. Those provisions are in line with international and EU standards, particularly in that they preserve the full capacity of the judicial authorities to fight against serious crime. The Law on the Security-Intelligence Agency (OSA) needs to be amended in the same way.

In the *Republika Srpska* entity, the Law on crimes against electoral rights and crimes against the economy and the payment system also contain definitions of corruption-related offences. The entity Prosecutor's Office includes a special department for fighting corruption, organised crime and the most serious forms of economic crime. In the Federation entity the 2014 Law on fighting corruption and organised crime is not applied. As a result, the special departments to fight corruption, organised and inter-cantonal crime at the entity Supreme Court and the entity Prosecutor's Office provided for in that legislation are not in place. Those departments need to be established with no further delay. Specialised prosecutors should focus their activities on serious corruption.

The criminal justice policy throughout the whole country is largely ineffective in the fight against corruption, also due to inadequate penalties that do not ensure sufficient deterrence. Frequent conflicts of jurisdiction, leading to transfers of cases between levels of government, slow down proceedings and reduce efficiency, thus undermining the credibility of the system. The police is not proactive in investigating corruption cases, which is a serious concern.

Rules are in place concerning the immunity of members of parliaments in criminal proceedings, as are procedures governing the lifting of immunity.

Strategic framework

Anti-corruption strategies are in place at the various levels of government.

At state level, the 2015-2019 anti-corruption strategy and action plan are in place, having been adopted after wide public consultations. The APIK carries out annual reviews of the implementation of the strategy and action plan. Pursuant to the law on the APIK, the entities, Brčko District and cantons have to develop and adopt their own anti-corruption strategies and action plans in line with the principles of the state-level strategy. The APIK provides support to other levels of government in drafting and updating their strategies and action plans, but the *Republika Srpska* entity bodies do not engage with APIK on these issues.

In the *Republika Srpska* entity, there is an anti-corruption strategy for the period 2018-2022 with a related action plan. In the Federation entity, a strategic framework has been in place since 2016. Each canton also has its own strategy for the prevention of corruption except the Bosnia-Podrinje Canton, which opted for a stand-alone action plan. The Brčko District has its own strategic framework to counter corruption.

Anti-corruption strategies need to be harmonised throughout the country and to receive adequate funding. The implementation of anti-corruption strategies and action plans at all levels needs to be systematically monitored by the APIK. A software application administered by APIK aims to improve proactive monitoring of policy documents but other levels of government do not provide sufficient data. The fragmentation of strategies and action plans means that they have had only a very limited impact in the fight against corruption. Data collection and evidence-based policy making on anti-corruption should be introduced.

According to risk assessments, sectors such as education, employment, health and public procurement are particularly prone to corruption. **Integrity plans** in these areas are widely established. They need to be systematically feed into regular strategy and action plan updates.

Track record

In 2018, there were a total of 168 **investigations** by the State Investigation Protection Agency into financial crimes and corruption, of which 90 were finalised. 19 reports against 115 persons (108 natural and 7 legal entities) and 7 supplementary reports against 33 persons (31 natural and 2 legal entities) were sent to the competent prosecutors' offices. The trend over the past years shows that only a limited number of investigations are launched and finalised.

In the same period, there were a total of 284 indictments countrywide, with a decrease of 6.5% compared with 2017 while the number of convictions was 164, a majority of which were suspended sentences. The trend shows that there is a very limited number of final conviction in high-profile cases. Based on the criteria adopted by HJPC for the identification of high-level corruption cases, two persons received a final conviction in 2017. No final conviction in high-level corruption case was recorded in 2018. Plea bargain agreements are frequent and sanctions are lenient because of the frequent 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.

Further efforts are needed to establish a track record of proactive investigations, prosecutions and final convictions for corruption, in particular in high-level cases resulting in major damage to public funds. Effective sanctions are also necessary to serve as a deterrent. Audit reports and tax administration reports need to be used in a systematic and proactive way to fight corruption. Financial investigations are not launched systematically in corruption cases and the concept needs further alignment with Financial Action Task Force standards. Law enforcement agencies need to enjoy operational autonomy, free from undue political interference, as they need to act effectively and impartially when investigating allegations of corruption.

There is no system in place for effectively checking the **funding of political parties and electoral campaigns**.

In the area of **conflict of interests**, the state-level commission has not taken any decision over the past year.

As regards **whistle-blowers' protection**, APIK granted administrative protection in two cases in 2017, and two cases in 2018.

As regards **asset declarations,** there are 585 public officials at the state level, who are required to submit their financial reports to the Commission for Deciding on Conflict of Interests. In 2018, the number of financial reports filed was 350. The other officials failed to submit their financial reports. 346 reports were checked, but no sanctions were imposed. In 2017, out of the 162 financial reports filed and checked, the Commission imposed 8 sanctions. Rules on conflict of interests are not enforced in the Federation entity or in the Brčko District.

Assets declarations of elected officials are made available to the public through the official website of the Central Election Commission, which has no obligation to check their accuracy.

Bosnia and Herzegovina is **at an early stage**/has **some level of preparation** in the fight against corruption.. All levels of government show signs of political capture directly affecting the daily life of citizens, notably in health, education, employment and public procurement matters. Decisive political commitment is needed to actively promote integrity and fight corruption.

The country has overall established an institutional, legal and strategic framework to combat corruption. However, there are still significant gaps. The lack of harmonisation of the entity-level criminal codes seriously hamper anti-corruption policy. The fragmentation of

strategies and action plans across the different levels of government makes their implementation less effective. Anti-corruption strategic documents need to be better aligned throughout the country. Adequate funding has to be provided. Enhanced coordination and cooperation involving all levels of government is a prerequisite for countering corruption more effectively. Corruption prevention bodies at all levels of government need to be permanent, independent institutions with a clear and ambitious mandate and adequate resources. The APIK, as the coordinating corruption prevention body, needs to assume a more proactive role, notably on raising the awareness of citizens for corruption prevention and on following up to their complaints on allegations of corruption. Legislation on conflict of interests at all levels needs to be aligned with GRECO recommendations and international standards. Enforcement capacity needs to be strengthened. Overall, corruption is widespread and remains an issue of concern. There is a need for strong political will to effectively address corruption issues, as well as a robust criminal justice response to high-level corruption. In the coming year, Bosnia and Herzegovina should therefore in particular:

→ ensure the implementation of anti-corruption strategies and action plans, notably by providing appropriate resources and establishing monitoring mechanisms;
→ ensure the effective functioning and coordination of corruption prevention bodies among themselves and with the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK);
→ demonstrate progress towards establishing a track record on the repression and prevention of corruption, notably by imposing effective and deterrent sanctions, including the confiscation of proceeds of crime.

Fundamental rights

The legislative framework on human rights and on the protection of minorities is in place; it needs to be fully implemented and further brought in line with EU standards. The Constitution aims to guarantee the highest level of protection of internationally recognised human rights and fundamental freedoms. The Constitutional Court is the highest judicial instance for the protection of human rights in the country. Bosnia and Herzegovina is not an observer country of the European Union Agency for Fundamental Rights. The country should already apply FRA methodology for the collection of relevant data on fundamental rights.

The country has ratified all major European and **international human rights instruments**, most of which are included in its Constitution. The European Convention on Human Rights (ECHR) and its Protocols are directly applicable within the domestic legal order and enjoy supremacy over other laws, though not over the Constitution, which has been found to be in breach of the Convention as regards non-discrimination in electoral matters. There is no available data on the direct enforcement of international human rights treaties by courts. Bosnia and Herzegovina still needs to implement the 128 accepted recommendations from the 2014 UN Universal Periodic Review.

The **European Court of Human Rights** (ECtHR) delivered 6 judgments in 2018 finding that Bosnia and Herzegovina had violated rights guaranteed by the ECHR, most of them related to the protection of property and non-enforcement. Since September 2016, the ECtHR has found violations of the ECHR in 10 cases (out of 11) relating mainly to the right to a fair trial. 898 applications have been submitted to the Court during 2018, bringing the total number of applications pending before the court to 901. Outstanding cases relate mainly to property rights, missing persons and discrimination on the grounds of ethnic origin. There are six cases against Bosnia and Herzegovina under the enhanced supervisory procedure of the Council of Europe. The *Sejdić-Finci*, *Zornić*, *Šlaku* and *Pilav* rulings have not been implemented as they require constitutional amendments to ensure the equality of political rights among all citizens.

Bosnia and Herzegovina needs to develop a comprehensive policy framework on the **promotion and enforcement of human rights**, including countrywide strategies on human rights, on non-discrimination, and on the protection of minorities. This is required to ensure coordination of the legislation governing the promotion, implementation and protection of human rights at different levels of government. In the absence of strategies setting minimum standards, the lack of harmonisation of legislation and of coordination among institutions leads to uneven protection of human rights across the country.

Several state bodies and institutions are responsible for the promotion and enforcement of human rights. The Ministry of Human Rights and Refugees monitors and reports on the state of human rights and the application of international conventions and laws on prohibition of discrimination and on gender equality. It consists of specialised organisational units, including the Gender Equality Agency. Most legislative and executive authorities have established their own working bodies on human rights, gender equality and protection of national minorities.

The Institution of the **Human Rights Ombudsman** of Bosnia and Herzegovina is the national human rights institution, equality body, and supervisory body on freedom of access to information. It needs to be designated as national preventive mechanism against torture and ill-treatment. The Ombudsman is composed of three persons selected by an *ad hoc* committee and appointed by the Parliament for a term of 6 years. The law states that 'the Ombudsmen shall be appointed from among the three constituent peoples (Serb, Bosniak, and Croat), which shall not preclude the possibility of appointing the Ombudsmen from among the Others'; no self-declared member of the 'Others' has been appointed Ombudsman so far. Out of the 10 people appointed as Ombudsman since 1996, three were women (of which two in the current term) and seven men. The last selection procedure held in 2017 was open to the participation of civil society. The three Ombudsmen decide by consensus on the proposed recommendations, which causes significant delays or inaction in sensitive cases. This is detrimental to the performance of the institution and needs to be changed. Besides issuing recommendations, the Ombudsman has the power to initiate or intervene in judicial proceedings and to ask for the reopening of proceedings or reviews of court decisions, but has never made use of these powers. 123 (35%) recommendations of the Ombudsman were implemented by public and private institutions in 2018; 125 (35%) were implemented in 2017 and 84 (31%) in 2016. Failure to implement a recommendation of the Ombudsman or to cooperate in cases of discrimination may amount to a minor offence. However, the Ombudsman has not opened any minor offence proceedings in the last 3 years. In 2017 the Global Alliance of National Human Rights Institutions (GANHRI) re-accredited the Ombudsman with 'A status'. Bosnia and Herzegovina should amend the Law on the Ombudsman to align it with the Paris Principles and the June 2018 EU recommendations on standards for equality bodies, especially as regards financial independence, appointment and dismissal procedures, and cooperation with civil society. 59 positions have been filled out of the 87 provided for in the Ombudsman's rulebook. The Ombudsman should reform its internal organisation by introducing a thematic division of labour among its three members and its staff, to help it make better use of the available resources. It should be provided with adequate human and financial resources to perform its tasks effectively.

The Parliamentary Assembly's Joint Committee on Human Rights and the Committee on Gender Equality of its House of Representatives exercise parliamentary oversight on issues related to human rights and fundamental freedoms.

On the **right to life**, in 2003 Bosnia and Herzegovina ratified Protocol No 13 to the ECHR concerning the abolition of the death penalty in all circumstances. Cases of loss of life and unresolved killings throughout the country should be the subject of effective and independent investigations. Judicial follow-up, including prosecution and convictions, is necessary to

prevent a climate of impunity. The provision on the death penalty included in the Constitution of the *Republika Srpska* entity, even though not enacted in law, is not in line with European standards and needs to be repealed.

The Constitution prohibits **torture and ill-treatment**. Bosnia and Herzegovina is party to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment and its optional protocol. In 2002 it ratified the European Convention for the prevention of torture and inhuman or degrading treatment or punishment. Bosnia and Herzegovina needs to designate a national mechanism for the prevention of torture and ill treatment as required under the Optional Protocol to the UN Convention against torture and other cruel, inhumane or degrading treatment or punishment (OPCAT) which the country ratified in 2008. The Ombudsman's department for the protection of the rights of detainees and prisoners conducts visits to persons deprived of liberty; the Ombudsman received 144 complaints in 2018 and 135 in 2017, with a 19.6% decrease in 2016. Reports of ill-treatment of suspects and prisoners in police stations and detention facilities have decreased but remain a matter of concern. Such cases are slowly processed and only few officers are punished.

Legislation on the **prison system** is not sufficiently harmonised throughout the country nor is it fully aligned with European standards. Execution of criminal sentences is hampered by the lack of coordination and harmonisation of procedures across the country. Bosnia and Herzegovina has started addressing some of the recommendations of the 2016 report of the European committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT). Prison and detention facilities have seen improvements in conditions and management, with positive effects on living conditions. Overcrowding has diminished, also as a result of the use of alternatives to detention in the Federation entity. Investments are needed to replace certain older facilities which cannot provide adequate detention conditions. Despite improvements, healthcare services in prisons lack resources and in particular medical staff. There are no programmes to accompany the reintegration in society of former prisoners. The forensic psychiatry institution in Sokolac is operational but are not fully used. The state prison in East Sarajevo is not in use. Police holding facilities are often in poor condition, lack natural light, adequate ventilation and decent hygienic conditions. Further efforts are needed to meet international and European standards in the treatment of persons deprived of their liberty. Bosnia and Herzegovina should strengthen its efforts to improve detention conditions in prisons and police holding facilities and ensure that they are in conformity with ECHR standards and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Bosnia and Herzegovina lacks a countrywide strategy on **transitional justice** to ensure a policy framework for dealing with the legacies of the past. The system of redress for civilian victims of war needs to be substantially improved, including by discontinuing the practice of applying the statute of limitations in civil proceedings for compensation claims, introducing a budget-funded mechanism for compensation claims where convicted perpetrators are insolvent, and better protecting the identity of victims and witnesses in civil proceedings. To comply with the UN Convention against Torture to which the country acceded to in 1993, Bosnia and Herzegovina needs to adopt a state-level framework law clearly defining countrywide criteria on the rights of civilian victims of war-time torture. In the absence of such a framework, civilian victims of war-time torture do not receive equal treatment across the country as entity-level laws are not harmonised. Bosnia and Herzegovina also needs to implement the November 2017 recommendations of the UN Committee against Torture. The Constitutional Court has recognised that charging court fees to unsuccessful claimants has resulted in the violation of human rights of victims of wartime sexual violence. This judicial practice, which has a particularly detrimental impact on women, should be discontinued.

The political environment is not yet conducive to **reconciliation**, which requires an honest and factual assessment of the past, coming from within societies and bringing together all parties to the conflict on the basis of awareness and understanding. Currently, 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 tribunals. Convicted war criminals are glorified. The *Republika Srpska* entity has established new historical commissions on Srebrenica and on the Serbs in Sarajevo. All actors in Bosnia and Herzegovina need to demonstrate full cooperation with the international tribunals by acknowledging and respecting their decisions. Revisionism and denial contradict the most fundamental European values.

A law on the **protection of personal data** has been in place since 2006. However, it needs to be aligned with the General Data Protection Regulation 2016/679 (GDPR) and with the Law Enforcement Directive 2016/680. In 2006, Bosnia and Herzegovina ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and its Additional Protocol. The country has not signed or ratified Protocol 223 amending and updating that Convention. All four criminal codes in the country define the criminal offence of unauthorised use of personal data.

The Personal Data Protection Agency is the independent body responsible for supervising the implementation of relevant legislation, acting on complaints and providing opinions on provisions on personal data in legislative proposals. The Agency needs adequate human and financial resources to perform its tasks effectively. The Agency conducted 69 procedures *ex officio* in 2018, following public information pointing to illegal processing of personal data, an increase from the 45 procedures in 2017 and 55 in 2016. It received 140 complaints in 2018 compared to 96 in 2017 and 113 in 2016. The Agency conducted 42 inspections in 2018, 83 in 2017 and 93 in 2016. It issued 15 minor offence orders in 2018, 15 in 2017 and 11 in 2016. In 2018 there were 12 administrative proceedings against decisions of the Agency before the Court of Bosnia and Herzegovina – the same number as in 2017 and 2016. It provided 169 expert opinions in 2018, 180 in 2017 and 213 in 2016. The agency provided 37 opinions on laws and by-laws in 2018 and 38 in 2017, which is a significant increase given that this is a higher number than in all previous years combined. The state Parliament has introduced in its rules of procedure an obligation to consult the Agency on legislative proposals; no such requirements exist at entity or cantonal level.

Freedom of expression

Freedom of expression, including media freedom, is guaranteed by the Constitution and by law. The media landscape, although comprising a relatively large number of media outlets, does not reflect real diversity and pluralism and is segmented on the basis of ethnic, business and political affiliation.

Intimidation of journalists

Political pressure and intimidation against journalists are a cause for concern; physical and verbal attacks take place without systematic institutional response and effective protective measures. The authorities often downplay the intimidation of journalists, and their reaction, including public condemnation, is weak. Data on threats and attacks against journalists and media workers is collected by professional organisations but not by public institutions. The *BH Novinari* association's free media help line recorded 58 cases of violation of journalists' rights in 2018, including 6 cases of physical assault, 17 threats, and 9 cases of political pressure. One case of assault on a journalist reporting on the 'Justice for David'

demonstrations in Banja Luka is under investigation as attempted murder. In two occasions, a high-level political leader verbally attacked independent journalists in public. In 2018, the Ombudsman's office received nine complaints. There was no progress in 2018 in the investigation and prosecution of past attacks against journalists, and no convictions.

The police and the judiciary need to ensure impartial, prompt, thorough, independent and effective investigations and prosecutions in cases of threats and violence against journalists and media workers. Journalists under threat need to be ensured adequate police protection. The authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against the media, and should refrain from making statements that may create an environment not conducive to freedom of expression.

Legislative environment

Defamation has been decriminalised since 2002, but politicians often use civil suits to intimidate journalists. Courts should ensure expedient processing of defamation cases and consistency of case-law on damage awards, as the abuse of defamation lawsuits risks having a chilling effect on freedom of expression and pushing journalists towards self-censorship. The legislation on hate speech needs to be fully aligned with the ECtHR case-law and the EU *acquis*, as it currently only provides for a criminal offence of incitement to religious and national hatred and intolerance. Legislation on freedom of access to information at state and entity level needs to be harmonised across the country and aligned with international and European standards.

Implementation of legislation/institutions

The laws on freedom of access to information are only partially respected, in particular as regards statutory deadlines for replying to public information requests, the completeness of information provided, and the 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 interpreted in a way that protects private rather than public interests.

The Communications Regulatory Agency (CRA) has the power to regulate the audio-visual media market, and enjoys political and institutional independence, but not full financial independence. Bosnia and Herzegovina needs to improve the procedure to appoint its management to ensure transparency and openness, and to provide sufficient safeguards against any political and economic interference. (*Also see Chapter 10 - Information society and media*)

The Press Council operates as a self-regulatory membership-based body for both online and printed media outlets across the country. The Press Council issues recommendations and has no power to impose fines on media outlets. It plays an important role in improving the media quality and ensuring that media outlets comply with professional standards. Since 1999 the Press Council has issued the press and online media code of Bosnia and Herzegovina; all major media outlets have committed to comply with the code.

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 service broadcasters are exposed to political influence, in particular through politically controlled steering boards, with a worrying trend of self-censorship.

Bosnia and Herzegovina does not have an adequate and harmonised RTV fee collection model, as provided for by the law. Entity broadcasters also have substantial unpaid debts

towards the state-level broadcaster, which are subject to long court cases. These issues threaten the financial independence and sustainability of the public broadcasting system.

Bosnia and Herzegovina needs to fully implement the law on the public broadcasting system, strengthen the political and financial independence of public broadcasters, and proceed with the digitalisation process. (*Also see Chapter 10 - Information society and media*)

Economic factors

Bosnia and Herzegovina needs to adopt legislation on **media ownership transparency** and establish a detailed register of media ownership to enable systematic insight into ownership structures, thus preventing the risk of hidden media concentration. **Local public broadcasters**, which are not within the public broadcasting system, receive funds from local government budgets and are often under strong political pressure and influence. There is a need to increase transparency on the work of **marketing companies**, often linked to political parties and on advertisements by public agencies and publicly-owned companies. Bosnia and Herzegovina should adopt legislation on advertising in the media. The lack of transparency and clear criteria in the distribution of subsidies are a matter of concern. Job security for journalists is very limited, as many are employed on short-term contracts or work as freelancers. This makes them vulnerable to undue influence from editors or owners, as journalists do not have adequate guarantees against dismissals or disciplinary measures.

Internet

Freedom of expression online is not specifically regulated, except in the *Republika Srpska* entity Law on public peace and order, which includes social media in the definition of public place in which public order violations can be committed. There is a high degree of online hate speech; criminal prosecution is based on the offence of inciting religious, ethnic and national hatred by means of internet or social networks. Online media outlets self-regulate via the Press Council, which handles complaints from the public.

Professional organisations and working conditions

Journalism in Bosnia and Herzegovina is a precarious profession, with low wages and little job security and it is therefore prone to self-censorship. A significant number of journalists work without adequate contracts. The employment rights provided for by the entity-level labour laws are often 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 multiple but weak and with 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 the protection of journalists and media integrity.

(*See also Chapter 10 - Information society and media*)

There is **some level of preparation** on freedom of expression. The legislative framework on media freedom, including hate speech, defamation and access to information needs to be applied effectively and be further aligned with the EU and international standards. The law on the public broadcasting system has not been implemented and entity-level legislation is not harmonised with it. The financial situation of public broadcasters is not sustainable and they are subject to political influence. Violence, threats and political pressure against journalists are a cause for concern, with a worrying trend of self-censorship due to the lack of systemic institutional follow-up.

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

→ ensure protection of journalists and a systematic institutional follow-up of 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.

Freedom of thought, conscience and religion

Freedom of thought, conscience and religion is guaranteed by the Constitution and legislation, and is generally upheld in practice. The 2004 Law on freedom of religion and the legal position of churches and religious communities prohibits a state religion, prescribes separation between the state and the religious communities, and recognises the legal personality and continuity of historically established religious communities: the Islamic Community in Bosnia and Herzegovina, the Serb Orthodox Church, the Catholic Church and the Jewish Community. Other religious groups may apply for public registration and recognition. Under the 2004 law, basic agreements (concordat) were signed in 2007 with the Catholic Church and in 2008 with the Serb Orthodox Church, granting them a number of rights, including the recognition of religious holidays. A concordat with the Islamic Community is pending.

While religious tolerance was symbolically promoted on some well-publicised occasions, cases of discrimination on religious grounds continue to occur, as do incidents targeting religious sites. Several controversial cases concerning the construction of religious buildings or monuments on private or public land have been reported in the past decade. The law on freedom of religion provides religious communities with the right to restitution of expropriated religious properties, which is dealt with on an *ad hoc* basis.

Freedom of assembly and association

Freedom of assembly is guaranteed in the Constitution and regulated at entity or cantonal level. The legislation provides for a number of grounds for restrictions, imposes excessive responsibility on assembly organisers (requiring their engagement with multiple authorities), and does not differentiate between gatherings for commercial and non-commercial purposes. Freedom of assembly laws should be harmonised across the country and brought into line with European and international standards. Civil society organisations have also reported increasing attempts by authorities to restrict peaceful assemblies. In late December 2018, peaceful protests by the 'Justice for David' movement in Banja Luka, which had been ongoing since March, were violently dispersed by the police. Members of the movement have been unable to organise gatherings since.

Freedom of association is enshrined in constitutions and legislation at all levels, and is generally upheld. Associations can be registered at state, entity or cantonal level. There are 25,339 associations registered in the country, including sport clubs and political parties. Civil society activists dealing with sensitive issues such as war crimes and the fight against corruption, as well as human rights defenders, have been subject to threats, verbal abuse and physical attacks; women activists have received threats to their bodily integrity. The authorities need to promote a conducive and enabling environment for civil society 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.*

Property rights are protected by the Constitution. Each entity manages its own property cadastre and land registry, which need to be updated and mutually linked in order to ensure that all citizens can enjoy their property rights. Entity-level legislation on expropriation prescribes compensation at market value. Legalisation of property is managed at entity and cantonal level. There is no legislative framework on handling restitution claims. Few cases related to repossession are outstanding. In 2018, five rulings out of six against Bosnia and Herzegovina at the ECtHR concerned violations of the right to property. The Commission for real property claims of displaced persons and refugees stopped operating in 2014 due to a lack of funding. There is no information on the number of ongoing administrative disputes in which the Commission is a respondent. Foreigners are entitled to purchase property on the basis of reciprocity agreements; in other cases, they must register a local company. Land registries need to become more accessible for women, the poor, and vulnerable groups.

In the field of **non-discrimination policies**, the Law on prohibition of discrimination has been in force since 2009. Amendments aiming at full alignment with the *acquis* were adopted in 2016. However, the law needs to be effectively applied and enforcement mechanisms need to be improved. There are no countrywide human rights and anti-discrimination strategies. No adequate and reliable statistical data is collected on discrimination cases. Documented cases should receive effective administrative and judicial follow-up; court rulings need to be enforced. Legal professionals and the wider public need access to training and awareness raising about antidiscrimination provisions.

The country has been in breach of the ECHR since 2009 for discrimination as regards political rights, since citizens not identifying as Bosniaks, Croats or Serbs or residing in certain parts of the country are not allowed to stand for office in the state-level House of Peoples and Presidency (*Sejdić-Finci* case-law). The Constitutional Court also found the electoral provisions for entity presidents and vice-presidents to be discriminatory. Such decision in case U-14/12 remains not implemented as well.

The practice of ‘two schools under one roof’ was recognised as discriminatory by a final ruling of the Supreme Court of the Federation entity in 2014. However, 56 schools are still organised in this way in 28 localities of 13 municipalities in three cantons (Zenica-Doboj, Central Bosnia, Herzegovina-Neretva). Bosnia and Herzegovina needs to implement court rulings and overcome ethnic-based discrimination and divided education, as well as other segregation and assimilation practices, and introduce systemic solutions for ensuring inclusive quality education for all. Disputes over mother tongue education, national groups of subjects and curricula continue. The common core curriculum based on learning outcomes has been completed but is not yet applied throughout the country. The *Republika Srpska* entity does not recognise the name of the Bosnian language, which leads to periodic school boycotts, often by families of returnees (*See Chapter 26*).

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. This needs to be harmonised and aligned with the *acquis*, which penalises the public incitement to violence or hatred based on race, colour, religion, descent or national or ethnic origin. The country does not have a mechanism for collecting and disaggregating data on hate speech, hate crimes and discrimination. Almost all reported hate-motivated incidents are related to religion or ethnicity. The actual number of incidents is estimated to be up to five times higher, and to be more diverse. Most incidents do not lead to formal investigation or prosecution. Failure to identify acts as hate crimes, as well as the high burden of proof makes it difficult to establish intent, leading to low numbers of indictments and convictions. 121 hate incidents were recorded and 2 convictions were handed down in 2018; 175 cases were recorded in 2017, with 1 conviction. Case-law on hate crimes is not consistent. The authorities

need to take concrete measures to counter hate speech in printed and electronic media, as well as in official discourse. Bosnia and Herzegovina ratified the Council of Europe Convention on cybercrime and its additional protocol in 2006, but implementation has been slow.

Legislation providing for **equality between women and men** is largely in place. The Constitution includes the Convention on the elimination of all forms of discrimination against women (CEDAW) as one of the human rights agreements to be applied in Bosnia and Herzegovina. The country is also party to the UN Convention on the political rights of women and to the ILO Equal Remuneration Convention. The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) has been in force since 2014, although legislation is not fully harmonised with it. A law on gender equality was adopted in 2003 and revised in 2010; it is complemented by the 2009 law on the prohibition of discrimination, which improves the protection mechanisms. This legislative framework needs to be effectively implemented. Gender equality mechanisms are in place; the Gender Equality Agency within the Ministry of Human Rights and Refugees plays the key role of monitoring and fostering the implementation of the law on gender equality, in cooperation with the entity-level Gender Centres. The gender equality strategy is implemented via countrywide gender action plans; the latest was adopted in 2018. Bosnia and Herzegovina also adopted countrywide actions plan for the implementation of the United Nation Security Council Resolution 1325 and related ones on women, peace and security, the latest of which in 2018.

The implementation of both policy and legislation is ineffective. Women are underrepresented in politics and public life. The gender equality law sets out special measures to achieve at least 40% representation of each gender in legislative, executive and judicial authorities at all levels. However, these measures have not been thoroughly implemented. Women hold approximately 20% of all executive and legislative functions in the country. Out of nine state-level ministers, two were women (for defence and human rights) in the 2014-2018 term. The electoral legislation includes a 40% quota for the least-represented gender on candidates' lists; its implementation is verified by the Central Electoral Commission. The political representation of women in the Parliamentary Assembly has been rather low and stable, peaking at 10 members of Parliament (24%) in 2014 to fall again to seven (17%) in 2018. One quarter of members of Parliament in the Federation entity and one sixth in the *Republika Sprska* entity were women in 2018, with a downward trend over time. The participation of women in cantonal assemblies increased from 18% in 2014 to 30% in 2018 as a result of electoral law changes. Legislative assemblies at state and entity levels have established permanent gender equality bodies, while cantonal assemblies have not. Only seven mayors out of 143 are women (4%).

Gender impact assessments of policy and legislative processes are not carried out, although they are required by law. In terms of pay gap, despite the lack of official data, it is estimated that women 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. 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. (*See Chapter 19*)

Strategies for the implementation of the Istanbul Convention are in place at state level and in the two entities. However, the legislation on the prevention of and protection from gender-based violence, in particular domestic violence, is not effectively implemented, which is a concern. The authorities need to collect and publish data on gender-based violence in a harmonised way, as provided for by the Convention, to facilitate monitoring. The entity laws on domestic violence are not harmonised among them or aligned with the Istanbul Convention. In the *Republika Srpska* entity, domestic violence is often prosecuted as a

misdemeanour rather than as a criminal offence, leading to inconsistent case-law and lack of effective sanctions for perpetrators. There are no departments specialised in gender-based violence cases in relevant institutions, including in the police and the public sector. However, several ministries have established gender contact points tasked to report to the Gender Centres of the two entities and to the state-level Gender Equality Agency. Access to legal aid and court representation is very limited. Protective measures are rarely granted, and the general system of response and victim support needs to be improved. Institutions at all levels need to step up their cooperation under a victim-centred approach. The available capacity in safe accommodation is not sufficient. Civil society organisations have a key role in the provision of social services, including by running the eight safe houses for victims of domestic violence and trafficking. These services do not receive sufficient public funding (*on women victims of trafficking in human beings, see Chapter 24*).

As regards the **rights of the child**, Bosnia and Herzegovina is party to the Convention on the Rights of the Child and its three optional protocols. The 2015-2018 action plan for children has not been adequately implemented due to insufficient funding and coordination. Bosnia and Herzegovina needs to develop and adopt a new action plan on child protection including measures on children without parental care, children with disabilities and juvenile justice across the country. A Council for Children is in place but does not meet regularly. In 2018, the Ombudsman received 216 complaints on children's rights, up from 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, 49% of which live in residential institutions, as do 71% of children with disabilities without parental care and 87% of very young children without parental care (0-3 years). Bosnia and Herzegovina is reforming its child protection system, moving towards community-based care. Foster care and alternative solutions for children should be promoted. Cash benefits and access to social services for vulnerable children need to be improved to prevent family separation, which in one third of cases is due to poor economic conditions or labour migration. 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, resulting in few cases being brought before the courts. Not all children in Bosnia and Herzegovina are covered by compulsory health insurance, and marginalised groups, such as the Roma[11], face multiple discrimination. The authorities need to collect exact and consistent data on child poverty rates and violence against all children, including children with disabilities, Roma children, and girls. Unaccompanied migrant children face specific difficulties, such as accessing safe accommodation and asylum procedures. 324 unaccompanied migrant children have been identified in 2018. Only 29 of them were appointed a legal guardian, as provided for by law. 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.

The legal framework on juvenile justice is in place. However, laws at the entities and the Brčko District level 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 to juvenile detention 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 September 2018 there were four minors in prisons.

[11]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.

Persons with disabilities are among the most vulnerable groups. The country has ratified the Convention on the rights of persons with disabilities (CRPD) and its optional protocol. However multi-sectoral and comprehensive implementation mechanisms are 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. Bosnia and Herzegovina needs to implement the recommendations of the UN Committee on the rights of persons with disabilities from 2017. The country adopted a disability policy in May 2008 and both entities adopted strategic frameworks for advancement of the rights and status of persons with disabilities following the expiration of the state-level policy. Bosnia and Herzegovina does not have a uniform definition of disability and 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. A network of 74 community-based centres with multi-disciplinary teams provides quality and accessible mental healthcare services, in cooperation with the social welfare centres. (*see also Chapter 28 – Consumer and Health Protection*).

On the **rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**, the four criminal codes are harmonised to include hate crimes on grounds of sexual orientation and gender identity. Sexual orientation, gender identity and sex characteristics are also explicitly prohibited grounds for discrimination since the 2016 amendments to the law on anti-discrimination. The Sarajevo Canton appointed a prosecutor as contact person for hate crimes on grounds of sexual orientation and gender identity, which is a good practice. However, the number of court cases on these grounds is negligible. Same-sex couples are continuously discriminated against, as the legal system fails to recognise their social and economic rights, including the right to family life. The social inclusion of intersex and especially transgender persons, who are particularly marginalised, also needs to be improved. The prosecution of hate crimes and hate speech against LGBTI persons is insufficient. Physical assaults have not led to indictments so far. However, law enforcement officials and members of the judiciary have started to receive training on LGBTI issues. Events to raise public awareness on LGBTI issues take place regularly. In 2018 the Constitutional Court recognised that the authorities had violated the right to freedom of assembly of LGBTI persons and the prohibition of torture or inhuman or degrading treatment by failing to ensure the safety of the participants at the 2014 Merlinka Queer Film Festival as well as failing to conduct a thorough investigation and sanction the perpetrators of violence. The festival has taken place regularly since 2014 with adequate public safety. LGBTI associations report growing difficulties in obtaining permits for public events; in May 2017 an LGBT march could not taking place because the public authorities failed to deliver the due permits on time.

The **procedural rights** of suspects, accused persons, witnesses and victims include the presumption of innocence, access to a lawyer, right to information, interpretation and translation. These rights are enshrined in criminal procedure codes and other legal acts and generally upheld. The four criminal procedure codes in the country are largely harmonised with each other. Practice is not fully in line with the ECtHR case-law and the *acquis* concerning the right to immediate access to a lawyer while in police detention.

The lack of harmonisation of the country's fragmented legal framework leads to differences in the protection of procedural rights across the country and to unequal access to justice based on place of residence. Vulnerable groups such as victims and witnesses in war crimes cases, including sexual violence cases, face particular obstacles. The Constitutional Court identified systemic deficiencies in the organisation of the judiciary and effective exercise of competences at different levels of government, leading to systemic violation of the right to a fair trial within reasonable time. The authorities need to develop and implement a comprehensive set of measures to address systemic violations of the right to a fair trial within a reasonable time and the right to an effective remedy.

Without comprehensive coverage and clear minimum common standards for legal aid applicable to all levels of government and for all type of proceedings, the right to legal aid continues to be upheld inconsistently, particularly to the detriment of the most vulnerable groups. The Federation entity and the Central Bosnia canton need to adopt laws on legal aid. A countrywide assessment of legal aid needs should be carried out to determine the main gaps. This should help ensure minimum standards and effective equal access to justice for everyone, irrespective of where they live.

Respect for and protection of minorities and cultural rights

The rights of persons belonging to **minorities** are guaranteed by the Constitution. The antidiscrimination law is complemented by the 2003 Law on the protection of the rights of members of national minorities, which commits the country to respect, protect, preserve and develop the ethnic, cultural, linguistic and religious identity of the 17 recognised national minorities. The entities also have their own laws on the protection of national minorities.

In 2010, Bosnia and Herzegovina ratified the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) and European Charter for Regional or Minority Languages. The Council of Europe's advisory committee on the framework convention released its fourth opinion on Bosnia and Herzegovina in 2017. The advisory committee noted in particular the need to remove institutional discrimination to comply with the *Sejdić–Finci* case-law of the ECtHR, and to overcome the practice of 'two schools under one roof'.

Bosnia and Herzegovina does not have a countrywide strategic document on national minorities. The institutional framework is largely in place but its capacity to engage in policy-making is limited. The Ministry of Human Rights and Refugees is in charge of implementing the law on national minorities, as well as of supporting awareness raising and cultural promotion activities in cooperation with the representative associations of national minorities, to whom around EUR 75,000 in grants are allocated annually. The Council of National Minorities is an advisory body to the Parliamentary Assembly and is composed of one representative from each recognised national minority. Similar councils exist in the two entities and in Sarajevo Canton. The authorities need to improve their cooperation to ensure that members of national minorities are able to enjoy their rights. Members of national minorities continued to have a low presence and participation in political and public debates and in the media. The election law provides for a reserved seat in the municipal councils for representatives of minority groups comprising more than 3% of the local population. In 2018 the Ombudsman received eight complaints concerning minority rights.

There is no comprehensive data on the civil, political and socio-economic status of national minorities. The Agency for Statistics has not released disaggregated data on all recognised national minorities. In the 2013 census, 3.6% of the total population, i.e. 130,056 persons, declared affiliation to a group different from Bosniaks, Croats or Serbs, or no affiliation at all. Of these, the biggest group is the Roma. Other recognised national minorities are very limited in numbers. Bosniaks, Croats or Serbs who live in a minority situation, often formerly

internally displaced persons or refugees, also face discrimination in access to education, employment and social rights, and are often target of ethnic-based hate speech and hate crimes. Their number is not known. The law on national minorities does not grant them the protections foreseen by the FCNM. As regards cultural rights, while the law guarantees national minorities the right to education in their own language and the right to have their history and culture included in the curricula, the availability of the 'national group of subjects' for Bosniaks, Croats or Serbs living in a minority situation is limited, as access thresholds are very high (18 minority pupils per class).

The **Roma** are the most vulnerable and disadvantaged minority. Roma women in particular face multiple forms of discrimination. The social inclusion of the Roma population requires a more comprehensive and integrated approach based on reliable data. Only 12,583 people identified as Roma in the 2013 census, while the Council of Europe estimates there to be between 40,000 and 76,000 Roma in Bosnia and Herzegovina, with an average of 58,000. A Roma strategy has been in place since 2005; it is being implemented via the 2017-2020 Roma action plan on housing, employment and healthcare and the 2018-2022 action plan on Roma educational needs. These action plans require appropriate financial allocations from competent institutions at all levels. The Ministry of Human Rights and Refugees allocates EUR 1.2 million each year to fund Roma-related activities, matched by funds from entities, cantons, and municipalities as well as international organisations, particularly in the area of housing. A Roma Committee acts as a consultative body to the Council of Ministers and manages a public call for grants to Roma associations in cooperation with the Ministry of Human Rights and Refugees. The Roma Committee has a mixed composition of 11 representatives of Roma associations and 11 representatives of public institutions, of which 3 and 5 women respectively as of March 2017. The implementation of Roma inclusion policies needs to be regularly monitored by the relevant institutions, including the Roma Committee.

Despite recent improvements, housing conditions for the Roma population in Bosnia and Herzegovina are not adequate, as many live in informal settlements without access to water and electricity. The legalisation of settlements is ongoing but uneven. The Roma face the highest level of discrimination in employment opportunities and are almost completely absent from the workforce, working instead in the informal sector or remaining without means of subsistence. Their unemployment rate, at 56%, is among the highest in the Western Balkan region and twice as high as that of non-Roma living nearby. Enrolment rates in compulsory education have increased over the last few years to 72%, but the number of school drop-outs is very high. The completion rate of compulsory education is 42%, less than half that of their non-Roma neighbours. There are very few Roma in secondary and higher education. Access of Roma to mainstream education in Bosnia and Herzegovina is rather good and there are no reports of segregated classes or schools. There is no teaching in and of the Romani language, and awareness of Roma culture by 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. As a result of the good cooperation between the authorities and civil society organisations, the process of civil registration of the Roma population is almost complete: in 2018 the number of Roma persons without documents fell from some 300 to 83. 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 formalistic attitudes still hinder the social integration of 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 Ministry for Human Rights and Refugees is responsible for the coordination of inter-entity return activities. In 2010, the Council of Ministers adopted a revised strategy for the implementation of Annex VII to the Dayton Peace Agreements. This strategy includes measures to meet the housing needs of refugees and internally displaced persons and close the collective centres, as well as measures to ensure access to economic and social rights, including employment opportunities, and unimpeded access to education, health, pensions and the social welfare system. 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. Bosnia and Herzegovina also needs to provide humanitarian protection (shelter, food and medical assistance) and effective access to the asylum procedure to the migrants and asylum-seekers present in the country since 2018. (*See also Chapter 24*)

EU citizens' rights

Bosnia and Herzegovina will have to amend its legal framework, including its Constitution and election laws, to ensure **EU citizens' rights** upon accession, including the right to vote and stand as candidates in municipal and European Parliament elections. In terms of rights of residence of EU citizens, the Law on Aliens is broadly aligned with the *acquis*. The procedures on the establishment of an emergency travel document provided for in the Law on Official Documents are in line with the *acquis.* The legislation on diplomatic and consular protection needs to be further aligned with the *acquis*.

The legislative and institutional framework on **fundamental rights** is largely in place; it needs to be fully implemented and substantially improved by harmonising legislation throughout the country and aligning it with European standards, strengthening administrative capacities and providing adequate resources for the effective enforcement of fundamental rights.

Significant reforms are needed to ensure that all citizens are able to effectively exercise their voting 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 be ended, overcoming the practice of 'two schools under one roof' and ensuring inclusive and quality education for all. Gender-based violence, ill-treatment of detainees and the protection of minorities, including the Roma, are also issues of concern. The country also needs to develop a comprehensive strategic framework on human rights and on the protection of minorities.

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;
→ align the legislation on data protection and on freedom of access to information with EU standards.

1.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, external migration and asylum. Schengen cooperation entails the lifting of border controls inside the EU. There is also cooperation in the fight against organised crime and terrorism, and judicial, police and customs cooperation.

Bosnia and Herzegovina has **some level of preparation** to implement the *acquis* in this area. The country has several strategies in place, notably on organised crime, trafficking in human beings and integrated border management. Legislation in some areas, notably on foreigners

and asylum, is broadly aligned with the *acquis*. However, legislation is not harmonised across the country, and institutional cooperation and coordination are weak. As a result, implementation is often unsatisfactory. Efforts to prevent violent extremism and to counter terrorism need to be reinforced. Border and migration management capacities are insufficient and coordination among institutions across the various levels of government is poor. Implementation of asylum procedures is very weak. 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, and establishing programmes to prevent radicalisation and facilitate disengagement from violent extremism;
→ ensure effective coordination of border control and migration management, and strengthen asylum procedures to provide persons in need with international protection;
→ 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.

Cooperation in the area of justice, freedom and security makes up an important part of the SAA. Title VII of the Agreement establishes cooperation in a wide range of areas, notably border management, asylum and migration, money laundering and the prevention of organised crime.

According to the constitutional and legal framework, the State has exclusive competence on asylum, migration, visa policy and border management. Other issues such as the fight against organised crime, drugs and terrorism are the responsibility of all levels of government.

At state level, the main actors in this area are the Ministry of Security, the Ministry of Justice, the Ministry of Foreign Affairs, and the relevant law enforcement agencies. At entity and cantonal level, ministries of interior and justice as well as law enforcement agencies are in place. In the Brčko District, the institutions responsible for this area are the police and the Judicial Commission.

The *Republika Srpska* entity contests some competences of the state-level Directorate for Coordination of Police Bodies of Bosnia and Herzegovina with regard to international police cooperation.

Fight against organised crime

Bosnia and Herzegovina is **at an early stage/has some level of preparation** to implement the *acquis* in this area. The country has several strategies in place, notably on combating organised crime and trafficking in human beings. However, the legal provisions at the various levels of government are not harmonised within the country. There are systemic shortcomings in the operational cooperation of law enforcement agencies 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. The lack of National Contact Point for cooperation with Europol is at odds with the authorities' commitment to fight serious crime. In the coming year, Bosnia and Herzegovina should in particular:

→ strengthen cooperation among law enforcement agencies, notably by establishing specialised multi-agency investigation teams for complex cases involving economic crime, corruption and organised crime, improving mutual access to databases and the secure exchange of information, strengthening financial investigations and establishing a firearms focal point;

→ fully implement the operational cooperation agreement with Europol, notably by appointing the national contact point, and sign the cooperation agreement with Eurojust;
→ demonstrate progress towards establishing a track record of investigations, prosecutions, final convictions, the seizure and confiscation of proceeds of crime in organised crime cases, with a particular focus on money-laundering.

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: at the state level, there is the State Investigation and Protection Agency and the Border Police within the Ministry of Security; the police bodies in the *Republika Srpska* entity, in the Federation entity, and in each of the ten cantons within their respective ministries of interior; and the Brčko District police. A Directorate for Coordination of Police Bodies of Bosnia and Herzegovina is established at the state level with responsibilities also for international police cooperation, but does not have operational investigative functions.

Relations among law enforcement agencies are not based on the principle of subordination but on cooperation. Operational cooperation among law enforcement agencies is based on the law, agreements and memoranda of understanding. However, cooperation is generally limited, notably with regard to the use of multi-agencies investigation teams. The scope, quality and accessibility of databases need to be significantly improved to ensure a more comprehensive and timely exchange of information. Police chiefs are appointed by independent boards established by the parliamentary assemblies of the respective levels of government. Appointment procedures for senior management positions need to be improved to strengthen autonomy and professionalism. Prosecutors have the responsibility to lead investigations and coordinate law enforcement agencies in that context. The police is vulnerable to undue political interference in conducting investigations, including through their command chain or self-censorship. This may undermine the outcome of investigations. In this regard, there is a need to strengthen police accountability, notably through the more effective use of control powers by the prosecutors. Where different law enforcement bodies investigate a given case at the same time, the prosecutor in charge of the investigation decides which investigation is to be discontinued. The total number of police officers throughout the country is 16 845, out of which 3 486 at state level, 5 498 in the *Republika Srpska* entity, 600 at the level of the Federation entity, 7 251 at the cantonal level and 250 in Brčko District. Countrywide, there are 481 police officers per 100 000 inhabitants, compared with the EU average of 318 in 2016 according to Eurostat. The total number of vacant positions countrywide is 2 170 (11,5%). Several units specialised in anti-terrorism, human trafficking, drugs, cybercrime and financial investigation are in place at state and entity level, though they do not have sufficient capacity. Asset management offices are in place in the two entities but not at the state level. This poses a serious problem for assets seized at state-level. There is no asset recovery office responsible for facilitating the tracing and identification of proceeds of crime and other crime related property. This is an issue of concern.

The **legal framework on the fight against organised crime** is only partly aligned with the *acquis*. Extended and third-party confiscation are possible under criminal legislation, but they are rarely implemented. Bosnia and Herzegovina needs to develop a more comprehensive and coherent legal framework for the confiscation of proceeds of crime. At all levels of government, legislation on **trafficking in human beings** is broadly aligned with the *acquis*. Further improvements are needed, notably regarding sanctions. Legislation on **cybercrime**, mostly within the remit of the entities and Brčko District, is partly aligned with the *acquis*. At

all levels of government, legislation on the **civil possession of weapons** is partly aligned with the *acquis* and needs to be further improved, in particular regarding explosives and transport of dangerous goods.

A 2017-20 **strategy for combating organised crime** in Bosnia and Herzegovina has been adopted by the Council of Ministers. Relevant institutions at the various levels of government have drawn up their action plans to implement the strategy. The findings of the serious and organised crime threat assessment (SOCTA) need to be translated into a coherent national security policy based on clear priorities. The 2016-2019 Action Plan for fighting **trafficking in human beings** is in place. The country lacks a strategic framework to address **cybercrime.** A **strategy for control of small arms and light weapons** (SALW) for 2016-20 is in place.

Implementation and enforcement capacity

In 2018, there were 56 investigations into **organised crime**, with 551 suspects, 26 indictments against 132 accused and 25 sentences, with 146 convictions. There is an increase in investigations in cybercrime, including on-line child sexual abuse. In 2018 there were 104 investigations against 137 individuals, comparing 69 investigations against 81 individuals in 2017. However, the number of convictions in 2018 is very low (22 convictions for 23 individuals). Most of them were suspended sentences (16 convictions for 17 individuals). In 2017 the number of convictions was 20, out of which 11 suspended sentences.

An agreement on operational and strategic cooperation with **Europol** has been in force since March 2017. However, it has not yet been fully implemented by Bosnia and Herzegovina. Despite several requests in various fora, Bosnia and Herzegovina authorities have failed to establish a national contact point, as required in the agreement. This is a matter of serious concern. The national contact point has to be appointed as a matter of priority. Currently the exchange of data goes through the Directorate for Coordination of Police Bodies. The Republika Srpska entity has suspended transmitting information to the Directorate. As a consequence of the lack of a national contact point, Bosnia and Herzegovina cannot post its Liaison Officer to Europol headquarters in The Hague and the Europol Liaison Officer cannot be deployed to Bosnia and Herzegovina. In 2018, Bosnia and Herzegovina took part in the annual planning of operational actions under the European Multidisciplinary Platform against Criminal Threats (EMPACT) priority on the facilitation of irregular immigration. The country committed to participate in three operational actions together with EU Member States to fight migrant smuggling criminal groups in 2019. 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.

A working arrangement with the EU Agency for Law Enforcement Training (**CEPOL)** is in force. Cooperation with **Interpol** takes place through the National Contact Bureau in the Directorate for Coordination of Police Bodies. The country is signatory to the Convention on Police Cooperation in Southeast Europe.

Proactive investigations that start with **intelligence-led policing** are rare, compared with those launched on the basis of reports received. Police chiefs do not have **operational control** over financial and human resources, in particular in a number of cantons and in the *Republika Srpska* entity. This affects the swift re-deployment of police personnel to support specific needs. Moreover, the fragmentation of the law enforcement agencies and their poor cooperation seriously affect the quality of investigations.

Certain 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, also by building upon the strategic cooperation forums between the police chiefs and the chief prosecutors. **Forensic support** is fragmented, with the state and entities developing their own individual resources. 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. There is no effective, coordinated and consistent countrywide approach on using undercover investigators.

There is no overall policy for carrying out **financial investigations** on a systematic basis, and the results of investigations so far have been insignificant.

The value of **asset confiscations** in 2018 amounted to EUR 9.7 million for 116 cases (first instance and final convictions). The system for collection and analysis of statistics on asset seizure and confiscation needs to be improved. The majority of confiscations target the properties used or intended to be used to commit a criminal offence, rather than the proceeds of the crime. The current 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. Freezing of assets needs to be used more systematically and the management of frozen assets needs to be strengthened. Financial investigations into a person's assets need to continue after a criminal conviction in order to fully execute a previously issued confiscation order.

Bosnia and Herzegovina is a country of origin, transit and destination for **trafficking in human beings** for forced begging, sexual exploitation, labour exploitation and forced marriages. The number of potential victims of trafficking in human beings detected in the 2018 was 36. More than half of the detected potential victims are children, and almost two thirds of detected potential victims are women. In 2018, there were 48 convicted perpetrators and 36 victims compared with 17 convicted perpetrators and 83 victims in 2017. A task force coordinates the fight against trafficking in human beings for the whole country. It operates smoothly, but its legal status needs to be better defined and its role strengthened. Bosnia and Herzegovina needs to improve its technical capacities for swift reaction to trends in trafficking in human beings on the basis of risk analysis and intelligence gathering. The relevant agencies need to have better defined competences and must cooperate more efficiently. Prosecutors and law enforcement officers needs to be better trained at recognising and prosecuting trafficking in human beings also through effective financial investigations and work towards ensuring convictions. Evidence gathering and evidentiary proceedings in court trials should be standardised. On the prevention side, significant efforts are needed to prevent child trafficking, including through social services taking a more proactive role. Re-integrating child victims into their families requires careful monitoring to prevent re-victimisation. Bosnia and Herzegovina must develop a comprehensive, multidisciplinary and victim-oriented approach to better identify and protect victims, especially children. International cooperation should also be stepped up in particular through a more active use of joint investigation teams and joint operations.

As regards **trafficking of firearms**, in 2018 a total of 1 221 pieces of weapons, 302 pieces of mine-explosive materials, 39 188 pieces of ammunition, 125 weapons parts, and 50 500 kg of explosives were seized and a total of 2 500 pieces of weapons and weapons parts pieces were destroyed. This compares with 2 500 pieces destroyed in 2016, and 10 800 pieces destroyed in 2017. The implementation of the strategy for the control of small arms and light weapons needs to be improved. Bosnia and Herzegovina has not adopted an action plan for the implementation of the roadmap for a sustainable solution to arms control in the Western Balkans. The State Coordinator in the Ministry of Security and the Coordination Board for control of small arms and light weapons, which is composed of representatives from the

relevant law enforcement institutions and state level ministries, cooperate with relevant domestic institutions and international organisations to improve control over small arms and light weapons and to destroy seized weapons. However, Bosnia and Herzegovina has not established a firearm focal point bringing together administrative control, intelligence, enforcement and forensics.

The country's capacity to combat **cybercrime**, including addressing online child sexual abuse material and to effectively respond to cyber security threats, is inadequate. The law enforcement authorities must respond more effectively to cybercrime, and focus more on the detection, traceability and the prosecution of cyber criminals.

As regards **anti-money laundering**, since February 2018 Bosnia and Herzegovina is no longer on the Financial Action Task Force (FATF) list of high-risk third countries with structural deficiencies in anti-money-laundering/counter terrorism financing. Bosnia and Herzegovina remains on the EU list of high-risk countries. (*see Chapter 4 - Free movement of capital*)

The Financial Investigation Unit within the State Investigation and Protection Agency (SIPA) needs to be more efficient. Cooperation and exchange of crime-related data between domestic law enforcement agencies and with other countries of the region need to be improved. In 2018, there were 65 reports involving 237 individuals, 13 indictments confirmed against 22 suspects, and 11 convictions against 13 defendants.

A **witness protection programme** is in place. However, cooperation between the witness protection unit and other law enforcement agencies needs to be strengthened. There is also a need to improve the mechanism for the designation of witness status, especially in the area of out-of-process protection. The specialised witness protection unit has insufficient human and technical resources.

Proactively fighting organised crime and corruption is fundamental to countering criminal infiltration of the political, legal and economic systems.

Cooperation in the field of drugs

Institutional set-up and legal alignment

The **legal framework for the fight against drugs** in Bosnia and Herzegovina consists of specific legislation at the state level as well as of provisions in the criminal codes at the various levels of government. Bosnia and Herzegovina is party to the relevant international narcotic drug control conventions. Current legislation is only party in line with the *acquis*. Minimum rules on drug-related criminal offences and sanctions need to be harmonised.

Bosnia and Herzegovina does not have a National Drugs Observatory and a National Early Warning System on psychoactive substances. There is a Commission for the suppression of abuse of narcotic drugs. It is composed of the Minister of Civil Affairs, entity level ministers competent for health affairs and the responsible official in the Brčko District, as well as a representative of the Ministry of Security. This body meets very rarely. Its functions need to be clarified. The department for the suppression of abuse of narcotic drugs of the Ministry of Security, with its four staff members, is in charge of the policy on drugs and cooperation between various authorities in the field of drugs and is entrusted with the overall coordinating role in the country. Coordination of the various agencies needs to be improved, in particular by better defining their reporting obligations.

A **national strategy** on supervision over narcotic drugs, prevention and suppression of the abuse of narcotic drugs for the period 2018-23 is in place. However, there is no corresponding action plan to make the strategy fully operational. Implementation of the strategy is entrusted

to the Commission for the suppression of abuse of narcotic drugs. The *Republika Srpska* entity has its own strategy on supervision over narcotic drugs, prevention and suppression of the abuse of narcotic drugs for the period 2016-21, with an action plan in place.

Implementation and enforcement capacity

In 2018 there were 2 205 reported crimes related to drug abuse, 1 753 confirmed indictments 1 753, and 1 485 convictions, out of which 340 convictions of imprisonment.

Bosnia and Herzegovina is a country of transit of drugs into Western Europe and a final destination for drugs. A wide range of narcotic drugs can be found on the black market which is dominated by products of cannabis, heroin and synthetic drugs. Marijuana plantations and artificial laboratories for the production of marijuana have been found in different parts of the country and the production of synthetic drugs has increased. The main drugs seized in 2018 were marijuana (508.5 kg, up from 93.8 kg in 2017), amphetamine (17.1 kg, up from 7.9 kg), cannabis (9.6 kg, up from 9.4 kg) and heroin (3.3 kg, down from 12.9 kg). The list of psychoactive substances is outdated. There is a need to introduce a flexible mechanism to update this list regularly. Professional capacity needs to be improved, including on emerging trends such as online drug markets. Cooperation with civil society needs to be strengthened. More funding is needed for prevention and suppression of the abuse of narcotic drugs, including the development of appropriate programmes for harm reduction and social reintegration of drugs addicts.

Bosnia and Herzegovina cooperates with the European Monitoring Centre for Drugs and Drugs Addiction (EMCDDA). The Ministry of Security department for the suppression of abuse of drugs acts as national correspondent for cooperation with EMCDDA. It is responsible for systematically gathering data and monitoring phenomena, collecting and processing data required for preventing and combating illicit drug trafficking. Since July 2017, Bosnia and Herzegovina authorities use the EMCDDA standard data collection tool for drugs seizures. In 2018, the authorities reported one first-time detection of a new psychoactive substance to the EMCDDA.

A Commission for drugs destruction is in place but destruction of drugs takes place very rarely – only four times since 2012. The lack of secure storage for drugs and drug precursors prior to destruction is an issue of concern. The legislation provides for the entire quantity of drug seized to be preserved as material evidence for court proceedings, rather than just a sample.

Fight against terrorism

Institutional set-up and legal alignment

A Counter Terrorism Task Force and its operational group are in place and should be formalised. The operational group meets with the aim of sharing information and coordinating the actions of the different security and intelligence agencies. The counter-terrorism department of the Bosnia and Herzegovina Prosecutor's Office requires systematic capacity building.

Bosnia and Herzegovina's anti-terrorism legislation is largely aligned with the *acquis* and the relevant international law. State and entity legislation has started to be implemented. Further amendments to criminal legislation need to be adopted without delay, in particular related to stricter sanctioning of travelling abroad for terrorist purposes as well online terrorist content.

A strategy for the prevention and fight against terrorism for 2015-2020 as well as an accompanying framework action plan are in place. A supervisory body oversees the implementation of the strategy.

A policy dialogue on counter-terrorism between the EU and Bosnia and Herzegovina takes place regularly. It focusses on the implementation of the strategic framework and internal coordination – in particular on the a prevention of violent extremism, appropriate sentencing for foreign terrorist fighters and their subsequent social re-integration, on arms trafficking, border control, terrorism financing, and regional and international cooperation on the full implementation of the agreement with Europol as well as the conclusion of an agreement with Eurojust. Bosnia and Herzegovina needs to make further sustained efforts to address these issues. In October 2018, Bosnia and Herzegovina signed the Joint EU-Western Balkans Action Plan on Counter-Terrorism, which sets out concrete steps for enhanced cooperation in countering terrorism and preventing radicalisation over the next two years. Bosnia and Herzegovina has shown commitment to implement it.

Implementation and enforcement capacity

From 2012 to 2015, the country had a significant number of its citizens travelling to foreign battlefields in Syria and Iraq. According to official data, 181 men, 61 women, and 81 children with Bosnia and Herzegovina citizenship are believed to have travelled to Syria and Iraq from Bosnia and Herzegovina and from the diaspora. The authorities' efforts have contributed to stop departures to foreign battlefields since then. According to research analysis based on sources from competent domestic institutions, 98 adult Bosnians (49 men and 49 women) were believed to be still in Syria and Iraq at the end of 2018.

Out of the 50 returned foreign terrorist fighters, 25 were indicted and subsequently convicted for terrorism-related offences. However, sentences were often lenient and frequently based on plea bargains. Twelve returned foreign terrorist fighters were sentenced to one-year imprisonment, with at least one of these having converted their sentences into fines. The rest received sentences of up to three years. The leniency of sentences, combined with the absence of a probation service or any systematic disengagement or reintegration assistance, is a source of concern.

Shortcomings still exist regarding the implementation of counter-terrorism laws as well as structured and efficient cooperation between competent agencies at the various levels of government. Terrorists sentenced by the Court of Bosnia and Herzegovina serve their terms in entity prisons that are often inadequate to hold this type of prisoners. The high-security state prison completed in 2017, which was designed to accommodate also this type of inmates, is not in function due to the delayed appointment of the prison management and recruitment of the staff. This is a matter of concern.

The country's capacity to investigate and prosecute financing of terrorism and to counter terrorist content online needs to be further developed. Operational cooperation with Europol is seriously hampered by the lack of a national contact point. Spots of radicalisation have been identified in certain locations in the country, in particular in the Wahhabi communities.

As regards prevention, a multi-agency approach for prevention of radicalisation is described in the strategic documents of Bosnia and Herzegovina but it needs to be further developed. There are no assistance mechanism for disengagement from violent extremism and for resocialisation. There is no reintegration programmes for family members of foreign terrorist fighters. Institutions at various levels of government in the area of labour, social welfare, education, youth and health as well as the civil society need to be more effectively included in preventive efforts. Bosnia and Herzegovina is actively participating in the implementation of the Western Balkan Counter Terrorism Initiative (WBCTi).

Legal and irregular migration

Institutional set-up and legal alignment

Migration policy falls within the exclusive competence of the state-level. The Service for Foreigners' Affairs of the Ministry of Security is in charge of the 'in-land' migration management in the border zone. Based on official data, it is significantly understaffed by around 22% and is inadequately equipped. The Sector for Immigration is understaffed as well. Bosnia and Herzegovina has a Coordination Body to follow migratory trends, which may act as operational headquarters in case of crisis with the participation of authorities from the entities and Brčko District. Institutions also at other levels of government have responsibilities in specific areas related to management migration, including health and social services.

The legislation on foreigners is broadly in line with the *acquis*. It provides in particular for *non-refoulement* principle, residential status of foreign seasonal workers and maximum detention time for irregular migrants in detention centres. The legal framework needs to be further aligned regarding migrants' access to rights, notably for vulnerable migrants.

Bosnia and Herzegovina has **readmission agreements** with the EU (in force since January 2008) as well as with the Western Balkans (except Kosovo), and with Turkey. It has implementing protocols with 14 EU Member States. Negotiations on additional readmission agreements with countries of high migratory risk have not started.

The **strategy and its action plan** on migration and asylum for the 2016-2020 period are in place and implemented. The strategy defines areas for improvement, such as the fight against human trafficking, identification and registration of foreigners, biometric data exchange, engagement of migration liaison officers and migration crisis management. Bosnia and Herzegovina needs a realistic contingency plan.

Implementation and enforcement capacity

In 2018, the number of people detected while irregularly crossing the border was 23 977. This is a very significant increase compared with 767 in 2017 and 218 in 2016. In 2019, so far 6 201 arrivals were detected, which is the double compared to the same period in 2018 to the same period of 2018. Pakistan, Iran and Syria are overall top-three declared countries of origin of arriving refugees and migrants since 2018. The estimated number of migrants present in Bosnia and Herzegovina is approximately 6 400. There are reports of violent collective expulsion of migrants and asylum seekers back into Bosnia and Herzegovina.

The response to the increased migratory flow shows significant institutional and coordination weaknesses. Political inaction and negative rhetoric undermine the timely provision of assistance, primarily in the areas of access to asylum procedure, provision of accommodation and basic services in line with international standards, and access to healthcare. The authorities of the Una-Sana Canton have introduced restriction on the number of migrants in the canton and, as reported by international organisations, have been conducting forced disembarkation of migrants at the cantonal borders and restricted their movements. In several cases, the authorities did not allow accommodating migrants and asylum seekers in the established facilities, thus leading to significant protection risks.

The Coordination Body is not functioning effectively. It does not have the power to enforce decisions. It has proven unable to allocate suitable premises for reception centres and relocate asylum seekers and migrants, thus alleviating the burden on the areas mostly affected by the migratory flow. Operational coordination mechanisms need to be strengthened significantly.

Due to the very limited capacity of the **immigration centre** (120 beds), temporary accommodation centres were set up with EU support, notably in the Una-Sana Canton and to a lesser extent in the Sarajevo Canton, providing accommodation to around 4,000 persons, among which 30% are families with children, 10% are unaccompanied/separated children, and 1% are single women. In March 2019, the Council of Ministers decided to take over the

responsibility of the reception facilities in the Una-Sana Canton. However, this decision has not been implemented. The authorities need to identify appropriate additional accommodation capacities. Particular attention needs to be paid to **vulnerable groups** of migrants, such as unaccompanied and separated children, pregnant women, single parents, persons with disabilities, sick persons and victims of violence. They need to be identified and referred to competent bodies to receive assistance and services in line with international standards. Unaccompanied children must have access to legal guardianship. School enrolment of children needs to be further facilitated. The authorities need to take more effective measures to combat migrant **smuggling**.

The number of third-country nationals **returned** to Bosnia and Herzegovina in 2018 under various readmission agreements was 652 compared with 324 in 2017. In 2018, Bosnia and Herzegovina authorities returned 670 foreign citizens compared with 358 in 2017. Return mechanisms to the countries of origin require additional improvement, especially regarding voluntary return of foreign nationals from Bosnia and Herzegovina. In this respect, the country has been repeatedly encouraged to conclude bilateral readmission agreements with the main countries of origin of irregular migrants.

The implementation of the readmission agreement with the EU is satisfactory. The absolute number of citizens of Bosnia and Herzegovina returned from EU Member States decreased from 4 025 in 2015 to 3 730 in 2016 and 2 660 in 2017, while the return rates are stable at 74.8%, 74.6% and 72.7% respectively. In the context of the increased migratory flow, the implementation of the readmission agreements with neighbouring countries concerning third-country nationals has been challenging. According to official data 450 persons were readmitted from Bosnia and Herzegovina to Serbia (275 through regular procedure and 175 through accelerated procedure), while 193 persons were admitted from Bosnia Herzegovina to Montenegro (143 through regular procedure and 50 through accelerated procedure).

Asylum

Institutional set-up and legal alignment

Asylum policy falls within the exclusive competence of the state-level authorities. The Sector for Asylum of the Bosnia and Herzegovina Ministry of Security handles first instance decisions. **Inter-agency cooperation** needs to be further improved to ensure appropriate coordination and cooperation.

Legislation on asylum is broadly in line with the EU *acquis*, notably on improved reception standards and rights of asylum applicants such as right for employment, secondary education, psychological and social aid, reunification of families and subsidiary protection. Further alignment is needed in particular on interview techniques, access to rights and legal aid.

Implementation and enforcement capacity

In 2018, the authorities registered 22 499 asylum intents, while only 1,567 persons chose or managed to apply for asylum. This compares with 381 persons who lodged applications for international protection in 2017. In 2018, 475 applications by 659 individuals were closed with 2 applications by 4 individuals were granted the status of subsidiary protection whilst 473 applications by 655 individuals were rejected on merit or discontinued as the applicants left or attempted to leave the country or failed to show up for an interview. The remaining 482 applications by 909 individuals were still being processed at the end of 2018. There have been no refugee status recognitions since 2014.

There are serious obstacles to an effective access to asylum procedures. The Asylum Department has very limited **human resource and operational capacities**, which are

inadequate to address the increased influx of asylum seekers and ensure access to the asylum procedure including in the area of the countries were most asylum seekers are present. There is in particular an insufficient number of registration sites and interviewers. **Interpretation** services are mainly based on outsourcing agreements. There is also a lack of cultural mediators. Staff needs to be better **trained** to ensure the respect of international standards and procedural safeguards. The implementation of the **asylum** legislation needs to be improved, in particular to ensure the systematic respect of procedural guarantees for asylum-seekers. The enjoyment of rights of asylum seekers is uneven across the country, as the access to services varies depending on the centres' location. The access to asylum procedures and mechanisms should be strengthened to ensure faster processing of claims and provide persons in need with international protection. As the authorities have not yet taken over the legal responsibility for the reception centres in the Una-Sana Canton, these are not recognised as valid residential addresses for asylum applications. Consequently, the applicants fall in a legal limbo, which entails significant protection risks.

The **technical infrastructure** and IT network of Bosnia and Herzegovina's diplomatic and consular offices abroad require further improvement. There is insufficient exchange of data, especially **biometric**, used for identification and registration of migrants is inadequate.

The **Asylum Centre** has a capacity of 154 beds which can be expanded to 300 beds in the event of need. The centre is managed by the Sector for Asylum of the Ministry of Security. In spite of the increased influx of asylum seekers, the **accommodation capacity** is not fully used, mainly due to its remote location and poor access.

Cooperation with the **European Asylum Support Office** (EASO) needs to be strengthened. Bosnia and Herzegovina does not have an agreement with the EASO.

Visa Policy

Visa policy falls with the **exclusive competence of the state-level authorities**. Legislation on visa is broadly in line with the *acquis*. Application processing, criteria and issuing processes for different types of visas satisfy EU minimum standards. The list of third countries with which Bosnia and Herzegovina maintains visa-free regimes is mostly in line with the countries listed by the EU except for Azerbaijan, Bahrain, Kuwait, Oman, Qatar, Turkey, Russia and China. Bosnia and Herzegovina should take concrete steps to fully align its visa policy with the EU visa policy.

Security features of visas and travel documents are broadly aligned with EU standards. Bosnia and Herzegovina has improved the security of its travel documents by introducing biometric passports with supplemental access control since October 2014. However, the control over passport procurement and issuing processes requires additional improvement. Bosnia and Herzegovina has no **technical capacities** for gathering biometric data from visa applicants. It keeps a database on issued and rejected visas. The system functions in the country and all diplomatic-consular offices abroad. The **issuing of visas at the border** is limited to exceptional circumstances.

Bosnia and Herzegovina has an agreement on **consular and visa issuing cooperation** with Montenegro in force as of 1 January 2016. It has no **joint locations** or **representation agreements** on visa issuing with third countries.

The implementation of the **visa-free regime** with the EU is smooth. There has been a decreasing trend of **abuse of the visa-free regime** by unfounded asylum applicants from Bosnia and Herzegovina in the EU and Schengen associated countries. The country has made significant efforts in border control and raising public awareness on negative effects. Increased attention should be given to a successful reintegration of returnees. This applies in

particular to the most vulnerable, such as Roma, which represent a high proportion of returns. Coordination among all levels of government need to be enhanced to strengthen implementation and improve monitoring. Cooperation with international organisations and NGOs active in the reintegration of returnees needs to be stepped up.

Schengen and external borders

Institutional set-up and legal alignment

The state-level **Border Police** is responsible for managing the state border. **Border control legislation** is partly aligned with the EU/Schengen *acquis*.

The strategic framework on Integrated Border Management (IBM) is partly aligned with the EU policy and best practices and requires further alignment. Its implementation requires further improvements in terms of human resources, technical equipment, infrastructure, effective returns and risk analysis. Bosnia and Herzegovina has an IBM Annual Action Plan in place. The Border Police has its own strategy, and its implementation is satisfactory.

Implementation and enforcement capacity

Capacities of all IBM agencies are insufficient due to the lack of appropriate infrastructure and human and technical resources. Border police has around 400 vacant positions, amounting to around 14% of its personnel capacity. In particular, more personnel needs to be recruited in the areas of border surveillance, border checks, identification and registration.

Border checks satisfy minimum standards. There is a need for additional technical and human resources for improving the quality of border checks. Expertise on detection of forgeries is satisfactory. A low number of forged documents has been detected. A vehicle registration plates readers system does not exist and would require substantial investments. The implementation of the local border traffic agreements with neighbouring countries is satisfactory. Border checks are inefficient in detecting firearms trafficking, in stark contrast with the higher number of firearms seizures inside the country.

Border Surveillance resources are 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 also in view of the length of the border. Risk analysis led border surveillance requires further improvement.

Border crossing **infrastructure** belongs to the Indirect Tax Administration. Further efforts are needed to clarify the jurisdiction over border infrastructure with regard to ownership and usage. Border **infrastructure** requires significant improvements given that a number of international border crossings do not meet minimum EU standards, especially the ones on the border with Serbia. Adequate offices, passport control booths, vehicle access lanes and technical surveillance systems covering border crossings need to be improved urgently. **Second-line check infrastructure** is poor and requires substantial improvement. Joint locations and joint border crossing points with neighbouring countries needs to be further improved.

Inter-agency cooperation is satisfactory, such as that between the border police and customs at the border crossing points, but improvements are needed on information exchange, joint investigations and sharing of resources. The **Central Investigation Office** of the border police has police executive powers throughout the country but its **operational capacity** is limited due to a lack of equipment and staff.

Risk analysis in the Border Police aims to gradually comply with the Common Integrated Risk Analysis Model (CIRAM) II methodology. The **Joint Risk Analysis Centre** develops

border-related risk analysis but requires further improvements in inter-agency data exchange. Bosnia and Herzegovina participates in the **Western Balkans Risk Analysis Network**.

In-land measures and fight against cross-border organised crime requires improvement in investigations and prosecution of criminal offences. Fighting trafficking in human beings, migrant smuggling, firearms trafficking and terrorism require more efficient delineation of jurisdictions and competences. Exchange of crime-intelligence and biometric data requires significant improvements**.** Bosnia and Herzegovina lacks an efficient **Advanced Passenger Information/Passenger Name Record** (API/PNR) system for further alignment with the EU/Schengen *acquis* and standards.

The **training** curriculum of the Border Police is not yet fully harmonised with the common core curriculum of the European Border and Coast Guard Agency (EBCGA).

Cooperation with **European Border and Coast Guard Agency** (**EBCGA**) and implementation of the working agreement signed in 2009 are satisfactory. Negotiations on a model status agreement between Bosnia and Herzegovina and the EU on the EBCGA have been concluded, but the agreement has not yet been signed.

On **international cooperation,** Bosnia and Herzegovina has a number of agreements with neighbouring countries, including on joint patrols, joint cooperation centres and local border traffic. The **Joint Centre for Police Cooperation** with Serbia and Montenegro in Trebinje is in function, but with limited capacity. There is also a **Joint Contact Centre** with Croatia. **Local border traffic** agreements are operational with Croatia, Montenegro and Serbia. Locations suitable for illegally crossing the border with Croatia, Serbia and Montenegro have been closed. The 2016 border agreement with Montenegro is implemented smoothly.

Some measures are in place to fight **corruption** on the border, in particular video surveillance systems on all border crossings and a free hotline for citizens' complaints for reporting corruption cases. However, more efforts are needed to achieve concrete results.

Crisis response mechanisms related to border control are weak and require significant improvements. Increased migratory influx into Bosnia and Herzegovina in 2018 revealed deficiencies and lack of coordination among levels of government. The Ministry of Security failed to ensure effective coordination and provide adequate border surveillance, registration and identification of migrants. The issue has been exacerbated by the lack of proper risk analysis, crime intelligence and exchange of biometric data.

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.

The Ministry of Justice of Bosnia and Herzegovina is competent for the implementation of legislation and compliance with conventions relative to international judicial cooperation and plays a coordinating role among other relevant authorities in the country. The Ministry maintains centralised records and statistics on the processing of requests for mutual legal assistance. Bosnia and Herzegovina is a signatory to a number of bilateral and multilateral agreements on mutual assistance in civil and criminal matters and on mutual enforcement of court decisions, the most important being the second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, allowing for a more direct cross border cooperation.

In 2017 and 2018, the Ministry of Justice recorded a total of 9 068 requests for judicial cooperation in civil matters. It is estimated that 70% of them originate from EU Member States (6 350), primarily Croatia, Slovenia, Germany, the Netherlands and Sweden.

Foreign judicial decisions are legally enforceable in Bosnia and Herzegovina if recognised by a competent court in Bosnia and Herzegovina. For the period 2017-18, the statistics on enforcement of foreign judgments have slightly increased (1 727 incoming cases compared with 1 604 in 2017) while the completion cases rate as remain stable at 88%.

International standards are interpreted differently by courts throughout the country, the result of which is inconsistent implementation of international standards by authorities at the different levels of government cooperation.

Bosnia and Herzegovina is a signatory to a number of international treaties governing extraditions. It has signed treaties on extradition of its own nationals with all neighbouring countries, except those nationals accused for the criminal offences of genocide, crimes against humanity and war crimes.

The country needs to accede to several instruments developed within the framework of the Hague conference on private international law. In the Ministry of Justice there is a contact point for relations with Eurojust. Bosnia and Herzegovina does not have a cooperation agreement with Europol. With a view to start negotiating this agreement, Bosnia and Herzegovina needs to revise the Law on personal data protection in line with the *acquis* and strengthen the operational capacity of the Personal Data Protection Agency. Moreover, the Prosecutor's Office of Bosnia and Herzegovina needs to adopt by-laws to better define how parties to a cases can access their personal data, notably via the Prosecutor's Office website.

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

2. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT AND COMPETITIVENESS

Bosnia and Herzegovina: Key economic figures	2010-15 average	2016	2017	2018*
GDP per capita (% of EU-28 in PPS)	30.0	31.0	32.0	:
Real GDP growth	1.4	3.1	3.2	3.1
Economic activity rate of the population aged 15-64 (%), total	54.0	54.2	54.5	54.2
female	*41.6*	*41.9*	*42.7*	*41.8*
male	*66.5*	*66.2*	*66.1*	*66.4*
Unemployment rate (%), total	27.5	25.5	20.7	18.4
female	*30.2*	*30.2*	*23.3*	*20.3*
male	*25.9*	*22.6*	*19.0*	*17.2*
Employment (annual growth %)**	-0.7	-2.6	1.9	0.7
Nominal wages (annual growth %)	1.2	0.9	1.5	3.1
Consumer price index (annual growth %)	1.0	-1.1	1.2	1.6
Exchange rate against EUR	1.96	1.96	1.96	1.96
Current account balance (% of GDP)	-6.8	-4.5	-4.9	-4.2
Net foreign direct investment, FDI (% of GDP)	2.0	1.6	2.1	2.3
General government balance (% of GDP)	-1.5	1.2	2.6	:
General government debt (% of GDP)	35.4	40.5	36.1	35.9

Source: Eurostat and national sources

** National sources*

*** LFS, including employed, self-employed and family workers*

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 is mainly done through two processes: the Economic Reform Programme (ERP) and the assessment of compliance with the economic criteria for accession (see below). Every year, each enlargement country prepares an ERP, which sets out a medium-term macro-fiscal policy framework and a structural reform agenda aimed at ensuring competitiveness and inclusive growth. The ERPs are the basis for country-specific policy guidance jointly adopted by the EU and the Western Balkans and Turkey at ministerial level in May each year.

2.1. Introduction

Bosnia and Herzegovina is a relatively small economy with a population of approximately 3.5 million, living on a territory of around 51 000 square kilometres. This corresponds to about 0.7% of the EU-28 inhabitants, while the country's gross domestic product (GDP) at current prices of about EUR 17 billion represents only 0.1% of the EU-28 GDP. The country's GDP per capita in purchasing power parity terms has increased slightly in the last 10 years, from about 29% of the EU-28 average in 2008 to 32% in 2017.

The SAA stipulates that the EU and Bosnia and Herzegovina will facilitate the process of economic reform by cooperating to improve understanding of the fundamentals of their

respective economies and the formulation and implementation of economic policy in market economies.

According to the constitutional and legal framework, the competences for the areas covered by the economic criteria are spread over the state level, the level of the two entities, Brčko District, but also cantonal and municipal levels. Monetary policy is one of the few areas of the economic criteria in which the main competences are at state level, with the Central Bank. Furthermore, the competences on trade policy, on indirect taxation and on external representation are allocated at the state level. However, some competences of importance for the financial sector's stability, such as banking sector supervision, are located at entity level. Competences related to economic policy are largely located at the level of the two entities and Brčko District, while competences related to education are located either at entity level, or, in the case of the Federation, at cantonal level. As regards economic policy, the main state-level actors are the Ministry of Finance and Treasury, the Directorate for Economic Planning - a permanent body of the Council of Ministers responsible for administrative coordination and monitoring - and the Fiscal Council. The Fiscal Council is tasked with coordinating fiscal policy in Bosnia and Herzegovina in order to ensure macroeconomic and fiscal sustainability of the State, the entities and Brčko District. However, in contrast to fiscal councils in the European Union, the Fiscal Council of Bosnia and Herzegovina is not independent and has primarily a coordinative role. At the level of the *Republika Srpska* entity, economic policy is the responsibility of the Ministry of Finance, while other ministries are in charge of particular aspects of the economy. In the Federation entity, the Institute for Development Programming is in charge of preparing economic policy, while the Ministry of Finance is responsible for fiscal policy. In Brčko District, the Directorate of Finance is responsible for this. The only authority responsible for issuing currency and for monetary policy is the Central Bank.

2.2. Assessment in terms of the Copenhagen Criteria

The existence of a functioning market economy

The existence of a functioning market economy requires that prices, as well as trade, should be liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and a consensus on economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of significant barriers to market entry and exit improve the efficiency of the economy.

Economic governance

The transformation into a functioning market economy is frequently delayed by political stalemates and an insufficient focus on investment and education. Despite a general acceptance of the main principles of a market-based economy, frequent short-term-oriented political disputes have resulted in delays and interruptions of agreed and long-overdue reform projects. During the last 10 years, the country signed with the IMF two stand-by arrangements (in 2009 and 2012) and one agreement on an extended-funds facility (EFF) in 2016. This facility is still in place, although so far only one review has been completed. Overall, cooperation with the International Financial Institutions helped to overcome adverse external shocks; to keep public finances on a sustainable path, to strengthen the financial sector's resilience; to proceed with public sector reforms; and to prevent the build-up of external imbalances. However, due to frequent political gridlocks, progress with IFI support programmes has been slow.

Since 2006, the country has participated in the EU's multilateral pre-accession economic policy surveillance exercise for candidate countries and potential candidates. So far, the level of compliance with the exercise's requirements has remained low, pointing to significant

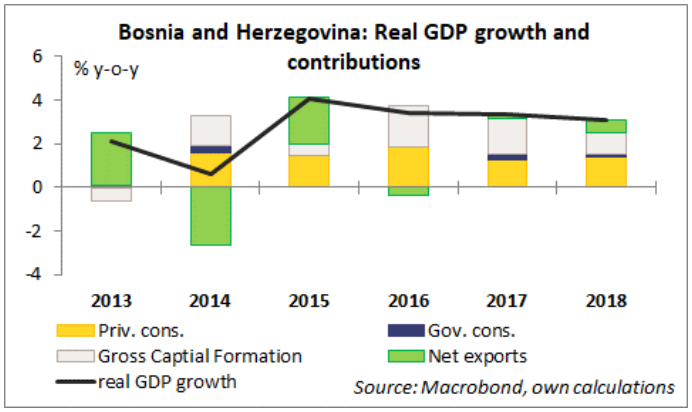
weaknesses in administrative coordination and cooperation and policy formulation. In particular, insufficient cooperation among the key stakeholders has prevented substantial improvements. Furthermore, the implementation of the latest policy guidance adopted jointly in 2018 by the authorities and the EU has remained limited. In 2015, the authorities started to implement an ambitious 'reform agenda'. In spite of delays in implementation, some important and often painful decisions were taken - for example, creating more flexible labour market legislation and better aligning financial sector regulations with international standards. Following the expiration of the 2015-2018 'reform agenda', a new set of socio-economic reform measures needs to be agreed and implemented by the governments at all levels in the country, in full alignment with the policy guidance set out in the joint conclusions of the economic and financial dialogue based on Bosnia and Herzegovina's Economic Reform Programme.

Overall, frequent political stalemates and a lack of cooperation among key stakeholders lead to overdue reforms being frequently delayed. As a result, the efficiency of economic governance, in particular with respect to proceeding with structural reforms, is very limited. The weakness of economic governance and cooperation also has negative effects on the availability of countrywide statistics, which strongly impedes the assessment of the country's compliance with the EU accession criteria.

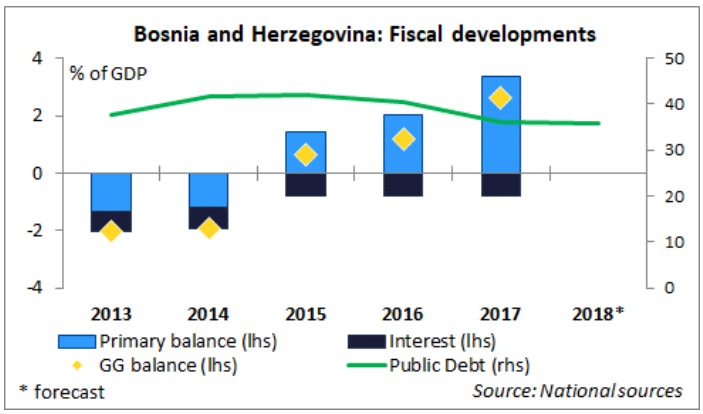
Macroeconomic stability

During the last 10 years, the economy has experienced several external shocks, such as the 2008-2009 financial crisis, the international growth slowdown in 2012 and adverse weather conditions in 2014. Overall the economy has demonstrated a remarkable degree of shock resilience. Despite this, the economy shows a rather low overall growth momentum, in particular when taking into account the relatively low income level, with per capita GDP (expressed in purchasing power standards) at 32% of the EU-28 average in 2017.

Largely as a result of those external shocks, average annual output growth during the last 10 years has been at around 1.5% only. Private consumption was a key driver of growth before the financial crisis and has been since 2014. Investment has at times played an important role, such as in 2014, when substantial (largely foreign-financed) funds were used to repair flood damage. However, strong domestic demand also translated into high imports and relatively high external imbalances, which were largely financed by workers' remittances. Exports also played an important role as growth drivers, in particular during the last 3 years, however, partly reflecting a favourable external environment.



External imbalances have declined, benefiting from strengthening external and moderating domestic demand. During 2009-2018, current account deficits gradually narrowed, declining to around 4% of GDP by 2018. The level of the underlying trade deficit has remained quite high,



dropping from 29.4% of GDP in 2009 to around 22% in 2018. This high deficit has been largely counter-balanced by significant inflows of current transfers, mainly in the form of workers' remittances, accounting for more than 10% of GDP. Furthermore, Bosnia and Herzegovina usually achieves a surplus in the service balance, reflecting the effect of providing construction services abroad, as well as substantial net inflows from tourism. Net foreign direct investments remained relatively low at less than 3% of GDP during the last 10 years, probably as a result of factors such as the country's poor business environment and its fragmented markets. The main areas of investment have been the manufacturing sector, in particular the coal and food industries, the financial sector, trading and the electricity sector. While at the beginning of the observation period foreign direct investment (FDI) was largely driven by privatisations (of a telecom company and two oil refineries), in recent years FDI inflows largely consisted of reinvested earnings, while green field investment has remained very low, with the exception of some tourism projects. Largely thanks to the stable inflow of working remittances and improving tourism revenues, net foreign exchange reserves continued to increase over the last 10 years, reaching some 35% of GDP at the end of 2018.

Monetary policy has supported stability, based on the currency board arrangement as a key anchor. The Central Bank was established in 1997. Its mandate is to focus on providing monetary stability, in particular through foreign exchange rate stabilisation. The Central Bank also coordinates the work on financial stability, while its role concerning banking sector supervision is more limited. Overall, the Central Bank's analytical capacities are limited. The currency board arrangement was adopted when the Central Bank was established, and has been in place ever since. Initially, the anchor currency was the German Mark, which since 1 January 1999 has been replaced by the euro. This approach has served the economy well so far. However, this arrangement also implies that the burden of adjustment to external shocks has to be accommodated by other policy areas, in particular responsible fiscal policy. This necessitates the building-up of sufficient fiscal buffers and a stronger emphasis on medium-term stability, as well as structural reforms to improve the functioning of markets.

Price stability has been largely maintained. In contrast to the high inflation experienced before independence, inflation has remained under control over the last 10 years. On average, consumer prices have risen by 0.7% annually in this time span with a period of a slightly declining overall price levels in 2013-2016. As a small, open economy with a fixed exchange rate with its main trading partner, domestic inflation is largely driven by import prices, which have generally been low during the last decade. Private sector wage agreements have tended to result in low wage increases, reflecting rather low productivity growth. However, there are serious issues with the quality of price indices, resulting from an insufficient resource allocation at the country's statistic office and a lack of cooperation from some data providers. Measurement errors in this area have major negative knock-on effects on other areas of economic policy, such as on wage formation and thus on households' real disposable income.

The general government accounts remained largely balanced, although the quality of fiscal governance has remained low. Over the last 10 years, public finances have benefited from solid revenue growth, relatively stable output growth and measures to improve tax collection, while growth of spending on public sector wages has remained contained. The country's general government revenues are largely based on indirect taxes, which account for more than 40% of total revenues. Those revenues are collected centrally, while the other taxes are mainly defined, collected and spent on the lower levels of government. The current system of public sector accounting is not aligned with EU standards. In particular, the integration of public enterprises in the current public sector accounting is unclear. As a result, the actual levels of general government balances and of public debt in terms of European standards (ESA 2010) are difficult to specify. Overall, the quality of fiscal governance is low, with a

lack of medium-term planning and a strong focus on maintaining current spending patterns, in particular on public sector wages and social transfers. This frequently results in delaying much-needed public investment. Substantial payment arrears create distortions within the public sector, but are also a burden on private companies. Public finances are suffering from substantial spending inefficiencies, particularly in the health sector, and a poor targeting of social transfers. Planned reforms to improve the quality of public spending have been repeatedly delayed.

The level of official public debt rose from 24% of GDP in 2009 to 35.9% at the end of 2018, while reaching a peak of about 43% in early 2015, to a certain extent resulting from public spending to fight external shocks, such as the financial crisis in 2008 and 2009, and flooding and a drought in 2014. Since then, public debt has remained largely stable in nominal terms, but has declined as a percentage of GDP. The published debt level appears to be relatively low, in particular as a large share of this debt is long-term at rather favourable rates, leading to costs for debt servicing of slightly below 1% of GDP only. However, due to the unclear accounting standards, there is a significant degree of uncertainty related to the 'real' extent of public sector indebtedness. Furthermore, there are significant differences in the indebtedness at lower levels of general government.

In summary, the economy experienced several external shocks during the last decade, but showed a remarkable degree of resilience, partly benefiting from substantial capital inflows from workers abroad, but also from International Financial Institutions. In order to increase the country's endogenous growth potential, long-overdue structural reforms are needed, such as improving the rule of law, improving the business environment and strengthening the efficiency of public sector spending, in particular in the area of a better targeting of social transfers, addressing payment arrears and improving the governance of public enterprises. While macroeconomic stability has been preserved overall, reforms have clearly been implemented too slowly to achieve noticeable progress for the country's citizens. The economic policy mix suffers from an insufficient medium-term orientation, in particular with respect to public investment and education. Overall, the country's macroeconomic policy mix suffers from implementing overdue reforms too slowly and from lacking a sufficient medium-term orientation.

Functioning of product markets

Business environment

Market entry and exit regulations are still lengthy and cumbersome, in particular as the high degree of regional fragmentation leads to many different rules and different interpretations. The legal framework for market entry and exit is largely defined at the lower levels of government, which often results in different regulations and implementation at local level (i.e. in the two entities as well as in Brčko District, and partly also at the level of the 10 cantons in the Federation). There are many similarities among the various regulations and procedures, nevertheless often differences remain, which complicates doing business in different parts of the country. This high degree of fragmentation has a negative effect on the country's business environment, requiring companies to comply with different procedures within different parts of the country. Business registrations in one part of the country are not fully recognised in other parts of the country, requiring a costly multiplication of registration procedures. Furthermore, quality control rules and procedures are different in different parts of the country, which also impedes trade. Business insolvency is regulated at the entity level and there is no countrywide framework. While a law is in place in one entity, the adoption of a more modern bankruptcy law is still in parliamentary procedure in the other entity.

A complex set of different para-fiscal fees, largely levied at cantonal or municipal level, are a further impediment to new company setting up in a different part of the country. The difficult business environment is not only reflected in low rankings in various international surveys, such as the World Bank's 'Doing business' survey, but also is probably a key factor behind the low level of domestic and foreign investment. As a result, the increase in the number of new companies has been rather low, at around 1% annually in 2011-2018. Overall, the procedures required to enter or leave the product market are still numerous, lengthy and have limited regional coverage, creating a significant impediment to market entry and exit.

The institutional and regulatory environment continues to be a crucial weakness with adverse effects on the business environment. Contract enforcement is still a very time consuming procedure. Furthermore, settling commercial disputes remains difficult, partly due to the lack of alternative dispute resolution methods and a lack of courts specialised on commercial disputes. The backlog in court cases is still substantial. Furthermore, there are frequent disputes on property rights, partly because registration of real estate ownership is limited in some areas. The resource endowment and independence of numerous regulatory and supervisory institutions is insufficient. Overall, weaknesses in the rule of law, including in the functioning of the judiciary, affect the country's market economy.

The size of the informal economy has remained significant. Despite some limited progress in addressing the informal economy, such as improving the degree of registration in the labour market, the informal sector is still substantial, with informal employment estimated to account for nearly one third of total employment. On the one hand, the informal economy is an important source of (unregistered) employment and income. However, on the other hand, this creates an unfair competitive advantage for companies in the grey economy and erodes the base for taxation and social security contributions and for labour rights and labour safety. A high level of informal economy requires rates for taxes and social security contributions to be higher than would be otherwise necessary. This also adds a significant fiscal burden on registered labour, which in turn impedes the creation of formal employment and negatively affects Bosnia and Herzegovina's international competitiveness.

State influence on product markets

State influence on the economy is still high. Despite efforts to reduce state influence, countrywide public spending has remained at a relatively high level. At the same time, the quality of the provided services is low, in particularly in the areas of health and education. According to official statistics, public spending accounts for more than 40% of GDP. Sectors providing public services (public administration, defence, compulsory social security, education and human health) generate about 17% of the country's value added and employ according to the annual Labour Force Survey about 18% of the country's labour force. However, when taking into account the value added and the employment in public companies operating in other sectors, such as industry, electricity production and transmission and water treatment, the role of the state in the economy is significantly higher. Given the rather high share of public spending, public procurement plays an important role for the private economy. However, public procurement procedures are complex, prone to corruption and still contain a preference for domestic suppliers, which is incompatible with the *EU acquis*. Payment arrears of the public sector are substantial, in particular in sectors such as public health, creating a substantial burden for private companies, but also a high degree of uncertainty for other public services. Furthermore, arrears are sometimes impeding the financial viability of certain social security services. The costs of supporting public companies and guarantees, which often translate into substantial contingent liabilities, are a heavy burden on public finances and thus the country's taxpayers.

The official level of state aid is low, but indirect state aid could be substantial. Although official state aid data points to a relatively low level of support, 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 partial alignment of legislation, by the lack of independence and budgetary issues of the authority responsible for its control, as well as by the ethnic vetoes existing in it. 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 incomplete. Despite recurring initiatives and significant progress in one entity, similar attempts have been less successful in the other entity. As a result, strategic sectors such as transport and energy (and telecommunication in one entity) are still dominated by poorly managed and often inefficient public enterprises. Restructuring public companies and stimulating competition from the private sector could improve the quality of the services provided and relieve public finances from a recurring burden. The share of the private sector in the country's value added has remained rather stable over the last 10 years. It creates some 83% of the country's gross value added and generates some 82% of the country's employment. 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 pace of economic restructuring has been slow.

Functioning of financial market

Financial stability

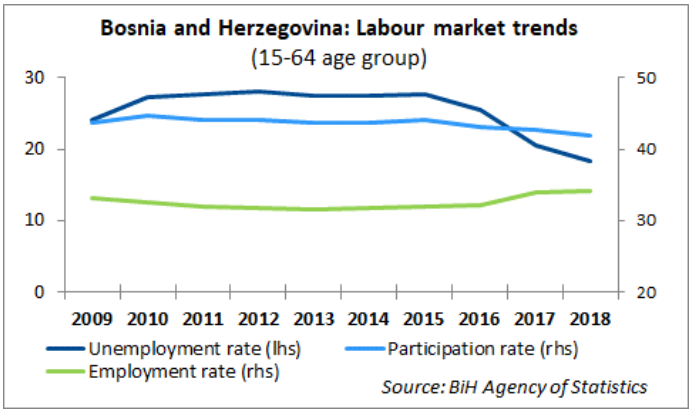
The financial sector has remained stable, but banking sector supervision is hampered by fragmented competences. The sector experienced a short boom before the 2008 financial crisis, but weathered the global financial crisis rather well and has remained largely stable over the last 10 years. Banking sector assets stabilised after a short drop in 2008 and reached nearly 90% of GDP in 2018. The number of banks is high in relation to the market size, although it has fallen from 30 banks in 2009 to 23 in 2018. Foreign banks account for the largest share in the sector's activities: 15 banks out of 23 have a majority foreign ownership and together account for some 84% of the sector's total assets. In some banks, governance and risk management is limited, posing risks in the event of financial stress. There are also two public development banks. One of them is significant in relation to the entities' GDP and the size of the entities' banking sectors. The banking supervision of those state banks is limited.

The banking sector's overall capital adequacy ratio has remained above 15% of risk-weighted assets, which is well above the country's regulatory minimum of 12%. However, there are still pockets of vulnerabilities, as some primarily local banks are confronted with insufficient capital endowment and unfavourable credit portfolios. Regular stress tests done by the Central Bank monitor the sector's shock resilience, but also confirm the vulnerability of some smaller banks. Credit risk indicators for the banking system rose markedly in the aftermath of the 2008 financial crisis but have somewhat improved since then, although most of them are still relatively high. Non-performing loans, which accounted for 9.4% of total loans at the end of 2018, are concentrated in domestically owned banks and are largely a legacy issue. A significant share of the sector's asset portfolio is euro-indexed, which increases the country's exposure to an exchange rate risk and underlines the importance of a stable exchange rate. Interest rate differentials between lending and credit rates dropped from 6 to 4 percentage points, which could also indicate improved competition in the sector. However, in combination with a moderate profitability this relatively high interest rate spread

points to remaining inefficiencies in the sector. The Central Bank's analytical capacities are limited and financial sector supervision suffers from fragmented competences and insufficient inter-entity cooperation.

Access to finance

Bank lending to the private sector has gathered pace again. Financial intermediation had been negatively affected in the aftermath of the 2008 financial crisis, but has improved in recent years. While credit growth came to a near standstill in the aftermath of the financial crisis, growth rates have increased to around 6% in recent years. As a result, loans to households and corporations rose from about 50% of GDP in 2009 to some 60% in late 2018. Loans are quite equally distributed between households and the non-financial corporate sector, both in terms of absolute amounts and growth rates, which have tended to be quite similar in both sectors. However, it is still difficult for SMEs and micro enterprises to access finance. The implementation of the new banking laws which were adopted in 2017 should help to preserve the soundness of the banking sector. The size of the non-financial sector and of the capital markets is small.



Functioning of the labour market

Despite recent improvements in increasing employment and reducing unemployment, the overall situation of the country's labour market is still worrying. Very low labour force participation and employment rates, high unemployment and underemployment appear to be deeply entrenched phenomena in Bosnia and Herzegovina. Unemployment was already relatively high in the last years of the Socialist Federal Republic of Yugoslavia (SFRY), and rose further during the war. It has remained high since the war, as many previously public companies were no longer viable and alternative employment opportunities were scarce. As a result, unemployment is very high, in particular when using administrative data, which report that at the end of 2018, the share of registered unemployed was 35% of the labour force, compared to 42.7% at the end of 2009. However, the administrative rate includes a significant number of people working either in the informal sector or not looking for work at all, but who are registered mainly for social security coverage. According to the annual Labour Force Survey, the unemployment rate rose from 24.1% in April 2009 to 28% in April 2012 but fell to 18.4% in April 2018. Youth unemployment reached a peak of 63.1% in 2012, compared to 47.5% in 2009, but has slightly declined since then, dropping to 38.8% in 2018. According to the survey, long-term unemployment is high: in 2018, a total of 82.3% of all unemployed (15+ years old) were unemployed for at least 12 months. This level is similar to 10 years ago, when this share was 84.1%. At the same time, the activity ratio is low: in April 2018, only 54.2% of the working-age population were actively looking for work.

This high and persistent unemployment rate points to significant weaknesses in the functioning of the country's labour market. In the last few years there have been some improvements in recording so-far-unrecorded employment and in increasing the employment of vulnerable groups through active labour market measures. However, those active measures rely strongly on employment subsidies, which are usually less effective in addressing structural unemployment. Labour legislation has also been modernised. The resource endowment of the public employment services and its cooperation with the social service

centres is insufficient. Furthermore, there are serious shortcomings in the education sector, leading to a substantial mismatch between the education provided and labour market needs. The ability of the private sector to create new employment is very limited. The significant differences between registered and survey-based labour market data signal substantial weaknesses in labour market statistics.

Bosnia and Herzegovina is at an early stage of establishing a functioning market economy.

Special attention needs to be paid to speeding up and improve the country's decision-making procedures, to improving the business environment as well as the efficiency and transparency of the public sector, in particular of public companies.

In particular, the country should address the impediments to the proper functioning of market mechanisms, such as a weak rule of law, substantial red tape, corruption, lengthy and overly complex administrative procedures and a high fragmentation of the country's internal market. Those structural weaknesses have a negative impact on the labour market, reflected in high unemployment and a very low participation rate, which constrains both actual and potential growth of the economy.

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

→ simplify and harmonise business registration and licensing procedures between entities to improve the business environment and create a single economic space;
→ increase transparency of the public sector, by creating publicly available registers of public enterprises and by providing timely data on public sector employment, public sector payment arrears and para-fiscal charges;
→ adopt the General Government Sectorisation in line with ESA 2010 and publish complete and consistent country-wide general government data in a timely manner;
→ reduce the tax wedge, especially for low-income workers, and disincentives to work in order to support formal employment.

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

The ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework which allows economic agents to take decisions in a climate of predictability. It also requires a sufficient amount of human and physical assets. Enterprises need to invest to improve their efficiency and they need to innovate in order to adjust to a globalised and highly competitive external environment. The more an economy is integrated with the Union before accession, the better it will be able to assume the obligations of membership.

Education and innovation

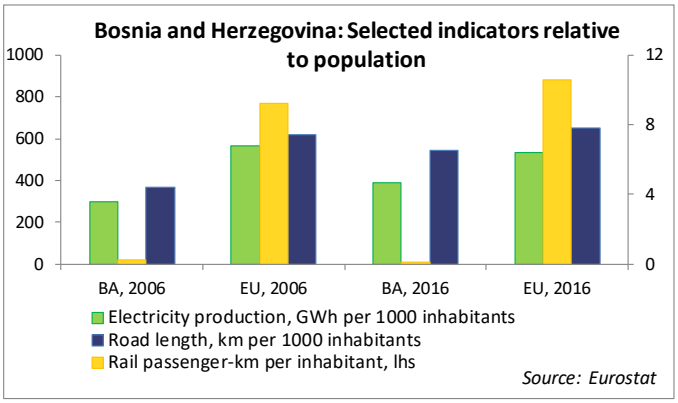
Bosnia and Herzegovina's level of human capital is hampered by poor educational outcomes and also suffers from a substantial brain drain. The country's education system is very complex and highly fragmented, as legal competences are largely allocated at entity and cantonal level. This results in a lack of common standards for various levels of education, as well as in teacher training and performance evaluation. Teaching curricula are often outdated and not sufficiently aligned with the country's needs. This leads to wide skills mismatches, which is a major impediment, preventing graduates from entering the labour market. The number of pupils enrolling in pre-school education is slightly increasing, but very low compared with the EU average (in 2017/18 approximately 18% compared with 95,3% in EU for children from the age of 4 until the start of the compulsory primary education). In

primary and secondary education the number of enrolled children has started to decline in recent years. To some extent, this reflects demographic dynamics, such as declining net birth rates but also emigration of young families. The share of those with high educational attainment stood at 10% in 2018, compared to 7% in 2009. Data on country-level public sector spending on education is currently not available. In 2018, Bosnia and Herzegovina participated for the first time in the OECD's PISA study. The results are expected by end-2019 only. The country's illiteracy rate stood at 2.8% of the age group 10 years and older, according to the 2013 population census. This is one of the highest in the region, largely as a result of a relatively high illiteracy rate among women (of 4.8%).

Physical capital and quality of infrastructure

The physical capital stock suffers from decades of underinvestment. Public and private investment has remained low over the last 10 years, with spending on private gross fixed capital investment dropping from 19.7% in 2009 to around 17% during the last three years. This drop in private investment probably reflects the poor business environment and the low degree of certainty caused by frequent political stalemates. Public investment accounted for only about 3% of GDP on average in 2009-2018, significantly less than in comparable catching-up economies. However, in 2018 the authorities agreed to increase excise taxes on fuel, which helped to unlock official foreign financing, primarily for infrastructure projects. Given the country's need to modernise its infrastructure, these investment rates appear low. This is largely the result of a public spending policy, which prioritises payments for public sector employment and for transfers, thus leading to frequent delays in infrastructure investment. This approach is delaying efforts to improve the country's growth potential and labour productivity, which in turn hampers the country's efforts to improve income levels and living standards. The country's level of digitalisation is low when compared to peer countries. This applies in general to the access to and the use of information and communication technologies (ICT), but also to the lack of a national broadband strategy. E-Signatures are still not available countrywide.

Annual FDI inflows remained limited during the last 10 years, accounting for some 2.25% of GDP on average. However, during most of the period, FDI inflows have remained limited, and recent inflows have increasingly consisted of reinvested earnings. Nearly two thirds of the country's stock in FDI originates from EU countries and is concentrated in manufacturing, the financial sector, retail and tourism.



Transport and energy infrastructure is fragmented and outdated. Compared to its peers, the country performs very poorly in terms of an adequate infrastructure for transport and energy, which impedes the country's growth potential and competitiveness. This weakness reflects the country's short-term oriented approach to economic governance, which prioritises maintaining the status quo over forward-looking policies. As a result, much-needed investment in transport and energy infrastructure is frequently delayed as available funds are used to finance public sector employment or to maintain an inefficient social security system. Furthermore, the absence of a single or sufficiently harmonised regulatory framework and inadequate cooperation and coordination among the various stakeholders mean that planned investment projects are often delayed. The markets for energy and transport remain

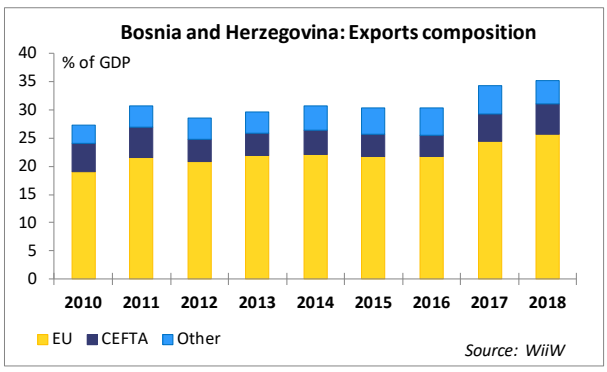
fragmented and are frequently dominated by key incumbent companies. The natural gas sector is another example where fragmented regulation (at entity level) hinders the development of an adequate countrywide legal framework and a common market, which impedes competition.

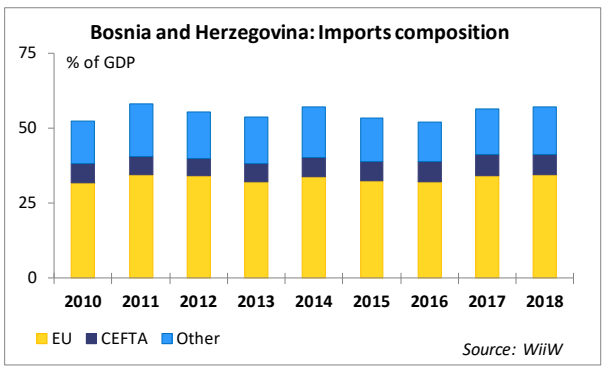
Sectoral and enterprise structures

Structural change in the economy has remained very limited. Changes to the structure of production, employment and company composition are a sign that the economy is adapting to a changing environment. In Bosnia and Herzegovina, structural change has been quite limited, which probably has to do with the governments' approach of maintaining the status quo. When looking at the production side, trade and manufacturing have been key sectors gaining importance, while the share of value generated in the public sector has declined. The picture is similar for employment: there have been relative employment gains in the manufacturing and services sectors, while the public sector has lost slightly. Concerning the composition of companies, there seems to have been a significant increase in medium-sized companies, employing between 50-249 employees, which is a good sign. The majority of new companies were created in the group of micro companies (0-9 employees), which were often located in the lower value added area of trading companies. However, the lack of information on the informal sector might mask important changes, in particular in micro companies. Overall, the company structure is still dominated by small and micro businesses, with companies of less than 50 employees accounting for 95% of all companies. Their access to bank lending remains difficult. Support schemes are in place for small and medium-sized enterprises, but provides services are very limited, scattered and depend on donor funding.

Economic integration with the EU and price competitiveness

Trade integration with the EU increased markedly, but also trade with neighbouring non-EU countries has deepened. During 2009-2018, trade integration with the EU increased, with the share of exports to the EU-27 (i.e. before Croatia's accession in 2013) increasing by 6.6 percentage points, from 53.5% in 2009 to 60.1% in 2018. When looking at EU-28, i.e. including Croatia, Bosnia and Herzegovina's exports to the EU rose by 2.3 percentage points during the last 10 years, from 70.6% of total exports in 2009 to 72.9% in 2018. In recent years, trade with neighbouring non-EU countries such as Serbia and Turkey has also increased markedly. However, the country's openness to trade is still relatively low for its limited economic size, with total trade in GDP accounting for 94% of GDP in 2018, however, compared to some 80% a decade ago. The range of export commodities is not very sophisticated. Non-tariff barriers to trade with the EU, such as required sanitary and phytosanitary standards, remain a problem, despite some recent success in complying with some of the standards required to export to EU markets. Integration of financial and capital markets with the EU is very limited.





Bosnia and Herzegovina is at an early stage in achieving the capacity to cope with competitive pressure and market forces within the Union.

In the medium-term, special attention needs to be paid to the low quality of education and its insufficient orientation towards labour market needs, the quality of physical capital, such as the insufficient transport and energy infrastructure, and the slow adjustment of the country's economic structure.

In order to improve competitiveness and long-term growth in the coming year, Bosnia and Herzegovina should in particular:

→ take steps to modernise teaching curricula and undertake a review of secondary and higher education enrolment policies in order to improve their links to the current and prospective needs of the domestic labour market;
→ adopt and implement consistent medium-term public investment strategies and focus fiscal policies on investment and education to increase the country's growth potential;
→ support structural change by facilitating the establishment of new companies.

2.3. General evaluation

Bosnia and Herzegovina is still at an early stage of establishing a functioning market economy and of becoming competitive within the common market.

Economic governance is impeded by a high degree of politicisation and a lack of cooperation among key stakeholders. This leads to frequent political stalemates and lengthy delays in the political decision-making process. Furthermore, economic governance is prioritising maintaining the status quo, which further slows down the formulation and implementation of overdue structural reforms. As a result, the role of the state is still disproportionate, absorbing substantial resources to fund generous public sector employment, inefficient public enterprises and an inefficient social security system. The frequent political stalemates and the resulting low predictability for investors have a negative bearing on the business environment. This is further hampered by a poor rule of law, substantial red tape, corruption and lengthy and complex administrative procedures, partly a result of the high degree of fragmentation of the country's internal market. As a result of this poor business environment and of weaknesses in the country's education system, structural unemployment is worryingly high, in particular among young people and vulnerable cohorts. Furthermore, the informal economy remains significant, creating unfair competition and leading to a higher tax burden than otherwise necessary.

Education is of low quality and the country suffers from a skills mismatch, resulting from outdated teaching curricula and insufficient resource allocations. Also, in the area of research and development, public spending is very low, accounting to only 0.3% of GDP, according to officially provided data, which is far from the 3% EU target for 2020. The quality of the country's physical capital suffers from chronic underinvestment and inefficient implementation. The infrastructure for transport and energy is insufficiently developed. The speed of structural adjustment is slow, partly reflecting the difficulties and complexities of establishing and maintaining new enterprises in a highly fragmented and politicised economy, although recently there has been some diversification in the country's regional trade structure.

C. OBLIGATIONS STEMMING FROM THE STABILISATION AND ASSOCIATION PROCESS - GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Bosnia and Herzegovina's process of moving towards the EU. They contribute to stability, reconciliation and a climate conducive to addressing bilateral open bilateral issues and the legacies of the past. Bosnia and Herzegovina plays a constructive role in regional cooperation in Southeast Europe and 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), RECOM, the Regional School of Public Administration (ReSPA), the Regional Youth Cooperation Office in the Western Balkans (RYCO), the Western Balkans Fund or the Central European Free Trade Agreement (CEFTA). Bosnia and Herzegovina chairs the Southeast European Cooperation Process for 2018 and 2019 and hosts the seat of the Regional Cooperation Council.

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) has been consistently presented as satisfactory over the past years. The Prosecutor's Office of Bosnia and Herzegovina continues to closely collaborate with the Office of the Prosecutor of the Mechanism and has been processing a 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 has noted real improvement in the past two years with the work of the Prosecutor's Office of Bosnia and Herzegovina, which has taken prosecutorial decisions in all war crimes cases the Office of the Prosecutor had partly investigated and transferred to the jurisdiction of Bosnia and Herzegovina in 2008 ('Category II' cases). It is however expected from the Prosecutor's Office of Bosnia and Herzegovina to effectively address the 'rules of the road' cases that were initially reviewed by the Office of the Prosecutor of the Mechanism.

Regarding judicial cooperation issues, the existing 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 has contributed to improving relations and reducing judicial impunity for war crimes. The cooperation between the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of Serbia has delivered tangible results with a number of indictments filed in Serbia pursuant to cases transferred from Bosnia and Herzegovina. The cooperation between the Prosecutor's Office of Bosnia and Herzegovina and the State Attorney's Office of Croatia need to be strengthened to deliver results. A Protocol with the Montenegrin Prosecutor's Office is in place but is not used. A substantial number of war crimes proceedings before the Court of Bosnia and Herzegovina are pending due to the unavailability of the suspects. Holding multiple citizenships, these individuals are allegedly residing in neighbouring countries, taking advantage of the existing prohibition in countries of the region to extradite nationals for the criminal offences of genocide, crimes against humanity and war crimes to escape justice.

Bosnia and Herzegovina takes part, along with Croatia, Montenegro and Serbia, in the 'Joint regional programme on durable solutions for refugees and displaced persons', also known as the Regional Housing Programme. As an integral part of the Sarajevo Process on refugees and displaced persons initiated in 2005, this regional initiative aims to contribute to resolving the protracted displacement of the most vulnerable refugees and displaced persons following the 1991-95 conflicts on the territory of former Yugoslavia, including internally displaced

persons in Montenegro from 1999, by providing them with durable housing solutions. The Regional Housing Programme is comprised of four country-based housing projects, aiming to benefit close to 74 000 people or 27 000 households. Its cost is estimated to be approximately EUR 584 million over a five-year period. The EU is the largest donor with around EUR 63 million whereas Bosnia and Herzegovina co-finances the programme with some EUR 11 million.

The unresolved fate of *missing persons* from the conflicts of the 1990s is a matter of concern. Around 8 000 people are still missing as a result of the conflict. Ascertaining the fate of missing persons is vital for reconciliation and stability in the region. Bosnia and Herzegovina needs to assume full responsibility and ownership of the process of accounting for persons missing as a result of the 1992-95 war. While the Missing Persons Institute of Bosnia and Herzegovina 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 on missing persons. The lack of local forensic capacity, especially in the Federation entity, hampers the process of identification.

Building on the results of the Berlin process, Bosnia and Herzegovina took various steps to implement the connectivity agenda, the Regional Economic Area (REA) roadmap and the Regional Investment Reform Agenda. The country ratified the Transport Community Treaty in April 2018. Building on the results of previous summits, the July 2018 London Summit brought a renewed commitment to the connectivity agenda. Dialogue with the Western Balkans continued in Skopje on the implementation of the Digital Agenda, to which all leaders of the region had committed through a statement of support. More particularly concerning the negotiations on roaming fees, a regional agreement was signed at the Western Balkans Digital Summit in Belgrade in April 2019 enabling Roam like at Home (RLAH) as of July 2021. Bosnia and Herzegovina participated in the European Commission's regional conference on media (Media Days) in Skopje. Member States and the Western Balkan partners signed the Joint Action Plan on Counter Terrorism for the Western Balkans at the Justice Home Affairs Ministerial in Tirana in October 2018.

In February 2019, at the Ministerial Meeting on Clean Energy Transition held in Podgorica, the Ministers of Energy and Environment of the Western Balkans committed to adopting concrete measures aiming at the implementation of the Paris Agreement and the Energy Community obligations based on the EU Clean Energy for All Europeans Package.

Bosnia and Herzegovina generally maintains good *bilateral relations with other enlargement countries* in the course of the accession process.

Relations with ***Albania*** are friendly and without open issues. Since October 2016, there is an honorary consulate of Albania in Sarajevo.

There are no official relations with ***Kosovo***, as Bosnia and Herzegovina does not recognise Kosovo's independence and maintains a strict visa regime. The Ministry of Foreign Affairs issues only individual short-term visas to citizens of Kosovo who have an invitation from a foreign diplomatic mission or international organisation accredited in Bosnia and Herzegovina, or for humanitarian reasons. An amendment to normalise the visa procedure for all citizens of Kosovo is pending. Bilateral relations with Kosovo were negatively affected by Kosovo's imposition of a 100% tariff on the import of goods from Bosnia and Herzegovina and Serbia in November 2018.

Concerning ***Montenegro***, bilateral relations are good and an agreement on cooperation in the process of accession to the EU is in place between the two countries. An agreement on the state border between Bosnia and Herzegovina and Montenegro is in force. The Ministries of

Foreign Affairs held bilateral consultations on co-location and consular affairs in May and July 2018 respectively. A plan on bilateral cooperation between the two Ministries of Defence was signed in May 2018.

Regarding ***North Macedonia***, relations are good and several bilateral agreements are in place, including on cooperation in the EU accession process. Bosnia and Herzegovina ratified in June 2018 the agreement on travel conditions, and since December 2018 the citizens of the two countries may travel among them with their ID card. A memorandum of cooperation was signed with the Institute of Metrology of Bosnia and Herzegovina.

Bilateral relations with ***Serbia*** are overall good and a number of bilateral agreements, including on cooperation in the EU accession process, are in place. At the same time, an agreement on outstanding border demarcation issues between the two countries needs to be reached. The two countries also need to reach an agreement with regard to two river dams on the Drina River and a portion of the Belgrade-Bar railway which crosses into Bosnia and Herzegovina's territory.

Relations with ***Turkey*** are good and exchanges frequent. Turkey is a strong international supporter of Bosnia and Herzegovina's post-war recovery, development cooperation and the country's EU integration path.

Relations with ***Croatia*** are overall good. Bilateral visits are frequent, also at high level. The agreement on state border was signed in 1999 but has not been ratified. There are some open issues concerning the borderline at land and sea. There is no agreement on dual citizenship. As regards the implementation of the 2001 succession agreement, there are open issues on private properties and acquired rights. A bilateral agreement on cooperation in the EU accession process was signed in 2016.

D. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

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.

The Stabilisation and Association Agreement (SAA) creates a number of obligations in the field of free movement of goods, such as establishment of a free-trade area after a period of 5 years from its entry into force. The Agreement also provides for gradual alignment with EU technical regulations and standards and metrology, accreditation and conformity assessment procedures.

According to the constitutional and legal framework the competences for free movement of goods rest predominantly with the state level. The two entities and Brčko District are responsible for certain elements of the quality infrastructure.

At state level, the lead ministry is the Ministry of Foreign Trade and Economic Relations. Quality infrastructure institutions are established at the state level and act as independent administrative organisations within the scope of their competences or have a coordination role in certain areas for which the entity-level and Brčko District bodies are responsible.

The *Republika Srpska* entity has established its own parallel legislation and contests the competences at state level in a number of areas covered by the chapter. This has an adverse

impact on the functioning of the overall system and leads to blockages and delays in the alignment of the country as a whole with the *acquis*.

General principles

Regarding the **general principles** the legislative and institutional framework for the free movement of goods is not in place. Bosnia and Herzegovina has neither a coherent countrywide approach, nor a **strategy or action plan for alignment** with the *acquis.*

Non-harmonised area

Bosnia and Herzegovina needs to analyse its legislation and administrative practices as regards the **non-harmonised area** to ensure that they **comply 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 has been established or empowered concerning the obligation to notify 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 are uneven and fragmented, and are not aligned with the *acquis.* Similarly, the relevant administrative structures involve institutions set up at the state and entity levels, and the coordination between them is weak. There is no countrywide strategy to put in place the quality infrastructure.

Standardisation is regulated by the Law on Standardisation and the Law establishing the Institute for Standardisation of Bosnia and Herzegovina. The Institute for Standardisation (BAS) is a full member of the European Telecommunications Standards Institute and the International Standardisation Organisation 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. So far, the BAS has adopted 18 593 European standards (ENs) as national standards (approximately 86% of CEN and CENELEC standards). Conflicting ex-Yugoslav mandatory standards have not been withdrawn in a systematic manner across the country and there is no countrywide register of current legislation. The BAS is active in raising public awareness about the importance of standardisation and in improving the technical competence of its staff. In addition to BAS, an entity-level standardisation and metrology institute operates in the *Republika Srpska* entity.

The **accreditation** framework consists of the Law on Accreditation and the Law on the establishment of the Institute for Accreditation of Bosnia and Herzegovina (BATA). The Institute for Accreditation is the single national accreditation body in Bosnia and Herzegovina and is a full member of the International Laboratory Accreditation Cooperation and an associate member of the European cooperation for accreditation (EA). The Institute for Accreditation signed a bilateral agreement with the EA under the conditions applicable to signatories of the EA Multilateral Agreement in the fields of testing and calibration laboratories and inspection bodies. The Institute for Accreditation is understaffed with 21 employees out of the 28 as required under the implementing legislation. Its representatives regularly participate in the work of European and international accreditation organizations and its staff's expertise is regularly upgraded.

Bosnia and Herzegovina has 120 **conformity assessment** bodies: 68 testing laboratories, 2 medical and 8 calibration laboratories, 2 product certification bodies and 40 inspection bodies. The designation of conformity assessment bodies and the application of conformity

assessment procedures are not ensured consistently throughout the country. In this respect, the Federation entity and Brčko District implement the state-level Law on technical requirements for products and conformity assessment while the *Republika Srpska* entity implements its own law on technical regulations and a regulation on conformity assessment procedures and the appointment of respective conformity assessment bodies.

The legal framework in the area of **metrology** comprises the Law on Metrology, the Law on Measurement Units and the Law establishing the Institute of Metrology of Bosnia and Herzegovina (IMBiH). In addition, the entities have competence on legal metrology and control of articles of precious metals. The Institute of Metrology participates in technical committees, European development programmes and cooperation projects with EU metrology institutes. The Institute of Metrology is an associate member of the General Conference on Weights and Measures, the International Bureau of Weights and Measures, the International Organisation of Legal Metrology, and the European Cooperation in Legal Metrology. It is also a signatory of the International Committee for Weights and Measures Mutual Recognition Agreement and a full member to the European Association of National Metrology Institutes. The Institute of Metrology is understaffed with 53 staff out of the 72 required under the implementing legislation. The metrology institutes should cooperate and coordinate in implementing the legislation in this area, but the appointment of the members of the Metrology Council has been pending since 2012 due to disagreement on its composition. Bosnia and Herzegovina has not adopted a development strategy for the metrology system.

The legal framework for **market surveillance** includes the laws on market surveillance, general product safety, technical requirements and conformity assessment. Compliance with these laws is supervised by the Market Surveillance Agency and the inspection bodies of the entities and the Brčko District. These institutions cooperate through initiating, implementing and coordinating proactive and reactive market surveillance activities. The market surveillance system is largely based on mandatory standards and pre-market control. The Law on market surveillance needs to be aligned with the *acquis*.

Harmonised area: sectoral legislation

As regards the '**New and global approach**' and '**Old approach product legislation**', Bosnia and Herzegovina has started to align its legislation with the relevant part of the *acquis.* At this stage, it has in place several technical regulations aiming at aligning with the *acquis* on: electrical equipment, machinery, electromagnetic compatibility, lifts, personal protection equipment, non-automatic weighing instruments and pressure equipment. However, the regulations are not applied across the country, as the legislative framework is fragmented and the *Republika Srpska* entity implements its legislation separately while the distribution of competences between levels of government is unclear. Bosnia and Herzegovina needs to ensure prioritisation of legal alignment in taking into account the market needs.

The country needs to align with the *acquis* on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and further strengthen its administrative capacities as required for its effective implementation. On **medical products pricing**, the conditions for the refusing to add products to the reimbursement list are aimed at aligning with the *acquis*. Economic operators involved with **civil explosives** are subject to registration at entity and state level and are required to keep track of sales. However, Bosnia and Herzegovina lacks a comprehensive legal framework on the transport of dangerous goods. The relevant norms are not harmonised across the entities with international agreements or with the *acquis*. The legislation on **fertilisers** aims at aligning with the *acquis*. As regards the return of **cultural objects unlawfully removed** from the territory of an EU Member State, Bosnia and

Herzegovina needs to align its legislation with the *acquis*. The division of competences between levels of government on **procedural measures** also remains unclear.

Bosnia and Herzegovina is at an **early stage of preparation** in the area of free movement of goods. Initial steps to establish a single economic space and to align the legislative and institutional framework with the *acquis* were taken but further work was hampered by political disagreements between the *Republika Srpska* entity and the state level on competences for the areas covered by this chapter. The country should further align the legislative framework with the *acquis*, in particular on technical requirements for products, conformity assessment and on market surveillance, as well as ensure compliance with Articles 34-36 of the Treaty on the Functioning of the European Union. The administrative capacities of the institutions involved need to be strengthened and the coordination among these institutions improved.

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

→ establish a register of technical regulations in force and start to repeal countrywide the domestic legislation that conflicts with the EU standards, 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.

Chapter 2: Freedom of movement 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.

The SAA provides that Bosnia and Herzegovina and EU Member States must ensure that their nationals, who are legally employed on the territory of the other partner, are free of any discrimination based on nationality as regards working conditions, remuneration or dismissal.

According to the constitutional and legal framework the competences for the free movement of persons are exercised by the state level, the two entities and Brčko District. The state is competent to regulate requirements and the procedures for entry and stay of aliens in Bosnia and Herzegovina and to establish quotas for the access of foreigners to the labour market. Apart from this, it exercises its competences in the form of internal coordination, based on the constitutional responsibilities to represent and commit the country at international level. For other issues covered by the chapter the competences rest with the two entities and the cantons in the Federation entity as well as Brčko District.

At state level, the Ministry of Civil Affairs is in charge of internally coordinating negotiations for agreements with other countries in the field of employment and social security while the Labour and Employment Agency, in cooperation with the employment bureaus of the Federation entity, the *Republika Srpska* entity and the Brčko District, is responsible for implementing these agreements. The Ministry of Security and its Service for Foreigners' Affairs is responsible for regulating and monitoring the entry, stay and movement of foreigners in Bosnia and Herzegovina. At entity and cantonal level, there are ministries and other institutions in charge of social security, including for pensions, disability and health. The entities and cantons also have employment services responsible for issuing work permits for foreigners in the limit of the quotas established at state level.

The legal framework regulating **access to the labour market** comprises the state-level Law on Aliens and the entities' as well as Brčko District's laws on employment of aliens. The

state-level Law on Aliens regulates conditions and procedures for entry of aliens into Bosnia and Herzegovina. The entities and Brčko District's laws on employment of aliens should be harmonised with this law, especially when it comes to regulating the issue/approval of residence on the grounds of employment.

The legislation in place does not differentiate between EU workers and other aliens, non-Bosnia and Herzegovina's citizens. All these laws, alongside the anti-discrimination law and labour laws, prohibit direct or indirect discrimination on grounds of, *such as*, race, skin colour, language, religion, age, national or social origin, sexual orientation. At the same time, employment in the 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 for which certain conditions must be met. Concerning outward mobility of workers, the country has signed international bilateral agreements with Germany, Slovenia, Serbia and Qatar. Based on these agreements, many jobseekers, including university graduates, were mediated into employment abroad by the public employment services. However, an even higher number of people – often skilled and already in employment – found jobs abroad on their own initiative, contributing to high levels of labour force emigration.

Bosnia and Herzegovina lacks the central database of vacancies needed for joining to the **European Employment Services (EURES)**, information being provided on the websites of the employment bureaus at each level of authority. A countrywide database and a consolidate website to ensure wide access to basic information concerning EURES portal taking into account the demands of labour market have to be established.

As regards the **coordination of social security systems**, Bosnia and Herzegovina has nine (six with EU Member States) international bilateral agreements on social security in place, and additional 16 agreements (12 with EU Member States) have been implemented on the basis of succession from the former Yugoslavia. Bosnia and Herzegovina should continue concluding bilateral agreements on social security, especially with EU Member States.

Part of branches of social security falling within the scope of EU coordination rules are covered by laws in place. Some of the benefits are not covered in the same manner and to the same extent throughout the country such as duration of the entitlement to such social security benefits, the amounts of the same benefit, and the conditions for obtaining the right for these benefits, etc. Social benefits are provided by different institutions such as employment bureaus, pension and disability funds, health insurance funds), each operating within its own territorial and subject matter jurisdiction. Their cooperation is often ad hoc or based on memoranda. These institutions throughout the country have to establish procedures to implement and coordinate the social security schemes and associated common databases within the country. The lack of a common approach affects cooperation with other countries in terms of tracing and granting social security benefit. Waiting periods for entitlement to a benefit, although established by law and aligned with the EU Regulations, are facing constant delays in implementation. This makes the coordination of social security inside the country difficult and hinders the mobility of workers. Special benefits are granted to war veterans.

The *Republika Srpska* entity and the cantons have their own health insurance card that can be used within the other Entity or Canton only in cases of emergencies and for targeted treatment, subject to special conditions and approvals. As part of EU accession obligations, and independently of internal health cards, Bosnia and Herzegovina has to issue the European health insurance card to people entitled to healthcare in the country.

The administrative framework established in the country will have to ensure effective cooperation with other EU Member States, including the capacity to exchange social security information electronically.

Impact

The estimated impact of Bosnia and Herzegovina's accession on the EU labour market is related to a number of factors, such as the size of the country's working age population, unemployment, age structure and migration movements.

According to the 2013 census, the country's total population is 3,531,159 million. As regards the age structure, the youngest (15 years and under) at 15.4% (2013) is very close to the current EU average of 15.6%. In 2013, the working age population (aged 15-64) was 2,987,440, of whom 1,362,516 were economically active. According to the 2018 Labour Force Survey conducted by the Agency for Statistics of Bosnia and Herzegovina, the working age population was 2,395,739 of whom 1.007.902 were economically active This equals 0.6% of the EU working age population and 0.4% of the EU economically active population. In 2018, the employment rate in the country was 44% compared with 72.2% in EU, while the unemployment rate was 18.4%, which is considerably higher than the 6.8% in the EU (2018). According to the 2018 Labour Force Survey, the activity rate was 54.2% in 2018 for the 15-64 age group. In 2017, the country's GDP per capita expressed in purchasing power parity stood at 32% of the EU average. This level is very low, at around 70% below the EU28 average, although the past 3 years saw real GDP growth of between 3-4%.

Estimates are that at least 2 million people originating from Bosnia and Herzegovina live in over 50 countries around the world. More than half of them live in 30 European countries, with the largest numbers in Croatia, Germany, Slovenia, Austria and Sweden. Estimates suggest that around 1 million Bosnia and Herzegovina citizens live in the EU, making up 3% of the foreign population living in the EU and 0.2% of the total EU population. A sizable outward migration to the EU, in particular of young people, has been noted in the past few years. According to the Agency for Identification Documents, Registers and Data Exchange, 4 270 people in 2017 and 4 034 people in 2016 have deregistered their residence in Bosnia and Herzegovina. In 2017, a total of 4 365 people renounced of the Bosnia and Herzegovina citizenship, as did 4 099 people in 2018 (ca. 85 000 since 1996). The statistics gathered by civil society organisations indicate significantly much higher numbers. According to the migration survey conducted by the Union for Sustainable Return and Integration in BiH in 2017, around 150 000 people have left the country since 2013. The majority of people leaving the country are from the IT, health, electric, building/construction sectors

This emigration trend has been further facilitated by Croatia's accession to EU and the fact that a considerable number of Bosnia and Herzegovina citizens also hold Croatian citizenship.

This preliminary assessment indicates that the country's membership of the EU would have a **minor impact** on the EU labour market. This needs to be monitored closely, especially taking into account the growing trend in labour-related emigration to the EU.

Bosnia and Herzegovina has **some level of preparation** in the field of free movement of workers.

The country will need to make stronger efforts to align its legislation with the relevant *acquis*, and to strengthen its administrative capacity and inter-institutional cooperation in order to fully meet all necessary requirements. In relation to the coordination of social security systems, on the basis of existing bilateral agreements, Bosnia and Herzegovina has some experience in applying EU principles. However, the system of coordination of social security schemes is fragmented, has limited administrative capacities and lacks formal cooperation

among relevant authorities covering all the governmental levels. Bosnia and Herzegovina has to align the relevant legislation with EU Regulation No 883/2004, while ensuring that the manner of exercising the rights to benefits, and the scope of these benefits same is widely harmonised throughout the country. Efforts will be needed to strengthen the institutional and human resource capacities throughout the country to cope with new tasks in the context of EU accession.

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

→ start developing a countrywide database on vacancies and a website to lay the ground for joining EURES;
→ continue negotiating and concluding new bilateral agreements on social security, notably with EU Member States.

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 gradually being opened up to competition.

The SAA provides for gradual liberalisation of the freedom to provide services between the EU and Bosnia and Herzegovina over a period of 4 years following its entry into force.

According to the constitutional and legal framework the competences for the right of establishment and freedom to provide services are exercised by the state level, by the two entities and by Brčko District, depending on the subject matter.

The right of establishment and provision of services in general, as well as the mutual recognition of professional qualifications, this falls predominantly within the competence of the entities, including cantons, and Brčko District; the state level exercises a coordination role and represents and commits the country at international level.

At state level, the Ministry of Foreign Trade and Economic Relations and Ministry of Civil Affairs are competent to exercise a coordination role; however, there is a wide range of authorities at all other levels responsible for the issues covered by this chapter.

The specific field of postal services is regulated at the level of State and the two entities by state legislation on postal services and entity legislation on postal traffic and services, while regulatory responsibilities are performed at state level by a countrywide regulator for postal traffic. The State also represents and commits the country at international level.

The state level competences in this field are exercised by the Ministry of Communication and Transport and the Agency for Postal Traffic, while the entities have their own Ministries of Transport and Communications.

The legislation on **right of establishment** and **freedom to provide cross-border services** is not aligned with the EU's Services Directive. There is no law enshrining the principles of the Directive. A comprehensive review of the sector-specific legislation to identify non-conformities with the Directive and laws that require amendments in order to be aligned with the Services Directive has not started.

Legislation at the level of entities and Brčko District on right of establishment includes specific requirements for the establishment of companies or their subsidiaries. Certain of these provisions are in fundamental breach of the principles of the Services Directive. For example, there are additional registration requirements for companies with commercial presence in both

entities which is an obstacle to creating a single economic space in the country. In Brčko District a foreign company may establish a subsidiary in the District subject to being registered in the domicile country for minimum 1 year and a minimum required capital. The provision of services by foreign companies is allowed only through the establishment of a company or a subsidiary on the territory of the respective entity/Brčko District.

There is no central registry of business entities and the companies' registers of the entities and Brčko District are not interconnected. Authorisation schemes, both horizontal and sector-specific, are applied at different levels of authority. There is no countrywide authorisation scheme.

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 as well as strong coordination between administrative bodies at all levels.

The legal framework regarding **postal services** is partly aligned with the *acquis.* A new state-level Law on postal services, currently being prepared, needs to be adopted, and a state-level strategy for the development of postal services to be elaborated, in order to ensure a consistent regulatory framework aligned with the *acquis*. There are three main postal operators in Bosnia and Herzegovina: BH Pošta, Srpske Pošte and Hrvatska Pošta Mostar. The institutional and financial independence and the administrative capacities of the Agency for Postal Traffic need to be increased in order to enable the Agency to perform its function as the national regulatory authority for the postal sector. Decisions are taken by a Council composed of three members representing the three constituent peoples. This constitutes a discrimination against the "Others". Its effectiveness is undermined by the need for unanimous decision-making. Bosnia and Herzegovina's legal framework for providing universal postal services across the country needs to be harmonised and opened up to competition.

Current legislation does not provide for the **mutual recognition of foreign qualifications for regulated professions** as required by the *acquis* in this area. The country adopted a general roadmap for the implementation of the relevant *acquis.* The legislative framework in this area needs to be completed and aligned with the *acquis*. Furthermore, adjustments to the training of professions benefitting of automatic recognition of their professional qualifications (doctors, dentists, nurses responsible for general care, midwives, pharmacists, and veterinary surgeons) are necessary in order to comply with the minimum training requirements outlined in Directive 2005/36/EC. Significant efforts are required to establish adequate institutional framework, including e-government facilities and national contact points assisting citizens requesting recognition of their professional qualifications.

Bosnia and Herzegovina is at an **early stage** of preparation regarding the right of establishment and freedom to provide services.

Special attention should be paid to aligning existing legislation with the EU Services Directive. To this end, the country should adopt a horizontal law enshrining the principles of the Services Directive. It should also adopt a countrywide strategy for development of postal services in order to create a consistent regulatory framework that is aligned with the *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 *acquis*, and open up the postal market to competition.

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.

The SAA sets a five-year timetable for gradual liberalisation of capital movements until their full liberalisation by 1 June 2020. Moreover, Bosnia and Herzegovina has committed to gradually increasing the level of implementation of EU rules on free movement of capital.

According to the constitutional and legal framework the competences for the free movement of capital are exercised by the state, the two entities and Brčko District. The state level competences are limited to certain functions which are carried out by the Central Bank. The entities and Brčko District regulate domestic payment operations and foreign exchange operations. The state is in charge of legislating against money laundering, while all levels of authority are responsible for implementing anti-money laundering legislation.

At state level, the main bodies involved are the Financial Intelligence Department within the state Investigation and Protection Agency and the Central Bank. At entity level, the main bodies involved are Ministries of Finance, Ministries of Trade, Ministries of Justice, Banking agencies, Insurance agencies as well as the Securities Commissions and privatisation agencies are the main bodies involved. Entities and cantonal Ministries of Interior and Brčko District Police are in charge of financial investigations and the fight against money laundering.

Laws on foreign exchange operations define capital transactions with foreign countries. In line with constitutional competences, the foreign exchange operations are regulated by the laws on foreign exchange operations of the two entities and of Brčko District. These laws are mostly harmonised among themselves in terms of the degree of liberalisation, and all acknowledge the principle of gradual liberalisation of capital movements. All three laws are partially aligned with the relevant parts of the EU *acquis.*

As regards **capital movements and payments**, the country accepted IMF obligations, thus applying full current account convertibility. The convertible mark has been introduced as a legal tender since 1997, and since 2002 it has been pegged to the euro at a fixed exchange rate. The Law on the Central Bank prohibits restrictions on payments of international transactions, unless necessary to fulfil international obligations. The reserve requirement is the Central Bank's only instrument of monetary policy, which could be used to manage excessive inflows of foreign exchange.

Long-term capital transactions are mostly liberalised. Some administrative restrictions remain for capital outflows used to establish a business abroad or for investments into foreign companies. Both entity laws on foreign investments stipulate that a maximum of 49% of foreign ownership is allowed for the companies operating in media affairs and the military industry. Nonetheless, if there is a specifically justified interest, and if it is permitted under the relevant legislation, an entity government may issue a decision that the share of a foreign investor in a company operating in the sectors under restriction may exceed 49% of the founding capital. However, the restriction as such remains legislated and might not be in line with *acquis* requirements on free movement of capital.

Deposit transactions of residents have been partially liberalised. This means that permissions are required for maintaining deposits abroad, and such deposits are limited to specific

purposes, including paying the expenses of branch offices or those that are associated with the trade or investment activity of a resident.

However, 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 - such as banks, voluntary investment funds and the Deposit Insurance Agency - are subject to limitations on investment in foreign securities.

The state-level Law on the policy of foreign direct investments gives foreign investors and nationals of Bosnia and Herzegovina equal property rights to real estate [*see also Chapter 23 – Judiciary and fundamental rights*]. This law establishes a reciprocity requirement only in the case of ex-Yugoslavia successor states. As regards foreign natural persons, the entity and district legislation regulating property rights stipulates that reciprocity is required unless the matter is regulated by an international agreement. These laws also include additional requirements such as secondary residence or the requirement to own businesses in the country, further complicating the process of real estate acquisition by foreign residents. Agricultural land cannot be owned by foreign natural and legal persons. Those bans on ownership are not aligned with *acquis* requirements. Moreover, according to Article 61 (3) of the SAA, within 6 years from the entry into force of the Agreement, Bosnia and Herzegovina will have to progressively adjust its legislation concerning the *acquis*ition of real estate to treat nationals of EU Member States the same as nationals of Bosnia and Herzegovina as from 2021.

In both entities there are several companies of strategic interest (including in the areas of telecommunications and railway companies) where entity governments have retained majority shares and management rights.

As regards the **payment systems**, the legislative framework governing non-cash payments comprises the Law on Central Bank of Bosnia and Herzegovina and entity and Brčko District legislation governing payment transactions and foreign currency operations. The gyro clearing system and real-time gross settlement operations are established within the Central Bank. Commercial banks as authorised operators are part of the system, and business entities are obliged to open accounts and keep all cash assets in their accounts for making payments. Payments are performed in local currency and only exceptionally some transactions between residents and non-residents can be executed in foreign currency. In addition to commercial banks, public enterprises for postal services are authorised to perform selected payment transactions.

Cross-border payments are regulated by the entity and district legislation on foreign currency operations. Banks and public enterprises for postal services as authorised operators perform cross-border transactions on behalf of the business operators. In case of state-level authorities and public agencies determined by the Bosnia and Herzegovina Presidency, the role of fiscal and banking agent is performed by the Central Bank.

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.

Information on the conditions governing the use of payment services (including legal obligations of banks regulating the protection of consumers of payment services) is regulated by the entities' banking legislation, legislation on the protection of consumers of financial services, and by legislation on domestic payment operations. The conditions are transparent and easily accessed, including on the official websites on the regulators and service providers. The Central Bank makes a decision on charges it collects from commercial banks for use of

the payment systems. Commercial banks charge fees for domestic payment operations in line with their general terms and conditions and the individual contracts between a bank and a client. Fees for international payment operations are charged in line with the business policy of an individual bank. Legislation on banks and on domestic payment operations includes the designation of competent authorities, handling of consumer complaints and out-of-court redress procedures, provisions which are required by the Payment Services Directive. There is no legal or institutional framework regulating the field of electronic money or the operations of institutions issuing electronic money.

The legislative and institutional framework in **anti-money laundering** is in line with Financial Action Task Force (FATF) recommendations. An NGO database is operational to ensure transparency of registration and financial reporting. Bosnia and Herzegovina is still on the EU list of high risk third countries. The country needs to align with the acquis on beneficial ownership [see Chapter 24 – Justice, freedom and security].

Preventative measures, supervisory action and sanctions in case of breaches - especially in the non-financial sector - need to be implemented. Efforts are needed to further align with EU *acquis* in the Anti-Money Laundering and Countering Financing of Terrorism area, in particular to ensure transparency of beneficial ownership information.

Bosnia and Herzegovina is **moderately prepared** in the area of free movement of capital.

Capital movements in the country are partly liberalised and efforts are necessary in order to fully align the country's legislation with the *acquis*. The country needs to adjust its legal framework in order to guarantee free movement of capital as specified in EU legislation, such as gradually removing the restriction of foreign investment in the media sector. Bosnia and Herzegovina should progressively adjust its legislation concerning the acquisition of real estate to treat nationals of Member States the same as nationals of Bosnia and Herzegovina as from 2021. The legislative framework governing the payment system is harmonised within the country, but must be aligned with EU legislation in this area. Concerning the fight against money laundering and the financing of terrorism, Bosnia and Herzegovina has established a reinforced legal framework and accompanying action plans; it must now ensure the measures are implemented.

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

→ start removing unjustified restrictions incompatible with the *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.

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.

In line with the provisions of the SAA, EU companies not established in Bosnia and Herzegovina must be granted access to contract award procedures in the country under treatment no less favourable than that accorded to companies of Bosnia and Herzegovina at the latest five years after its entry into force.

According to the constitutional and legal framework the competences for public procurement are predominantly exercised by the state level. Contracting authorities at all levels of authority apply the state level law on public procurement.

As far as concessions are concerned, these are regulated at state, entity, cantonal and Brčko District level, resulting in 14 separate laws on concessions at all levels, while public-private partnerships are regulated by separate laws in the *Republika Srpska* entity, in the Brčko District, and in nine cantons.

The 2016-2020 strategy for development of public procurement provides an outline for the development, implementation and monitoring of public procurement policy in Bosnia and Herzegovina. Its strategic objectives include better coordination with the public procurement systems, further aligning the legislative framework with the *acquis*, enhancing transparency, strengthening institutional capacity and competition, and putting a stronger focus on a 'value for money' approach.

In the area of public procurement, the competent institutions at state level are the Public Procurement Agency and the Procurement Review Body which act as the second instance authority in procurement cases. For concessions and private public partnerships various bodies are competent at the state, entity, cantonal and Brčko District levels. These include commissions for concessions, commissions for public-private partnerships, the Council of Ministers at the state, and governments at entity, cantonal and Brčko District level, as well as the respective ministries competent in this area. .

The Public Procurement Law is partially in line with the *acquis*. The Law aims at ensuring respect for the principles of non-discrimination, open competition, transparency and equal treatment. However, the principle of non-discrimination is not fully applied as the country maintains a system of domestic preferences, which, should be gradually phased out, in line with the SAA rules referred to above. Furthermore, the Law covers exemptions, which are not covered by the *acquis*. The country needs to align with the 2014 public procurement directives, including on classic 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*. The administrative bodies, which apply this framework, needs formal channels of communication to resolve the current legal uncertainty and avoid high administrative costs. All legal and financial instruments used in the area of 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.

As regards **implementation and enforcement capacity,** the Public Procurement Agency of Bosnia and Herzegovina is the body authorised to initiate, implement and monitor public procurement reform in all sectors. However, its administrative capacities are insufficient to fulfil its tasks. Specialised procurement functions need to be established in each contracting authority and be staffed with officials who have the relevant skills and expertise.

The Public Procurement Agency manages the central procurement portal, where tender and contract notices and other important information and guidance are published and the relevant data from more than 95% of all contracting authorities in the country is collected. The use of electronic procurement enables downloading of tender documents. The e-auction module, introduced in 2016, was used in 2 713 procedures in 2017.

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 (21.4% of the value

of all awarded contracts in 2015, 10.9% in 2016 and 9.3% in 2017). However, the Agency's monitoring role should be strengthened to enable it to identify potential weaknesses and irregularities in procurement procedures.

Rights on an **efficient remedies system** are 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 *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 *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 Procurement Review Body, with offices in three locations (Sarajevo, Banja Luka and Mostar), has 33 staff, which is insufficient for it to carry out its tasks. Consequently, a high number of complaints are unaddressed. A formal mechanism to co-ordinate the three Procurement Review Body offices should be put in place to ensure consistent decision-making and legal certainty.

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. Decisions taken by the Body and by the Court of Bosnia and Herzegovina have only been published since 2015, and the vast body of its previous case-law is inaccessible. The Procurement Review Body's decisions are published months after they have been adopted. In order to make the system more transparent, decisions of both the Procurement Review Body and the Court of Bosnia and Herzegovina should be published without delay.

Bosnia and Herzegovina has **some level of preparation** in the area of public procurement.

Special attention should be paid to aligning the legislation with the 2014 EU Directives in the area of classic procurement, utilities and concessions. In the field of concessions, the legal framework is highly fragmented and needs to be harmonised to eliminate overlaps, inconsistencies and uncertainties. The country should also strengthen the functioning of the remedies system, including at branch offices, such that complaints and handled and resolved in a timely, effective and competent manner that will improve legal certainty and transparency in this area.

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

→ adopt the new law on public procurement and establish a specialised procurement function within contracting authorities;
→ 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;
→ establish a formal coordination mechanism within the Procurement Review Body to ensure consistent decision-making by its three offices.

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.

There are no specific provisions in the SAA concerning company law or rules for accounting, financial reporting and statutory audit. At the same time, Bosnia and Herzegovina has committed under the SAA to ensure that its existing laws and future legislation will be gradually made compatible with the EU acquis and properly implemented and enforced.

According to the constitutional and legal framework the competences in the area of company law are predominantly exercised by the two entities and the Brčko District. Matters related to companies and registration procedures for businesses are regulated at the level of the two entities and Brčko District, whereas the state-level Framework Law on registration of businesses lays down the manner of registration at all levels of authority. At the entity level, the Federation entity Ministry of Energy, Mining and Industry, the *Republika Srpska* entity Ministry of Economy and Entrepreneurship and the Department of Economic Development, Sports and Culture of the Brčko District are responsible for company law, whereas the entities' Ministries of Justice and the administrative department of the expert service of the Judicial Commission of the Brčko District are responsible for legislation governing business registration.

State-level legislation on corporate accounting and auditing lays down countrywide obligatory accounting and auditing standards a professional ethics code, and common educational and licensing requirements. However, the entities and Brčko District are competent to adopt and implement detailed legislation in this area.

At the state level the Accounting and Auditing Commission is responsible for establishing and overseeing the implementation of uniform standards throughout the country, as well as for ensuring that professional education and licencing processes are in line with standards adopted by the International Federation of Accountants. The bodies responsible at entity level for this and for keeping the registers of statutory auditors and audit firms are the Ministries of Finance and the Directorate of Finance in Brčko District, including, while quality assurance is the responsibility of professional bodies and associations. Public oversight in this area is exercised by independent boards in the Federation entity and Brčko District, while in the *Republika Srpska* entity this responsibility is with respective department of the Ministry of Finance.

Company laws at all levels are to a limited extent aligned with the *acquis* in this field. There is no central registry of businesses in Bosnia and Herzegovina, no cross-entity/ Brčko District connection between the companies' registers, or mechanisms in place allowing for coordination and cooperation with registers from EU Member States or other countries. In this respect, only the *Republika Srpska* entity has a one-stop-shop system and the registration procedure is performed by the Agency for Intermediary, Information Technology, and Financial Services. .

Corporate accounting is regulated by legislation at state, entities and Brčko District level. The state-level law on accounting and audit regulates the application of mandatory accounting and auditing standards, uniform qualifications, training, testing, certification and licensing requirements and provides the legal basis for the Accounting and Auditing Commission of Bosnia and Herzegovina. The entities' and Brčko District' laws on accounting and auditing regulate accounting at each level, while all companies, including branch offices of legal entities with the head office outside the respective entity or Brčko District fall within the scope of the respective legislation according to the location of the head office.

The legislative framework in this area is partially aligned with the *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. This is in line with the options offered in the *acquis,* to use the IFRS beyond

the required scope of consolidated financial statements of listed entities, however more demanding on companies than the mere application of the Accounting Directive. In terms of company and group size requirements, legislation at all levels does not comply with the *acquis*, specifically the Accounting Directive. The notion of 'public interest entities' was introduced by the *Republika Srpska* entity in the law on accounting and Audit; it needs to be introduced by the Federation entity and the Brčko District.

A state-level Accounting and Audit Commission of Bosnia and Herzegovina has been established 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.

Auditing is regulated under the same legislation as corporate accounting. The registers of statutory auditors are kept at the level of entities and Brčko District by the respective entities' Ministries of Finance and the Brčko District Finance Directorate.

The legislative framework in this area is partially aligned with the *acquis.* As regards the application of the auditing standards, the laws in the entities and the Brčko District require audits to be performed in accordance with international standards on auditing. This is in line with the EU Audit Directive.

In the *Republika Srpska* entity, the financial statements of public interest entities as well as large legal persons are subject to mandatory audit. In the Federation entity, financial statements of large and medium enterprises and those that are listed on the securities market are subject to mandatory audit. Similarly, large enterprises and listed companies are subject to mandatory audit in the Brčko District. Public audit oversight is performed by the Public Oversight Board in the Federation, by the Ministry of Finance in the *Republika Srpska* entity and by the Accounting and Auditing Board in Brčko District, all of which are financed from respective budgets. The respective authorities should allocate adequate financial resources to ensure the proper oversight of the public audits. In line with *acquis* requirements on audit, Bosnia and Herzegovina needs to designate a single authority with countrywide competence to bear the ultimate responsibility of the oversight of statutory auditors.

Bosnia and Herzegovina has **some level of preparation** regarding the company law, corporate accounting and audit.

Special attention should be paid to harmonising the legislation in these areas to ensure equal level of harmonisation across the country and to further aligning it with the *acquis*. The country should also take steps towards establishing a single countrywide competent authority bearing the ultimate responsibility for the oversight of statutory auditors. Adequate financing should be secured to ensure proper functioning of public audit oversight.

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

→ improve the connection and coordination between the companies' registers among both entities and the Brčko District;
→ establish one-stop-shops for companies in the Federation entity and Brčko District.

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 programs and broadcasting.

In line with the SAA, since August 2013 Bosnia and Herzegovina has to guarantee a level of protection of intellectual, industrial and commercial property rights similar to that existing in the EU, as well as including effective means of enforcing such rights. The SAA also requires the country to accede to a number of multilateral conventions on intellectual, industrial and commercial property rights.

According to the constitutional and legal framework the legislative competences in the area of intellectual property law rest predominantly with the state level. The legislative framework includes Laws on copyright and related rights, collective management of copyright and related rights, trademark, industrial design, patent, geographical origin, and topographies. Law enforcement is a task for all levels of Government, i.e. the state level, the two entities, the cantons and Brčko District.

In the area of **copyright and neighbouring rights**, the legislative framework includes the Law on Copyright and Related Rights in Bosnia and Herzegovina and the Law on Collective Management of Copyright and Related Rights as well as the implementing legislation. They are largely aligned with the *acquis*, although further alignment is necessary to take into account the recent development of the *acquis*, in particular in the area of orphan works and collective rights management. Currently four organisations in the country are authorised for the collective management of copyright and related rights.

The Institute for Intellectual Property of Bosnia and Herzegovina (IIP) operates as an independent administrative body. The development strategy of the institute gives it the role of coordinator in the system of enforcing intellectual property rights. The administrative and IT capacity of the institute is adequate. The information and educational function of the institute needs to be strengthened through making the dedicated centres established for this purpose fully operational.

In the area of **industrial property rights**, the legislative framework is designed to be broadly aligned with the EU *acquis*. However, further alignment is necessary to take into account recent developments in the *acquis*, in particular in the area of 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, where it has yet to adopt the relevant amendments to the Law on Patents.

Competences in the field **enforcement** of intellectual property rights are shared by a large number of institutions at various levels of government across the country. These include the Institute for Intellectual Property of Bosnia and Herzegovina, the Indirect Taxation Authority of Bosnia and Herzegovina, the State Investigation and Protection Agency, and inspectorates competent on market control at all levels. Bosnia and Herzegovina has recently adopted a strategy in this area, but the administrative capacity of enforcement institutions remains insufficient.

Interinstitutional cooperation takes place on a bilateral and *ad hoc* basis and is not institutionalised. The country still does not have reliable system for collecting and analysing data and for data exchange 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 campaign, across all enforcement institutions. Prosecutors, judges and court panels handling cases involving intellectual property law should be better specialised.

Bosnia and Herzegovina is **moderately prepared** in the area of intellectual property law.

The country should pay special attention to improving its enforcement record in this area. The capacity and coordination of its enforcement institutions should therefore be strengthened to ensure intellectual property rights are protected.

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

→ implement the recently adopted strategy on enforcing intellectual property rights;
→ adopt the amendments to the Law on Patents drafted by the Institute for Intellectual Property of Bosnia and Herzegovina.

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

The SAA includes provisions stemming from the *acquis* on competition, covering anti-competitive agreements, abuses of dominant position and State aid as well as rules applied to public undertakings and undertakings with special and exclusive rights. The SAA calls for operationally independent authorities to supervise application of the competition rules in Bosnia and Herzegovina.

According to the constitutional and legal framework, the competences in the area of competition and State aid rest predominantly with the state level. The legislative framework includes state-level legislation on competition and State aid control. In the area of State aid the state level, entities and Brčko District may also adopt by-laws harmonised with state level legislation. Entities and cantons also own public utility companies which enjoy special rights and need to be subject to the applicable State aid legislation.

The relevant authorities in charge of enforcing competition and State Aid rules are the Competition Council, the State Aid Council and the Ministry of Foreign Trade and Economic Relations, all at state level. In the area of State aid, the implementing authorities are the Council of Ministers and the entities' and Brčko District governments through their competent authorities, i.e. the Ministry of Foreign Trade and Economic Relations, the entities' Ministries of Finance and the Brčko District Directorate of Finance.

The legislative framework on **antitrust and mergers** is broadly aligned with the *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 *acquis.* Secondary legislation needs to be further aligned with the *acquis.*

As regards the institutional framework, the Competition Council is an operationally independent body responsible for implementing the Law on Competition. The Competition Council has exclusive competence and decision-making power in competition matters.

The Competition Council is composed of six members appointed from among legal and economic experts by the Council of Ministers and by the entity governments. They are assisted by 20 staff members. The functioning of the Competition Council is significantly impeded by tight procedural deadlines and ethnic-based decision-making procedures.

Decisions of the Competition Council must be supported by at least one member of the Council representing each constituent people in order to have legal effect. This could result for instance in a number of cases where the potential abuse of dominant position is not prohibited or the concentration is automatically approved with the expiry of the procedural deadlines. As a result, the relevant provisions in the area of competition, even if aligned with the *acquis*, fail to be implemented in practice.

The Competition Council may act upon a complaint or notification, or on its own initiative. When carrying out an investigation, it may issue requests for information and carry out unannounced on-site inspections. It may impose fines and remedies if it identifies a breach of competition rules. It applies a leniency policy for fines in cartel cases where companies provide information. The Competition Council prohibits or authorises mergers, the latter with or without conditions, and provides opinions on draft legislation that may affect competition. In line with the EU rules, the decisions of the Competition Council can be challenged. An appeal may be launched before the Court of Bosnia and Herzegovina, as administrative court acting in second instance.

On administrative capacity, while the Competition Council has adequate human resources, the staff lack the required expertise and investigative capacity. Regarding enforcement, a number of decisions issued by the Competition Council imposed fines. Nevertheless, the Competition Council needs to step up its enforcement activities, in particular on cartels, by conducting more on-site inspections, imposing remedies in merger cases and raising awareness on its leniency programme. The court's capacity to handle complex competition cases needs to be reinforced.

As regards **State aid**, the legislative framework is partially aligned with the *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 the entities' and Brčko District governments. The two entities adopted decrees on the purpose, criteria and conditions for granting State aid, with the aim of further alignment with *acquis*. Overall, the relevant by-laws are not adopted evenly across the country. For instance, a decision on *de minimis* aid, and on aid to services of general economic interest, is only in place in the Federation entity. A regional aid map has yet to be drawn up. This aid map would show the geographical areas determined at NUTS II level where companies are eligible to receive regional State aid at defined intensities in line with the regional State aid guidelines.

As regards the institutional framework, the State Aid Council is responsible for ensuring the consistent implementation of the Law on State Aid System. The State Aid Council is composed of eight members appointed by the Council of Ministers and by the entities' and Brčko District governments. A secretariat provides it with expertise, technical and legal assistance. 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. As a result, the relevant provisions in the area of State aid, even if aligned with the *acquis*, could potentially fail to be implemented in practice. The State Aid Council needs to demonstrate its independence from aid-granting institutions, in particular ministries, and to establish a solid record of enforcement, including on the implementation of large projects between Bosnia and Herzegovina and other countries.

Under the Law on 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 had been illegally granted.

The enforcement capacity of the State Aid Council is insufficient. With only seven staff members, its secretariat is not in a position to fulfil its tasks. The *Republika Srpska* entity is not paying its full contribution to the financing of the Council, despite a court judgement. In the recent years, the State Aid Council has issued very few decisions; all were positive or found no State aid element. This raises significant concerns on its enforcement capacity. A significant 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 alignment of existing State aid schemes with obligations arising from the SAA and EU State aid rules is at a very early stage. Bosnia and Herzegovina needs to ensure the transparency of all State aid measures granted.

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

Bosnia and Herzegovina has **some level of preparation** in the area of competition policy.

Bosnia and Herzegovina should continue to further align its legislative framework in the area of competition and State aid with the relevant parts of the *acquis*.

In order to ensure the effective functioning of the Competition Council, Bosnia and Herzegovina needs to revise its decision-making procedures, removing ethnic vetoes, and amend the procedural deadlines to allow sufficient time for adopting decisions. The procedures for appointing the members of the Council need to be simplified. Similarly, the decision-making procedures of the State Aid Council need to be revised to remove ethnic vetoes. Special attention needs to be paid to ensuring consistent enforcement of State aid rules throughout the country. The State Aid Council needs to demonstrate its operational independence and build a solid track record of enforced decisions. To this end, the country should significantly strengthen the administrative capacity of the State Aid Council and step up efforts to raise awareness about State aid rules at all levels.

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, including outstanding contributions from the *Republika Srpska* entity.

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.

The SAA stipulates that the Parties must cooperate with the aim of establishing and developing a suitable framework for encouraging the banking, insurance and other financial services sectors in Bosnia and Herzegovina.

According to the constitutional and legal framework the competences for financial services rest predominantly with the two entities and Brčko District. The state level exercises a coordination and legal harmonisation role and represents and commits the country at international level.

The main bodies at state level are the Ministry of Finance and Treasury, the Central Bank, the Agency for Insurance and the Deposit Insurance Agency as well as the Fiscal Council. The bodies responsible at the level of entities are the Ministries of Finance, Banking and Insurance Agencies and the Security Commissions. Brčko District has its own Securities Commission while the banking and insurance markets are supervised by respective entities' institutions in line with entity-level legislation.

As regards **banks and financial conglomerates**, banks, microcredit organisations, leasing providers, factoring companies in the Federation entity and savings and credit organisations in the *Republika Srpska* entity are forming the banking system. Foreign credit institutions can establish a bank in Bosnia and Herzegovina, and only the banks that are locally established as legal entities can obtain a licence to operate in the country. Once established, *i.e.* licensed by one of the banking agencies at entity level, both domestically- and foreign-owned banks can operate under the same conditions. The minimum equity capital required by law is BAM 15 million (EUR 7.67 million). Additional requirements, such as approval of the competent banking agency, need to be met if a bank registered in one entity wants to open a branch in another entity. Upon accession, these laws will need to be repealed. Reliance on home country control for foreign banks varies according to several factors, in line with a number of memorandum of understanding that entity banking agencies have signed with supervisors in countries of residence of foreign credit institutions that have established 'subsidiary banks' in Bosnia and Herzegovina. Once part of the European Union, the country will need to align with the 'single passport' principles.

As regards capital adequacy and supervision, Bosnia and Herzegovina implements the Basel I requirements. Provisions relating to prudential ratios are defined at the entity level by the banking agency of the Federation entity and the banking agency of the *Republika Srpska* entity. The sector's overall capital adequacy ratio is well above the country's minimum of 12% (by the end of 2018, it stood at 15.5%) and has never fallen below 14.86% since monitoring began in 2004. Banks have to maintain average ten-day minimum liquidity in cash up to at least 10% of short -term sources. The financial leverage ratio is set at a minimum of 6%. Strategies on fully implementing Basel III are in place in both entities under which banks must gradually improve their ability to apply Basel III. Implementing of Basel III reforms will help bring the country into line with the *acquis* in that area. As part of their strategies, the Banking Agency of the Republika Srpska entity and the Federation entity Banking Agency have adopted a number of measures aimed at aligning with the Capital Requirements Directive (CRD IV) and the Capital Requirements Regulation (CRR). Implementation work needs to continue in order to meet the capital requirements of the *acquis*.

The system of deposit insurance is based on the respective law at the state level and is operationalised through the Deposit Insurance Agency. The eligible deposits are insured up to the amount of EUR 25.500. Bosnia and Herzegovina needs to increase the coverage to EUR 100 000 to comply with EU *acquis* requirements. Current legislation does not provide for automatic membership in the deposit insurance scheme. 23 banks currently licensed are part of the deposit insurance scheme. In the future, Bosnia and Herzegovina will need to align legislation with the Deposit Guarantee Scheme Directive.

The Central Bank of Bosnia and Herzegovina is in charge of coordinating the activities of entity agencies responsible for licensing and supervising entities' banks. Coordination is implemented through monthly meetings, regular exchange of information and joint on-site inspections of systemically important banks. The principles of bank supervision coordination and mutual cooperation are defined in a memorandum signed by these institutions in 2008. The standing committee for financial stability chaired by the Central Bank governor deals with the broader issues of financial stability and financial crisis management. This committee

may not order institutions to implement any measures but can produce non-binding recommendations. As supervisory authorities, entity banking agencies issue operating licenses to banks if various requirements are met, including minimum amount of founding capital and adequate system for management of risks. The supervisory authorities carry out on-site inspections and publish annual reports. Entity legislation provides for the operational and financial independence of supervisory authorities and lays down fees for licenses. The operations of supervisory authorities are monitored by legislative authorities in both entities. Supervision over operation of banks in the Brčko District is conducted by the entities' banking agencies, on the basis of the headquarter of the mother bank.

Harmonised entity banking laws and laws on their respective banking agencies are in place and provide at this stage of development for a largely adequate legal and regulatory environment of the banking sector, though the new resolution framework is incomplete. The number of banks is high in relation to the market size, even after the *Republika Srpska* entity bankrupted two banks in 2017 in agreement with the IMF. The ratio of non-performing loans is relatively high (8.8% in the fourth quarter 2018). All banks have completed asset quality reviews, based on which banking agencies have approved plans to address identified weaknesses, including risk management and supervisory practices. Bosnia and Herzegovina should strengthen the financial sector by addressing non-performing loans as a priority.

A state-level Law on Deposit Insurance in Banks needs to be adopted to enable the use of the deposit insurance fund for resolution purposes. This is an essential feature of the new resolution framework. Reforms to align with the EU Bank Recovery and Resolution Directive are needed to attain the required level of conformity. In addition, the authorities have to adopt a common methodology for determining systemically important banks. Altogether, the entity banking laws and laws on their respective banking agencies and, once adopted, the state-level Law on Deposit Insurance in Banks should strengthen supervisors' corrective and enforcement powers, introduce consolidated supervision of banking groups across the entities, and establish a single banking resolution framework for the country. To improve cooperation and information sharing in the areas of bank supervision, crisis preparedness and management, and systemic risk oversight, a comprehensive Financial Stability Memorandum of Understanding should be signed. Entity legislation on bankruptcy and liquidation applies to all legal entities, including banks and financial institutions.

There is no explicit legislation at any level, which governs financial conglomerates. Consequently, there are no supervising activities in this area. However, the entity banking legislation contains provisions on banking groups and, the supervision of banking groups on a consolidated basis, and defines measures that a competent banking agency can take towards a member of a banking group.

As regards **insurance and occupational pensions**, Bosnia and Herzegovina established a countrywide institutional framework for legal harmonisation to ensure equal conditions for insurance companies within the country and for the cross-border supply of services. The insurance sector accounts for 2.1% of the country's GDP and for 5.57% of its financial sector assets. The amount of premiums in 2017 was EUR 349 million (mainly non-life and compulsory traffic insurance).

The main competences in this area are defined in the entity-level legislation on insurance companies, intermediation and on compulsory traffic insurance. This legislation lays down the rights for establishment and operation of insurance companies, their branches in another entity and for the cross-border supply of services. The 2004 Law on Insurance Agency of Bosnia and Herzegovina provide for the legal harmonisation, supervisory cooperation between the entities and representation in the international relations.

Entity-level agencies are in charge of supervising insurance companies. The agency responsible is determined according to the head office location of the subject of supervision. These authorities are required by law to be operationally and financially independent. The supervisors are accountable to the government in the Federation entity and to the National Assembly in the case of the *Republika Srpska* entity. They must issue regular reports on the insurance market. Entity legislation stipulates that they must be autonomous and independent. Supervisory coordination between the entities is entrusted to the Insurance Agency of Bosnia and Herzegovina, which is responsible for *acquis* alignment. This Agency's competences, staffing and resources are inadequate for ensuring that entities consistently incorporate its recommendations in their draft legislation. This must be addressed in order for the Agency to effectively coordinating reforms in the insurance sector.

Under entity laws on insurance, as amended in 2017, insurance companies must be granted licences to perform insurance activities under equal conditions throughout the country. This applies both to domestically- and foreign-owned companies. An insurance company seated in one entity may operate through a branch office in another entity, but its operations are supervised by the head office's entity regulator. Cross-border services are allowed only to insure against risks that cannot be contracted in Bosnia and Herzegovina, and direct reinsurance with a foreign company is possible only in the *Republika Srpska* entity.

The insurance market is not liberalised for compulsory traffic insurance. The state-level insurance agency's management board adopted guidelines for the gradual liberalisation of premiums throughout the country. These guidelines need to be implemented by entity insurance agencies.

Financial supervision over occupational pension funds and voluntary pension funds is assigned to the entities' insurance agencies and to the Securities Commission in the Federation entity for the fund's accumulation phase. In the Federation entity, the Securities Commission and the Insurance Supervision Agency share responsibilities and are the competent authorities, as regulated by the Law on Voluntary Pension Funds. In the *Republika Srpska* entity, the Insurance Agency supervises voluntary pension funds.

F**inancial market infrastructure**, is the responsibility of the entity ministries of finance. Entity securities commissions are established under relevant entity legislation, which entrusts them with licensing, as well as oversight and supervision of securities issuing and trading. Brčko District also has its own legislation and securities commission that acts as the capital market regulator. Regulators are accountable to their respective entity/district parliament/assembly. The legislation at any level is not in line with the EU *acquis*, including the Settlement Finality Directive.

As far as **securities markets and investment services** are concerned, securities commissions at entities and Brčko District levels are designated supervisors. The law defines their operational independence. Entities have established corresponding registers of securities, while the Brčko District Securities Commission also uses entity registers. Overall, Bosnia and Herzegovina needs to ensure the efficiency, resilience and transparency of securities markets. This involves improving coordination between the entities to ensure consistent alignment with key areas of the EU securities market *acquis*, such as market manipulation and market abuse rules and includes alignment with the requirements under the markets in financial instruments legislation (MIFID II and MiFIR).

Regarding investment funds, both entities and Brčko District have legislation in place about investment funds, designating the respective securities commissions as regulators and supervisors of the activities of investment funds. Investment fund management activities require prior consent of the respective securities commissions. The definition of investment

services in the legislation in force is not in line with the *acquis*, but recognises broker-dealer companies, established as joint-stock companies, that perform securities operations as permitted by the respective securities commission. Banks can also perform securities operations under specific conditions stipulated in relevant legislation. Prudential ratios are defined implicitly in the Federation entity and the Brčko District, and explicitly in the *Republika Srpska* entity. Neither entities nor Brčko District have investor protection schemes in place.

Bosnia and Herzegovina has **some level of preparation/is moderately prepared** in the area of financial services.

The financial sector is broadly stable, but the market and supervision of it are hampered by fragmentation. Bosnia and Herzegovina should pay particular attention to coordinating the alignment of entity legislation with the *acquis*, including in banking, securities market and the insurance sector. It should also pay attention to improving coordination, cooperation and information exchange among various financial sector authorities to safeguard financial sector responsibility. The adherence to the 'single passport' principle requires further liberalisation of the banking sector to allow the establishment of foreign banks' branch offices and/or cross-border service provision. A plan for coordinated alignment of entity legislation with the *acquis* is needed in this area. The overall level of preparedness is low in the securities market. The country needs to amend legislation on compulsory traffic insurance to liberalise its insurance market. Bosnia and Herzegovina should strengthen the capacities of the insurance agency and develop a consolidated plan for alignment with the *acquis* in the insurance sector.

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

→ adopt a law on deposit insurance in order to complete the bank resolution framework in line with the Deposit Guarantee Scheme Directive and the Bank Recovery and Resolution Directive;
→ sign a Financial Stability Memorandum of Understanding;
→ demonstrate improvements in the corrective and enforcement powers of supervisory bodies (including banking agencies).

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.

The SAA provides that Bosnia and Herzegovina and EU Member States shall cooperate with a view to further developing the information society, including preparing society as a whole for digitalisation, attracting investments and ensuring the interoperability of networks and services.

According to the constitutional and legal framework, the competences in the area of information society and media rest predominantly with the state level, which adopts legislation on *inter alia* the public broadcasting system, communications e-signature, e-Commerce. The two entities and Brčko District also have competences on certain matters covered by this chapter, while the cantonal competences are limited to local broadcasting, cinematography and film heritage.

The main actors at the state level are the Ministry of Communication and Transport with its Office of Supervision and Accreditation of Certifiers and the Communications Regulatory Agency. At entity level, certain matters falling outside the scope of the state-level

competences are dealt with by the Ministry of Transport and Communications in the Federation entity, and by the Ministry of Transport and Communications and the Ministry of Scientific-Technological Development, Higher Education and Information Society in the *Republika Srpska* entity.

The *Republika Srpska* entity contests the competence of the state level to legislate countrywide and execute necessary functions in the area of information society services, including on matters related to ensuring an interoperable e-signature system and the state-level authority carrying out the necessary supervision and accreditation of the countrywide use of e-signature.

Regarding **electronic communications** and **information and communication technology**, a Law on Communications was adopted in 2003. The SAA sets Bosnia and Herzegovina's objective to adopt a new law on electronic communications and electronic media aligned with the EU *acquis* in this sector one year after the entry into force. Legislation enabling the liberalisation of the telecommunications and electronic media sector is not in place. The European emergency number 112, which should be operational throughout the country, is not in place.

In the field of the telecommunications market, 3 incumbent operators provide both fixed and mobile telephony, 11 alternative operators provide voice services in fixed telephony and 5 provide mobile services. The coverage of fixed telephony is 21.5%. For mobile telephony, there are 3 licensed incumbent operators and 5 providers of mobile services. The number of users of mobile services is 3,404,085 (97.42% penetration rate). There are 70 internet providers and 3,064,072 internet users (86.77% penetration rate). The penetration of broadband internet is 19.83%. As regards roaming tariff policies, the Communications Regulatory Agency has implemented the regional roaming agreement since 2014, which has resulted in roaming charges falling by up to 30%. Bosnia and Herzegovina signed the new regional roaming agreement in Belgrade in April 2019, enabling Roam like at Home (RLAH) as of July 2021.

A policy on the electronic communication sectors for 2017-2021 and the accompanying implementation action plan are in place. This policy is a prerequisite for the development of the regulatory framework in the area of radio frequency. The basic technical requirements for implementing the long-term evolution system in all envisaged European plans intended for networks of mobile operators are also in place. The country has introduced the 4G network but does not have a broadband strategy.

In the field of **information society services**, the 2017-2021 policy for development of the information society of Bosnia and Herzegovina is in place. The policy is aligned with the strategic pillars of the information and communication technologies from the digital agenda for Europe. Efforts should be made to further align this policy with the EU digital single market strategy as well as the Digital Agenda for the Western Balkans. Bosnia and Herzegovina does not have a countrywide strategy or action plan for the development of information society.

In order to monitor the progress made towards the compliance with EU rules for electronic communications and information society services and the convergence with the internal market, as well as the alignment with the Digital Agenda for the Western Balkans, the country need to improve the collection of statistical data on digital performance and digital competitiveness.

The state-level Law on electronic legal and business traffic (e-commerce law) is in place, and is aligned to a great extent with the Electronic Commerce Directive. The Inspectors Office

established within the Ministry of Communications and Transport of Bosnia and Herzegovina is in charge of supervising its implementation. No inspector has been nominated to carry on the inspection and supervision since the law is not being implemented in the absence of a framework for the electronic signature.

The Office for Supervision and Accreditation of Certifiers has been established within the Ministry of Communication and Transport of Bosnia and Herzegovina. The country needs to adopt legislation on electronic identification and trust services for electronic transactions in compliance with the *acquis*. Bosnia and Herzegovina has to adopt a national strategy on the security of networks and information systems and to designate a countrywide single point of contact responsible for coordination and cross-border cooperation. The country needs to establish Computer Security Incident Response Teams (CSIRT) network that will facilitate strategic cooperation and the exchange of information.

As regards the interoperability of networks and services, the legal framework required for the interoperability and ensuring the foundation of interoperable networks and services between public administration institutions is in place. The country has to enable provision of electronic services, which is preconditioned with the introduction of interoperable e-signature system throughout the country. Public registries, though existent in some areas, are not necessarily interoperable. With regard to **audio-visual policy**, the Law on Communication establishes the Communications Regulatory Agency (CRA) as the regulator of the market for audio-visual media services and broadcasting. The Agency licenses and monitors radio and television broadcasting, including networks and has the power to regulate the media market. The Agency enjoys political and institutional independence. Its financial independence has been improved but is not yet fully ensured. Its director is appointed by the Council of Ministers and its seven-member Council by the Parliamentary assembly, with consideration of ethnic and gender balance. The members of the CRA Council are currently all men. The CRA Council decides by consensus or by simple majority with a quorum of four members present and voting. Bosnia and Herzegovina needs to improve the procedure to appoint the CRA management to ensure its transparency and openness, and to provide sufficient safeguards against any political and economic interference.

Bosnia and Herzegovina needs to adopt a law of electronic communications and electronic media in line with the Audio-Visual Media Services Directive, as well as legislation on media ownership transparency, including a register to enable insight into ownership structures. The 2003 Law on the public broadcasting system is only partially implemented, and entity laws on broadcasting legislation are not in line with it. Therefore, the three public service broadcasters are exposed to political influence, in particular through politically controlled steering boards, with a worrying trend of self-censorship.

The entities collect the radio and TV fees differently (directly and via post in the *Republika Srpska* entity, and via electricity bills in some areas of the Federation entity); the legal provisions requiring that fees are collected in a single account are not respected. Entity-level broadcasters also have substantial unpaid debts towards the state-level broadcaster, which are subject to long court cases. These issues threaten the financial independence and sustainability of the public broadcasting system. A sustainable solution needs to be found.

The law provides for a public broadcasting system corporation as a joint body for all three public broadcasters. This corporation would work as network operator tasked with ensuring coordination in using and managing technical resources of the transmission and broadcasting infrastructure. Such a corporation has never been established.

Bosnia and Herzegovina operates exclusively through analogue technology. The country missed the June 2015 international deadline for the digital switchover set by the Geneva

agreement GE-06. Only the first phase of the digitalisation process has been completed, out of three. The lack of digital switchover jeopardises the operation of certain radio frequency transmitter both locally and regionally.

The country does not have a list of important events to be transmitted by the public broadcasting system. The financing of local public broadcasters from the public budget also needs to be brought into line with the *acquis* as it amounts to State aid and provides opportunities for political pressure and influence. (*see also Chapter 23, Fundamental Rights*)

Bosnia and Herzegovina is at an **early stage of preparations** in the area of information society and media. The legislative and strategic framework are incomplete.

Bosnia and Herzegovina is not meeting its obligations under the SAA, as the legislation in the area is not in place and aligned with the *acquis.* Bosnia and Herzegovina needs to introduce the European emergency number 112, the e-signature system, and a network of Computer Security Incident Response Teams. Public institutions have to establish registers to provide electronic services. The financial independence of the Communication Regulatory Agency and the procedure to appoint its management have to be improved. Bosnia and Herzegovina needs to fully implement the law on the public broadcasting system, strengthen the political and financial independence of public broadcasters, and proceed with the digitalisation process.

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

→ adopt a Law on electronic communications and electronic media in line with the *acquis*;
→ finalise the digital broadcasting switchover;
→ adopt a framework strategy for access to the broadband network.

Chapter 11: Agriculture and rural development

The common agricultural policy 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 and the EU gradually liberalised their mutual trade in agricultural products following the entry into force of the Interim Agreement in 2008, and of the SAA in 2015, including its adaptation in 2017 to take into account the accession of Croatia to the EU. The SAA also includes provisions on cooperation in agriculture and in the veterinary and phytosanitary fields with the aim of modernising and restructuring the agriculture and agro-industrial sector.

According to the constitutional and legal framework, the competences on agriculture and rural development rest predominantly with the two entities and the Brčko District. The state level exercises its competences in accordance with the Law on Agriculture, Food and Rural Development. It also defines policies and basic principles and coordinates internally the activities of the entities and Brčko District to represent and commit the country at international level. The two entities, the cantons and Brčko District issue secondary legislation and regulate and manage direct payments for agricultural production.

There is no specific ministry of agriculture at state level. The Ministry of Foreign Trade and Economic Relations is responsible for this area and fulfils a coordination role. Both entities have their own Ministry of Agriculture, Forestry and Water Management, whereas at cantonal level the respective ministries are responsible. At state level, the Ministry of Foreign Trade and Economic Relations, has an Office for harmonisation and coordination of payment systems in agriculture, food and rural development. The *Republika Srpska* entity has an

agency for agricultural payments while in the Federation entity this function is performed at Federation government level and by the respective cantonal ministries. Brčko District has a Department of Agriculture, Forestry and Water Management in charge of legislation and payments.

The *Republika Srpska* entity claims that the state level has no competence to establish a paying agency, including for the pre-accession funding from the EU side. It also claims that there is an overlap of competences on quality policy between the state-level institutions that regulate this area, i.e. the Institute for Intellectual Property Rights and the Food Safety Agency. For this reason the *Republika Srpska* entity contests the existing state-level legislation.

Agriculture is one of the most important economic activities in Bosnia and Herzegovina. In 2016, the country had 2 200 000 hectares of agricultural land of which 1 600 000 hectares were arable land and 600 000 hectares were pastures. The total mine-suspected area in Bosnia and Herzegovina covers 1 145 km^2 (2.3% of the entire area of the country) with its largest share being agricultural land. Small farms and plot fragmentation predominate in Bosnia and Herzegovina's agriculture. In 2016, the number of farms in the country was 90 092, whereas the average farm size was 2.96 hectares. Agriculture generated 7.6% of total gross domestic value in 2016. The share of agricultural activity in total employment was approx. 19% in 2016, with the total number of people employed in agriculture at 144 000. On average, in the last 10 years, approx. 162 000 people engaged in agricultural activity, approx. 61% of which are men and 39% women. Total support for agriculture and rural development amounted to EUR 87.95 million in 2017. The largest amount of funds allocated (88.7%) was realised through direct production support measures. (*See also Chapter 18 statistics*)

Exports of agricultural products amounted to almost EUR 555 million in 2017. The EU is Bosnia and Herzegovina's key trading partner for agricultural goods. In 2017, exports of agricultural products to the EU made up 35% of total agricultural exports, while imports of agricultural products from the EU accounted for 52% of total agricultural imports.

Bosnia and Herzegovina's agricultural policy is based on the 2008 state-level Law on agriculture, food and rural development, which sets out the scope, overall objectives and overall policy measures in agriculture and rural development, as well as strategic documents at different levels of government. Bosnia and Herzegovina needs to ensure proper implementation of the 2008 law on agriculture and acceleration of *acquis* alignment. The country also needs to adopt other state-level laws in the sector, such as on wine and on organic production. Bosnia and Herzegovina has a 2018-2021 strategic plan for rural development in place as a framework policy document. To implement the plan effectively, harmonised rural development programmes need to be put in place at the different levels of government in the country.

On administrative capacity, institutional structures at different levels of government (entities, cantons, and Brčko District) are in charge of policy implementation and payments in agriculture and rural development, as regulated by the respective legislation. Upon accession, Bosnia and Herzegovina will have to fully align with the *acquis* and establish adequate administrative structures.

Concerning **horizontal issues,** Bosnia and Herzegovina needs to establish the administrative structures required for the common agricultural policy. This includes establishing a paying agency and Integrated Administration and Control System (IACS), including a Land Parcel Identification System (LPIS), as well as setting up key elements for the management and control of EU funds under the Common Agricultural Policy (CAP). This involves a very demanding planning and preparation, and requires investment to build institutional capacities

well in advance of accession. Bosnia and Herzegovina will also need to establish a Farm Accountancy Data Network (FADN) in line with the *acquis*. The farm advisory systems in Bosnia and Herzegovina are weak, insufficiently and unevenly developed across different levels of government and their regulatory framework is not harmonised across the country.

Direct payments to agricultural producers in Bosnia and Herzegovina are performed at the levels of the two entities, cantons, and Brčko District. The laws regulating direct payments at these levels need to be harmonised countrywide. Total allocations for direct payments including payments based on input, direct payments per head of cattle/hectare and other direct payments were EUR 61,691,195.7 (BAM 120,661,403) in the 2011-2015 period, for a total number of 42,174 beneficiaries per each direct support programme. Direct payments included payments based on input as various types of premiums for production, mainly for milk, direct payments per head of cattle/hectare and other direct payments. Support measures are not harmonised nor implemented at an even pace across the country. Their effectiveness and compliance with the *acquis* is insufficient to increase the sector productivity and competitiveness. Direct payments need to be gradually brought into line with EU rules, decoupling direct aid payments from production.

On State aid, Bosnia and Herzegovina applies a number of market-related subsidies and additional measures at different levels of government. The country will need to gradually bring all its State aid measures into line with EU rules and guidelines adopted in this area. Bosnia and Herzegovina also needs to ensure a gradual alignment of direct payment rules with EU requirements, by decoupling direct aid payments from production.

Common market organisation does not exist in Bosnia and Herzegovina. The country needs to advance in establishing a common market organisation as part of its work to strengthen the administrative capacity and prepare the regulatory framework in line with the *acquis*.

With regard to arable crops, cereals accounted for the highest share (approx. 60%) in the total area sown in 2017, followed by forage plants (24%), vegetables (13%), industrial crops (2%), strawberries and raspberries (1%), while 0.2% of the area is sown with aromatic, spice and medicinal herbs. The share of livestock production in the total value of agriculture in 2016 was around 37%, which is lower than in most European countries, with declining trends in the number of herds. Milk production in Bosnia and Herzegovina in 2017 amounted to 684 million litres, of which almost all cow milk (97%), followed by sheep and goat milk. Production of specialised crops, fruit and vegetables totalled 285,610 tonnes of major vegetable crops and 164,132 tonnes of fruit in 2017.

There are no producers' organisations of fruits and vegetables in Bosnia and Herzegovina similar to those that exist in the EU, nor is there any relevant legal basis for their formation. There are a number of voluntary associations of producers and cooperatives which may constitute a basis for a gradual transformation into EU-aligned producers' organisations. Bosnia and Herzegovina should intensify efforts to gradually establish such EU-compliant structures.

Regarding the wine sector, Bosnia and Herzegovina does not have a register of grape and wine producers or vineyard cadastre. There is no official data or available statistics on the number or size of households and farms producing grapes. The country needs to step up its efforts to ensure reliable countrywide statistics and increase the quality of produced wine, also enhancing sustainable measures for climate change mitigation. The fragmented structure of farms and small-scale production is a challenge also affecting wine production.

The framework policy document on **rural development** policy is the Strategic Plan for Rural Development of Bosnia and Herzegovina 2018–2021, which guides rural development plans

and programmes at all levels of government. The state-level law on agriculture, food and rural development provides for general policy objectives and measures, as well as for the administrative structures and information systems for implementing agriculture policy and rural development programme similar to those in the EU. The country needs to fully align its legislation in this field with the *acquis* and strengthen administrative capacity at all levels.

The contestation of state-level competences on agriculture by the *Republika Srpska* entity impedes the country to prepare establishing the institutional structures necessary to benefit from the indirect management of the Instrument for Pre-accession Assistance for Rural Development (IPARD), in particular a paying agency at state level.

Following a ruling of the Constitutional Court annulling the entity Law on Forestry, the forestry sector in the Federation entity is not duly regulated. The entity needs to adopt a revised law to replace the temporary regulations. Nine cantons adopted their own forestry regulations not in compliance with constitutional provisions on ownership and spending of funds for the use, protection and maintenance of forests. The *Republika Srpska* entity has laid down rules for the forestry sector via several laws and secondary legislation on timber sales and forest management.

As regards the **quality policy**, legislation is in place at state level regulating the protection of designations of origin, geographical identifications and traditional names across the country. State-level law and implementing regulations on food have been in force since 2004. The institutions dealing with quality policy are the Institute for Intellectual Property and the Food Safety Agency, both established at state level. The legal framework in this area needs to be improved and harmonised in order to ensure clearer distribution of competences between the two institutions. Bosnia and Herzegovina needs fully functional institutional arrangements to implement and control quality schemes. This includes the registration of agricultural products and foodstuffs as protected designations of origin and geographical indications, as well as the labelling of foodstuffs as traditional specialties guaranteed in the country by the competent authority.

Accreditation and certification systems are in place with regard to **organic farming**, but there is no state-level legislation as required by the *acquis*. Regulatory frameworks across different levels of government need to be harmonised. Support measures are unevenly implemented across the country.

Impact

Bosnia and Herzegovina's accession to the EU is expected to have a limited impact on the Common Agricultural Policy, as it would add 2 200 000 hectares of agricultural land. This corresponds to 1.2% of the utilised arable area in the EU-28. Overall, Bosnia and Herzegovina's membership of the EU would therefore be expected to have a limited impact on the Common Agricultural Policy.

Bosnia and Herzegovina is at an **early stage of preparation** in the area of agriculture and rural development.

Bosnia and Herzegovina needs to significantly improve its administrative capacity in this area and establish the fundamental instruments and institutions for participating in the Common Agricultural Policy (CAP). The country needs to ensure that its legislation is harmonised across the country and aligned with the EU *acquis*. Agricultural information systems have to be set up in line with the EU framework. The country also needs to start preparing for a new post-2021 strategic plan for rural development.

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;
→ adopt state-level laws on organic production and wine;
→ harmonise across the country the laws on quality policy, including protected designations of origin, geographical indications and traditional specialities guaranteed.

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 quality of seeds, plant protection material, protection against harmful organisms and animal nutrition.

The SAA includes provisions on cooperation in the field of veterinary and phytosanitary policy, in particular to meet the respective EU requirements and to support the progressive approximation of the legislation and practices of Bosnia and Herzegovina to EU rules and standards.

According to the constitutional and legal framework the competences in the area of food safety, veterinary and phytosanitary policy are exercised by the state level, two entities, the cantons and Brčko District. The state level has adopted legislation in all subareas covered by the chapter (food safety, veterinary and phytosanitary issues). The state-level legislation is applied in the entities, cantons and Brčko District, in addition to their own legislation regulating certain issues under this chapter.

At state level the main competent authorities are the Ministry of Foreign Trade and Economic Relations, the Veterinary Office and the Plant Health Protection Administration (the latter two being administrative organisation within the Ministry) and the Food Safety Agency. At entity, cantonal and Brčko District level, the ministries and the Department in charge of agriculture are dealing with the issues covered under this chapter. The responsibility for inspection controls rests with all levels of authority.

The *Republika Srpska* entity contests certain state-level competences and legislation in the area of food safety, veterinary and phytosanitary issues. For this reason, no further alignment of the state-level legislation with the *acquis* has been achieved in recent years.

The legal framework consists of the state-level Laws on food (2004), genetically modified organisms (2009), veterinary medicine (2002), animal protection and welfare (2009), plant health protection (2003), phytopharmaceutical products (2004), seeds and seedlings of agricultural plants (2005) and protection of new varieties of plants (2010 as amended in 2013). In addition, the entities and some cantons have their own legislation laying down policies and means of implementation. Bosnia and Herzegovina has to improve its legal harmonisation across the country and avoid overlapping competences. Institutional arrangements and the central competent authorities' functions and responsibilities, in the food safety, veterinary and phytosanitary area, have to be further strengthened in order to ensure a fully functional chain of command, coordination and exchange of information, in particular in official controls, risk assessment and crisis management.

The country has authorised laboratories to perform the official laboratory testing for sanitary and phytosanitary controls. The Institute for Accreditation of Bosnia and Herzegovina accredits testing laboratories working on the physical, chemical, biological and microbiological analysis of water, food and feed. The capacity of laboratories and the number of accredited laboratory methods for diagnostics is generally satisfactory, but it needs to be strengthened. There is no national reference laboratories system in Bosnia and Herzegovina providing for hygiene, veterinary, phytosanitary controls, food and feedstuff analysis as per

acquis requirements. The country needs to ensure that such a system is fully in place. A state-level strategy for laboratory testing of samples, as required by the official food and feed controls system, needs to be adopted.

In the area of **general food safety, food safety rules and specific rules for feed**, Bosnia and Herzegovina increased its export of a number of commodities to the EU by complying with EU rules and requirements. The country exports fish, honey, potatoes and milk and dairy products, as well as equinae (sports horses for competition races) to the EU. In addition, it is allowed to transit beef meat and products through the EU when exporting it to third countries. Bosnia and Herzegovina aims to gradually align with EU requirements for the export of other commodities, like poultry and eggs, and other categories of meat, such as bovine meat, ovine meat and caprine meat.

The regulatory framework for **veterinary policy** consists of the state-level Law on veterinary medicine (2002) and the law on animal protection and welfare (2009). The country has to step up its efforts to further align with the *acquis*, in particular with EU legislation on animal health and on animal by-product management. A countrywide strategy for animal by-products management needs to be enforced and implemented.

Bosnia and Herzegovina carries out activities to control, prevent and eradicate communicable animal diseases. It implemented animal control measures, including against lumpy skin disease, rabies, brucellosis and tuberculosis in cattle. There have been no registered rabies cases in the country since 2015. No new case of lumpy skin disease was reported. Multiannual operational programmes to control and eradicate rabies and brucellosis until are planned until 2022. Their effective implementation should be ensured. The country needs to step up its efforts to ensure sustainable resources for animal disease controls measures in the long run. Its animal disease notification and outbreak information management system requires upgrades to become fully functional. Laboratory capacity, including staffing and equipment are generally satisfactory, as is the accredited number of laboratories methods for diagnosing animal diseases. In general, two reference veterinary laboratories for certain types of laboratory tests to diagnose contagious and parasitic diseases of animals in the country, the Sarajevo Veterinary Faculty and the Banja Luka Veterinary Institute, perform their services properly, but their capacities need to be strengthened.

A residue monitoring plan is in place and being implemented. The animal identification, registration and in particular the movement control system, including the central database, need to be improved in order to ensure more efficient planning and implementation of relevant animal health measures. The central database on registration and identification of bovine animals is generally satisfactory; but needs further improvement, notably on the double notification of movements and reporting of all animal slaughters. The country does not have a system of registration and identification of sheep, goat and pigs, as well as equinae. Official controls of implementation of animal registration and identification, including controls of cattle markets, have to be improved. Inspection capacities need to be upgraded and their operating procedures have to be harmonised countrywide and in line with the EU legislation in order to improve both internal market and border controls.

With regard to the **placing on the market of food, feed and animal by-products**, the country's official food and feed controls system is yet to be fully aligned with the *acquis* and duly implemented. Administrative capacities at all levels are adequate but they are insufficient with regard to inspection services and need to be improved particularly on professionalisation of the staff and improvement of quality of the inspection service's work by introducing inter-laboratory comparative tests. The state-level Laws on food (2004) and on veterinary medicine (2002) and relevant amendments to the state-level Law on agriculture, food and

rural development need to be aligned with the *acquis*. The country needs to ensure full implementation of the hygiene package in a harmonised way across the country.

Food business operators need training on specific EU safety and quality requirements. Bosnia and Herzegovina implements its food safety monitoring plan in a satisfactory manner. The country's crisis management plan and operative emergency measures need to be improved; the risk assessment system needs strengthening, and the maintenance of food safety databases should be harmonised across the country. Bosnia and Herzegovina fully participates in the European Commission's rapid alert system for food and feed (RASFF), implementing appropriate inspections and reporting back to the Commission on the results.

The legal framework regulating the **phytosanitary policy** consists of the ratified International Plant Protection Convention (2003) and International Convention for the Protection of New Varieties of Plants (2017), and the Laws on plant health protection (2003), phyto-pharmaceutical products (2004), seeds and seedlings of agricultural plants (2005) and protection of new varieties of plants (2010).

The registration of relevant producers, importers, exporters and distributors in a single phyto-registry functions properly, but the issuing of plant passports needs to start. A programme of special surveillance of harmful organisms on potatoes is in place and the registration of new varieties in the country's variety list is functional, but the country has not adopted the OECD seed scheme. The work of official diagnostic laboratories and official controls of imports needs to be aligned with the *acquis*. The number of phytosanitary inspectors should be increased and their administrative capacities strengthened. The principles of integrated pest management have to be implemented in a harmonised manner across the country. Agricultural producers need training on EU requirements and standards for using plant protection products and applying maximum residue limits.

As regards **genetically modified organisms**, the Law on GMOs (2009) provides for shared competences at the state, entity, Brčko District and canton levels. The Law and its implementing acts lay down the procedure and conditions for contained use, cross-border transfer, deliberate release into the environment and placing on the market of GMO and products consisting of, containing or originating from GMOs. Inspection activities are performed at entity, Brčko District, and cantonal level and within the administrative units of local self-governance.

Bosnia and Herzegovina has a council for GMOs that acts in advisory and monitoring capacity. Based on the signed Protocol, the *Istituto Zooprofilattico Sperimentale delle Regioni Lazio e Toscana* from Rome, Italy, serves as a reference laboratory for Bosnia and Herzegovina, as the country does not have its reference or authorised laboratory for testing, controlling and monitoring of presence of GMO in food and feed.

Bosnia and Herzegovina needs to: (i) align its legislation with the *acquis* and ensure legal harmonisation across the country; (ii) improve its institutional arrangements in order to avoid overlapping of competences; and (iii) strengthen its control and coordination chain.

Bosnia and Herzegovina has **some level of preparation** in the area of food safety, veterinary and phytosanitary policy.

In the medium-term, the country should further harmonise its official veterinary and phytosanitary control systems with EU rules, improve its institutional arrangements in order to avoid overlapping competences and strengthen its control and coordination chain.

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 until rabies is considered eradicated.

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 and the EU gradually liberalised their mutual trade in fish and fishery products following the entry into force of the Interim Agreement in 2008, and of the SAA in 2015, including its adaptation in 2017 to take into account the accession of Croatia to the EU. The SAA identifies mutually beneficial areas of common interest in the fisheries sector and cooperation related to the *acquis*, including the respect of international obligations concerning international and regional fisheries organisation rules of management and conservation of fishery resources.

According to the constitutional and legal framework, the competences for fisheries rest predominantly with the two entities, the cantons and Brčko District. The State has a coordinating role and represents and commits the country at international level. Laws on inland fisheries exist in the entities, Brčko District and three cantons, while law on marine fisheries only exists in the Herzegovina-Neretva Canton due to its geographical location. At the state level, there is no framework policy or legislation in this area.

At the state level, the Ministry of Foreign Trade and Economic Relations has a coordinating role, while entities, cantons and Brčko District have competent ministries/a department dealing with fisheries. Competent inspection authorities are also in place at all governance levels.

Sea fishing is mainly carried out in small own-account boats. The yearly landing of marine wild fish is around 200 tons.

Freshwater fisheries are exclusively related to fishing on rivers, notably sport-recreational and commercial fishing on the Sava River. They are an important economic activity in the country due to high potential for fish exploitation and production. Capacities for production of all fish species are estimated at around 13,000 tonnes. Facilities for fish exploitation in the country cover 140,800 m^2 in case of trout, 2,190 hectares of carp fish farming and approximately 77,810 m^3 for fish cage cultivation. Considering the trends over the last 10 years, table fish production is above 4,000 tonnes of which approximately 80% is trout production, 14% relates to carp production and 6% to other fish species. Bosnia and Herzegovina has approval to export fish and fishery products to the EU.

The basic types of aquaculture breeding systems are the basin, reservoir and cage systems. The most important fish species in Bosnia and Herzegovina's aquaculture sector are salmonid, cyprinid, sea bass, sea bream and dentex, and molluscs. Freshwater aquaculture dominates in the basins of Neretva, Una, Sana and Vrbas rivers. Marine culture covers the coastline in the area of Herzegovina Neretva Canton. The sea coast is 24 km long, with a sea area of 1,400 hectares. There are two farms dealing with sea fish and shellfish farming.

As for the legislative framework, Bosnia and Herzegovina does not have state-level legislation on inland and marine fisheries. Legislation in the two entities, Brčko District and cantons in the Federation entity governs the area, mainly focuses on inland fisheries. A canton-level Law on marine fisheries (in the Herzegovina-Neretva canton) lays down measures for the proper management and protection of renewable sea resources, including administrative and inspection supervision. There is no countrywide strategy for the fisheries sector and rules are not harmonised.

Measures regarding **resource and fleet management** are lacking and the administrative capacity to implement such measures is weak. Data collection on catches and landings per type of fishery needs to be improved and harmonised across the country.

Bosnia and Herzegovina has no specific **structural actions for fisheries.** A limited number of **State aid** measures exist for inland fishing and aquaculture at entity, cantons and Brčko District level.

Concerning **market policy**, marketing standards for fish products are in place on hygiene for food and products of animal origin, on quality requirements and on veterinary and health conditions that must be met in production and marketing. Fish are placed on the market according to the origin, type and weight classification.

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 Organization (FAO). Bosnia and Herzegovina is a party to the Malta MedFish4Ever Declaration, having expressed its interest in the protection and sustainable management of Mediterranean aquaculture and fish stocks and its readiness to take action in this area.

Bosnia and Herzegovina is at an **early stage of preparation** in the area of fisheries.

Bosnia and Herzegovina has to develop a harmonised fisheries policy document and implement it effectively across the country in line with the *acquis*. Administrative structures have to be improved and institutional capacities must be strengthened for management and control of fishing activities in line with the EU's common fishery policy obligations. The country should also establish and manage a fleet register.

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 *acquis*;
→ harmonise across the country the methodology for data collection for fish and fishery products and establish relevant statistics.

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.

The SAA provides for progressive liberalisation of the supply of transport services between the EU and Bosnia and Herzegovina in the areas of land transport (road, rail and inland waterways as specified in Protocol No 3 to the SAA) and maritime transport. The SAA also provides for progressive harmonisation of related transport legislation with that of the EU. The gradual integration of Bosnia and Herzegovina into the EU internal aviation market is governed by the European Common Aviation Area (ECAA) Agreement. The SAA also aims to enhance cooperation on certain priority areas in the field of transport, such as the restructuring and modernisation of transport modes, enhancing access to transport markets

and facilities including ports and airports, the development of trans-European networks and improving protection of the environment in transport. Since 2018 Bosnia and Herzegovina is part of the Transport Community Treaty the aim of which is the creation of a Transport Community in the field of road, rail, inland waterway and maritime transport as well as the development of the transport network between the European Union and the South East European Parties.

According to the constitutional and legal framework the competences in the transport sector are exercised by the state level, the two entities, the cantons as well as Brčko district. The state level is in charge of international and inter-entity transport, including the fundamentals of road traffic safety, and regulatory functions in civil aviation area and railway sector; it also has a coordination and countrywide planning function as well as the constitutional responsibility to represent and commit the country at international level. The two entities, cantons and Brčko District are in charge of other legislative and executive issues in the transport sector.

At state level the Ministry of Transport and Communications is responsible for international and inter-entity transport, including agreements, relations with international organizations and preparation of strategic and planning documents; other key bodies at this level are the Directorate of Civil Aviation, the Air Navigation Services Agency, the Railway Regulatory Board and the Railways Public Corporation.

At entity level responsibility lies with the ministries of transport and communications, whereas at cantonal level the respective ministries also deal with transport issues. The *Republika Srpska* entity has its own Traffic Safety Agency. In Brčko District the Public Affairs Department is responsible for various transport issues including inland navigation.

Transport in Bosnia and Herzegovina is insufficiently developed and the speed of structural adjustment is slow. It faces challenges due to: (i)large-scale war damages; (ii) in-adequate infrastructure maintenance; (iii) changes to the institutional set-up; (iv) low funding resources despite the need for substantial investment and an economy that is not sufficiently developed to generate the required financing; and (v) the consequences of major flooding in 2014. The necessary investment is delayed by the absence of a single or harmonised legal and regulatory framework, insufficient administrative capacities, poor implementation and coordination, cooperation between government levels and delays in securing agreed external financing.

A 2015 framework transport policy and a 2016 framework transport strategy and action plan for 2016 – 2030 are in place. The strategies of both entities and Brčko District are integral parts of the overall strategy. Compliance with the EU *acquis* on transport varies substantially between the different transport modes.

On **road transport**, Bosnia and Herzegovina has aligned with certain requirements of the SAA and its Protocol No 3 on Land Transport by granting unrestricted access to EU transit traffic passing across its territory.

Bosnia and Herzegovina has no countrywide road safety strategy or action plan. The area of road safety is regulated by the state-level Law on Fundamentals of the Traffic Safety on the Roads in Bosnia and Herzegovina and implementing legislation, which are both subject to continuous alignment with the EU *acquis*. The Law establishes *inter alia* the basic principles of mutual relations and behaviour of road users and other entities in transport, the basic requirements for roads with regard to road safety, the maintenance of a central register of drivers and vehicles, road traffic rules, obligations in case of traffic accidents, driver training, driver's licence eligibility requirements and tests, requirements for devices and equipment of vehicles, weights and dimensions and the operation of professional organisations in Bosnia

and Herzegovina. The country records a very high number of road accidents, with the average number of road traffic fatalities far above the EU average (WHO 2018: 157 fatalities per million inhabitants compared to 49 in the EU). More efforts are needed on the collection of reliable accident data through establishing a countrywide system for continuous road crash data collection. This forms also part of the connectivity reform measures Bosnia and Herzegovina has committed to. Better implementation of the road safety legislation combined with safer, well maintained infrastructure and vehicles, effective enforcement and continuous education and awareness-raising may lead to a substantial improvement of safety on the roads.

A state-level Law on International and Inter-Entity Road Transport has been in place since 2016. It regulates access to the international road market and to the occupation of road transport operator, including a functional licensing system. Similar regulations for domestic road transport exist at entity and Brčko District levels. The cantons apply the Federation entity's laws. A 2006 Law on Internal Road Transport is in place in the Federation entity. The *Republika Srpska* entity's corresponding Law on Transport in Road Traffic has been in force since 2008. Both entity laws are partially aligned with the EU *acquis*.

As for the EU social *acquis* in road transport, Bosnia and Herzegovina's state-level Law on Working Hours, Compulsory Breaks of Mobile Workers and Devices for Data Recording in Road Transport, as amended in 2016, is in line with the European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR).

Technical vehicle inspection and control are regulated by the repeatedly amended 2006 Law on Fundamentals of Road Traffic Safety in Bosnia and Herzegovina and the 2007 Rulebook on Technical Inspections of Vehicles. These laws are partly aligned with the EU *acquis* but are not applied effectively in the entities, Brčko District and the cantons. Organisational arrangements for roadworthiness testing are in place. Inspection of vehicles at the roadside needs to be regulated.

The countrywide limits on the maximum weights and dimensions as well as maximum axle weights for road vehicles are in line with the EU *acquis* and are in force countrywide.

Legislation on bus and coach passengers' rights exist at entity and Brčko District level and is partly aligned with the EU acquis.

Bosnia and Herzegovina needs to strengthen its mechanisms for monitoring implementation of the relevant international rules and EU legislation on road safety and regarding social and technical rules, including those on transportable pressurised equipment.

Rail transport is regulated by the 2005 Law on Railways of Bosnia and Herzegovina, in regulations and instructions promoted by the Railway Regulatory Board, and in laws and secondary legislation at entity and Brčko District level. The Law is aligned with the EU railway *acquis* to a large extent, particularly with regard to the first, second and third EU railway package, but need further revision following the entry into force of the fourth EU railway package in 2016. Directives and technical specifications on interoperability are transposed into railway regulations promoted by the Railways Regulatory Board of Bosnia and Herzegovina. Bosnia and Herzegovina needs to align with the EU *acquis* on rail passenger rights.

The Bosnia and Herzegovina Railway Regulatory Board operates as an administrative organisation within the state-level Ministry of Communications and Transport. It is the sole authority in Bosnia and Herzegovina responsible for general oversight, licensing, security and safety certificates. It also acts as an appeal body for railway operators. The two historical vertically integrated railway companies, the public enterprise railways of the Federation entity

and of the *Republika Srpska* entity, need to complete the process of separating infrastructure management from railway operation to ensure full independence. Both railway undertakings have no valid safety certificates, which under EU laws on railway safety are mandatory for access to railway infrastructure. At present, network statements are prepared but not published. The Accident Investigation Body has weak capacity and is not independent in its organisation, structure and decision-making from the Railways Regulatory Board, as required by the EU legislation on railway safety *acquis*.

The Bosnia and Herzegovina Railways Public Corporation is an inter-entity body. It is tasked with establishing an institutionalised cooperation between the entities, facilitating decision-making, and with coordinating railway operations and infrastructure rehabilitation and construction in the country.

Bosnia and Herzegovina is prepared to launch negotiations on protocols concerning the railway border crossing procedures with Croatia.

Bosnia and Herzegovina has to gradually open its railway market, which is hampered by unsafe, outdated and unreliable railway infrastructures on at least half of the core railway network and practically on most railway sections outside this network. Only the railway sections between Sarajevo and Čapljina and between Banja Luka and Srpska Kostajnica are in a state that would enable the railway market to be opened. However, these sections are isolated, and cannot enable adequate international connections to the network.

Bosnia and Herzegovina has an Adriatic coastline of about 27 km at Neum. The country has no relevant **maritime transport** activities. Bosnia and Herzegovina is party to the United Nations Convention on the Law of the Sea and is a member of the International Maritime Organization (IMO). It is also party to a number of other maritime conventions such as the Tonnage Convention, the Convention on the International Maritime Satellite Organisation (INMARSAT) and the Convention and Protocol for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. For import and export of goods via the sea, Bosnia and Herzegovina historically relies on the port of Ploče in Croatia. Bosnia and Herzegovina has to align with the entire maritime transport *acquis*.

Inland waterway transport is regulated by the Sava River Commission and at entity and Brčko District level. Currently in force are a 2005 Federation entity Law on Inland and Maritime Navigation is in place, a 2001 *Republika Srpska* entity Law on Inland Navigation and a 2008 Brčko District Law on Inland Navigation. The legislative, regulatory and administrative framework is insufficiently developed and needs to be aligned with the EU *acquis*. The few vessels and boats, under the flag of Bosnia and Herzegovina are registered, certified and inspected at entity and Brčko District level. Inland navigation safety and security matters on the Sava River are laid down in the navigation rules as part of the Framework Agreement on the Sava River Basin. They partially regulate the issues of water pollution and waste removal from vessels. The Sava River Information System is in line with EU requirements, but its applicability is limited due to lack of maintenance of the navigation route on the Sava River. The cross-border coordination of inland waterways and inland navigation is achieved through the Sava River Commission, a regional coordinative body for inland navigation. Bosnia and Herzegovina needs to align with the EU *acquis* on passenger transport by sea or inland waterways.

There is no state-level law on **transport of dangerous goods** by road, rail and inland waterways. Some legislation exists at entity and Brčko District levels and in several cantons, which require further alignment with the EU *acquis* in line with the relevant international agreements

Civil aviation and air navigation is a state-level competence under the Constitution. The Bosnia and Herzegovina Directorate for Civil Aviation is an administrative organisation within the state-level Ministry for Transport and Communications performing regulatory and oversight functions as well as issuing permits, confirmation and certificates in the area of civil aviation. The independent Bosnia and Herzegovina Air Navigation Services Agency (BHANSA) is responsible for air traffic management and control. Both institutions lack sufficient administrative resources.

Bosnia and Herzegovina is a Member State of the International Civil Aviation Organisation (ICAO) and signatory to the Chicago Convention and the European Civil Aviation Conference (ECAC). It is a full member of the Joint Aviation Authorities (JAA) and European Organisation for the Safety of Air Navigation (EUROCONTROL), and holds observer status at the European Aviation Safety Agency (EASA). Bosnia and Herzegovina has ratified the European Common Aviation Area (ECAA) Agreement and signed a working arrangement with EASA thus accepting the obligation to implement regulations on civil aviation.

Bosnia and Herzegovina declared having achieved a good level of alignment with the acquis in the area of aviation. A 2009 Aviation Law is in place. Bosnia and Herzegovina declared having almost completed the implementation of the first transitional phase of the ECAA Agreement. Bosnia and Herzegovina is encouraged to call for an assessment by Commission services of the progress made, as required by the ECAA agreement. BHANSA established at the end of 2018 an Airspace Management Cell as an important step towards the ultimate goal of providing full airspace control service in the Bosnia and Herzegovina airspace. Bosnia and Herzegovina does not have an independent air accident investigation body, as required by the acquis. Bosnia and Herzegovina has partially aligned with the EU Regulation on passenger rights. The country needs to advance its adoption of rules on the protection of the rights of disabled persons and persons with reduced mobility in accordance with the EU regulation.

Bosnia and Herzegovina needs to develop its policy and institutions in the area of **multimodal and combined transport** on the basis of the existing framework transport strategy. The low level of priority of this sub-sector is caused by physical infrastructural bottlenecks at the Ivan tunnel and the Bradina ramp on the railway in Corridor V, which prevents shipment of 40ft standard and high cube containers, and by piggy-back shipment of trucks along this railway corridor.

Bosnia and Herzegovina has reached **some level of preparation** in the area of transport policy. In 2018 Bosnia and Herzegovina ratified the Transport Community Treaty. The country needs to further align with and implement effectively the *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 facilities. It also has to finalise and adopt its laws on the transport of dangerous goods in full alignment with the *acquis* and the relevant international agreements, and establish the appropriate administrative structures.

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.

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

→ urgently develop enforcement capacity to reduce road traffic fatalities, and make progress on establishing of 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.

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 SAA calls for cooperation in meeting the priorities from the EU *acquis* relevant for the energy sector, including nuclear safety. Bosnia and Herzegovina is since 2006 member of the Energy Community which aims to create an integrated pan-European energy market. The key objective of the Energy Community Treaty is to extend the EU internal energy market rules and principles to the contracting parties in South East Europe, the Black Sea region and beyond on the basis of a legally binding framework. By signing the Energy Community Treaty, the Contracting Parties committed to transposing and implementing key EU energy law, develop an adequate regulatory framework and liberalise their energy markets in line with the Treaty acquis within a fixed timeframe. The Energy Community *acquis* comprises legal acts in the following areas: electricity, gas, renewable energy, energy efficiency, climate, environment, competition, statistics, infrastructure and oil.

According to the constitutional and legal framework, the competences in the area of energy rest predominantly with the two entities and Brčko District. The state level is responsible for the legislative framework for electricity which includes the Law on transmission of electric power, regulator and system Operator of Bosnia and Herzegovina, the Law establishing the company for the transmission of electric power in Bosnia and Herzegovina and the law establishing an independent system operator for the transmission system of Bosnia and Herzegovina. The state level has also passed legislation in the field of radiation, nuclear safety and nuclear waste.

The entities have their own legislation for energy sub-sectors (electricity, natural gas, energy efficiency, renewable energy, oil and oil products etc.). Brčko District has only legislation governing the electricity sector, while regulatory competences are executed by the state-level regulator.

The key bodies at the state level in this sector are the Ministry of Foreign Trade and Economic Relations, which is responsible for defining policies and basic principles and for the coordinating activities and harmonisation of entity level plans relevant for international relations, the State Electricity Regulatory Commission and the State Regulatory Agency for Radiation and Nuclear Safety. Both entities have ministries covering the energy sector: the Ministry of Energy, Mining and Industry in the Federation and the Ministry for Energy and Mining of *Republika Srpska* and there are also Regulatory Commissions for Energy. In Brčko District the Department of Communal Affairs is in charge of energy related issues.

The State Electricity Regulatory Commission (SERC) is exclusively in charge of electricity transmission on state level only without any jurisdiction over the gas sector. This legal set-up does not comply with the requirements of the Directive for a single regulatory authority for electricity and gas at national level and is subject to an ongoing infringement action by the Energy Community. SERC is composed of three Commissioners representing the three

constituent peoples which constitutes a discrimination against the “Others” Its effectiveness is undermined by the need for unanimous decision-making.

The *Republika Srpska* entity contests the state-level competence to develop policy, legislate and regulate in most of the energy sub-sectors, particularly for natural gas. This includes contesting the adoption of legislation at state level or the establishment of state-level gas regulator.

Bosnia and Herzegovina’s energy balance is made up of coal, oil, gas, firewood, hydroelectric power and other renewable energy sources. There is currently no nuclear energy production. In 2016, the major energy sources for gross inland consumption were coal (61.2%), oil (36.5%) and hydro (10.2%) whereas natural gas only accounts for 3.9%. Domestic production is 71% of the total gross inland consumption. Bosnia and Herzegovina’s energy sector accounts for nearly 6% of its GDP. The country’s electricity interconnections with neighbouring countries are mostly sufficient and there is no serious congestion. As for gas, the sole network interconnection with Serbia is in a poor state of repair and the country’s inland gas network is often overloaded in winter months.

A 2018 countrywide framework energy strategy up to 2035 is in place, with the strategic documents at entity and Brčko District level as integral parts. The strategy prioritises the key energy strategic guidelines of Bosnia and Herzegovina with objectives and implementation priorities to be reached in the years to come. This contributes to the country’s ability to address issues related to **security of supply**. Different production mix scenarios outlined in the strategy make provision for an increase in security of supply but leave the choice and implementation of a particular scenario to future action plans. Most of the scenarios lead to increasing the share of fossil energy in the total consumption and therefore further carbonisation, contrary to the climate change commitments. The document identifies planned new investments in electricity generation from domestic resources, including renewables, but with a clear focus on coal. This is confirmed by the current and planned investments into coal-fired power plants in Tuzla, Banovici and Ugljevik. The extension of Tuzla Block 7 will be financed through a Chinese loan which has received a guarantee by the Federation entity in spring 2019, raising some concerns by the Energy Community Secretariat in regard to violation of EU state aid rules. Future investments into energy infrastructure, including thermal and hydro power plants, need to be implemented in compliance with Bosnia and Herzegovina’s obligations under the Stabilisation and Association Agreement and the Energy Community Treaty. These include in particular EU standards on public procurement, state aid and environmental impact assessment. The level of security of electricity supply is sufficient. Bosnia and Herzegovina is a member of the Security Coordination Centre, a Belgrade-based company of system operators of Bosnia and Herzegovina, Montenegro and Serbia.

Bosnia and Herzegovina does not have a legislative framework aligned with the EU *acquis* relevant for oil stocks. The operational and financial system necessary for the establishment of obligatory oil stocks is not in place. In line with the Energy Community Treaty, the country is committed to meeting EU oil stock requirements equivalent to 90 days of average daily net imports or 61 days of daily inland consumption, whatever is greater, by 2021. However, the country is experiencing a number of difficulties in establishing the institutional and legal framework on collection of relevant data needed to calculate obligatory stocks and for reporting in line with the EU *acquis*. The existing entity level legislation relevant for the oil sector and the oil reserves is not harmonised between the entities and prevents the establishment of a state-level body for compulsory oil stocks and petroleum products. In the Federation entity there are storage capacities of 81,250 m^3 while additional available storage capacities of 117,000 m^3 are currently inoperable. In the *Republika Srpska* entity there are currently no oil stock reserves. In order to meet the requirements of the EU *acquis*,

considerable funds must be invested in the purchase of petroleum products, the rehabilitation of existing storage capacities and the construction of new ones. Bosnia and Herzegovina is not compliant with the Regulation concerning measures to safeguard security of natural gas supply.

Bosnia and Herzegovina is a member of the European Network of Transmission System Operators (ENTSO) for electricity, in which it is represented by its Independent System Operator. In 2018 BH Gas, a public enterprise for the production and transport of gas on the territory of the Federation entity, became an observer in the ENTSO for gas.

The long-term transmission network development plan for 2018-2027 identifies priority electricity transmission interconnections with neighbouring countries. The country has four electricity transmission interconnections included on the list of projects of Energy Community interest (PECI) and projects of mutual interests (PMI). It also has three projects for gas interconnections on PECI/PMI lists connecting its infrastructure with the Croatian natural gas system. The country is completely dependent on imports of Russian natural gas via one route through Ukraine, Hungary and Serbia. Russian companies also control the country's two refineries, both located in *Republika Srpska* entity. The development of project documentation for the Zagvozd–Posusje–Travnik southern gas pipeline interconnection is advancing, although it is currently being challenged by the government of the *Republika Srpska* entity. A project for a north-south Brod-Zenica gas pipeline interconnection which would provide Bosnia and Herzegovina with access to an alternative source of supply is blocked due to lack of political consensus.

Although Bosnia and Herzegovina is a net exporter of electricity, the development of its power market with its neighbours is hampered by the absence of a fully aligned and harmonised legislative framework. The country also needs to establish a power exchange. Although the roadmap for regional day-ahead market integration in the Western Balkans indicated the prospects for market coupling, the country has not decided on any market coupling activity. The existing 2002 state Law on Electricity Transmission, Regulator and System Operator includes basic requirements from the third energy package. Secondary legislation approved by the State Electricity Regulatory Commission allow for third-party access. The existing legislation does not prevent the obtaining of balancing services across borders, and market rules from 2015 allow for market-based procurement of balancing capacity and balancing energy. Transmission lines connecting the country with Croatia and Montenegro are allocated on a yearly, monthly and daily basis through the Coordinated Auction Office in South Eastern Europe, while bilateral allocation is applied on the border with Serbia and intraday allocation on all borders.

Bosnia and Herzegovina should ensure as a matter of urgency alignment with the third energy package in order to establish a functioning **internal energy market** for electricity and gas. This would remove the major legal obstacles to the implementation of a day-ahead and balancing market in Bosnia and Herzegovina and its integration into the regional electricity market as part of the WB6 connectivity agenda and related reform measures. Within the limits of current electricity legislative framework some market actors have been identified, but the fragmented and non-compliant legislation in the gas sector does not allow for adequate identification and consistent status of market actors. The current model of legal and functional unbundling of the electricity transmission company from generation and supply is not in line with any of the unbundling models under the EU *acquis* and needs to be aligned accordingly. The independent system operator for transmission and the transmission company are legally unbundled but remain under the control of entity governments, which are responsible for operation of public utilities for generation and supply. Both entities and the Brčko District need to legally unbundle electricity supply from distribution companies.

Bosnia and Herzegovina has no single or harmonised legal and regulatory framework for tendering new generation capacity. The country's regulatory framework relevant for building new projects is cumbersome, costly and overall unfavourable. Electricity market opening in Bosnia and Herzegovina took place in 2015, meaning that all consumers are eligible. Procedures for supply switching are in place but the regulatory frameworks allow households and consumers to access regulated universal service tariffs under the category of 'other consumption' without taking into account the electricity market price, which results in exceptionally limited switching of suppliers. The latest reports indicate that in the total consumption of end users, 43.87% is by consumers whose price is not regulated. In 2017, only 56 consumers are supplied by suppliers other than the incumbent electricity utilities that traditionally operate only within their respective service territory. A countrywide retail electricity market needs to be established and running properly.

Generation prices on the territory of the *Republika Srpska* entity are regulated, which is in breach of Energy Community law. Tariff methodologies applied by the three respective regulatory commissions in Bosnia and Herzegovina are cost-based and using cost-plus methodology. The increased regulatory independence should be reflected in increased transparency and cost-related tariffs. Cross-subsidies exist and are particularly notable in pricing structures for households and for customers in the 'other' category with the same consumption characteristics. There are no measures envisaged to phase out existing cross-subsidies.

There is no countrywide harmonised approach to protecting of vulnerable electricity and gas customers. In the Federation entity, there is an annual plan but the government allocates different levels of subsidies for customers depending on which electricity utility serves them. In Brčko District, the government allocates some budget funds to protect vulnerable customers, covering an exceptionally high number, equivalent to about 33% of all customers. In the *Republika Srpska* entity there is no programme or plan for vulnerable customers. Bosnia and Herzegovina needs to define the concept of 'vulnerable customer' which under the Energy Community *acquis* was already due in 2015.

Due to the ongoing lack of alignment with the *acquis* in the gas sector, Bosnia and Herzegovina is in serious and persistent breach of its commitments as an Energy Community Treaty signatory. The current regime in place is not in line with the *acquis*, including the governing of the third-party access to the gas pipeline. While the Federation entity is not willing to move ahead in adopting entity legislation without a consensus at state level, the *Republika Srpska* entity adopted a completely autonomous gas law based on the third energy package, hampering the adoption of a state-level law that would ensure the required compliance with the third energy package. All natural gas consumers in the Federation entity are supplied by their respective incumbent at regulated prices. In the *Republika Srpska* entity, there are different suppliers, with regulated prices only for household customers. Nevertheless, the markets in the country must be considered highly closed to competition.

In terms of eligibility, all customers in the Federation entity are captive, whereas the *Republika Srpska* entity correctly transposed the eligibility criteria of the Directive on an internal market in natural gas. The existing legislation is uneven and prevents the sound and secure operation of a countrywide system. In addition, it does not allow for market-based operation and prevents the proper regulation and supervision of the system. Political consensus needs to be reached in order to align legislative and regulatory framework with the third energy package as a matter of urgency.

Bosnia and Herzegovina has three regulatory authorities at state and entity level, with a distribution of competences in line with the national legislative framework. These authorities

are adequately staffed and financed but are exposed to political pressures, particularly regarding the selection of new board members. There are documented cases where representatives of regulated companies are nominated to selection panels for members of regulatory authorities, which represents a conflict of interest.

At the state level and in the Federation entity, there are no rules on prospection, exploration and production, as required under the EU *acquis* on hydrocarbons. In the *Republika Srpska* entity, the 2013 Law on Geological Surveys includes rules that are partially aligned with the *acquis*. In Bosnia and Herzegovina there is no legal framework in place transposing the Directive on safety of offshore oil and gas installations.

The country submitted to the Energy Community Secretariat its national renewable energy action plan in 2016. The national target is 40% of **renewable energy** sources (RES) in final energy consumption and an energy share from RES in transport of 10% by 2020. The implementation measures, including the renewable energy technology objectives, are lagging behind. According to the latest statistical data, Bosnia and Herzegovina reached a 25.33% share of energy from renewable sources in 2016. The country should establish a legal framework at state level which clearly coordinates and defines respective responsibilities of national, regional and local administrative bodies for authorisation, certification and licensing procedures on renewable energy. The legislation at entity level is partially compliant with the Renewable Energy Directive; further changes are required in order to allow for renewable energy support schemes. Brčko District has no legislation in place in this respect. Human resources in respective ministries at state and entity level need to be increased, but are adequate in regulatory authorities. Both entities have legislation in place on support schemes for different renewable energy technologies in the form of feed-in tariffs.

A number of renewable energy projects are licensed in the country. More efficient investment planning at different levels of authorities and registration of projects is needed to strengthen coordination among institutions when authorising small, dispersed renewable energy producers. The investment framework is hampered by heavy administrative procedures for permitting authorisation and licensing. The authorities should take measures to simplify procedures and create a more favourable environment for RES investments. Integration of renewable sources into the grid is treated differently at the state and entities level. This needs to be rectified. A state-level piece of secondary legislation enforces priority or guaranteed access but the priority dispatch is not in place. Meanwhile, entity-level legislation includes priority dispatch and guaranteed priority to connection, but not priority or guaranteed access. The transmission grid capacity for connection of renewable energy facility is at present evaluated as mostly sufficient by the responsible bodies in Bosnia and Herzegovina.

Hydropower planning is carried out at entity level. The existing legal framework requires environmental impact assessments to be drawn up but in practice this is not always properly applied and often challenged by civil society and subject to legal challenges through the courts. The legislation needs to be adapted to deal with the lack of a system at state level for delivering certificates of origin and to deal with the non-compliance of entity-level systems with the EU *acquis*. Bosnia and Herzegovina needs to ensure that the share or quantity of electricity produced from renewable sources can be guaranteed to customers in compliance with the Directive on the promotion of the use of energy from renewable sources.

A 2017 national energy efficiency action plan is in place and is in line with Energy Community Treaty requirements. **Energy efficiency** action plans for each entity provide for a final energy consumption savings target of 9% for 2018. The assessment of the current plan based on 2015 data indicates that Bosnia and Herzegovina only achieved a saving of 3.77%. There is no state-level legislation on energy efficiency. The *Republika Srpska* entity has

partially transposed the energy efficiency *acquis* through a 2013 law on energy efficiency and the Federation entity followed in 2017. Additional transposition is urgently required in line with the obligations from the Directive on energy end-use efficiency and energy services as part of the Energy Community *acquis*. The Energy Community has opened an infringement case on this due to failure of Bosnia and Herzegovina to fulfil its obligations. The Brčko District does not have a legislative framework on energy efficiency. The EU *acquis* on the energy performance of buildings is mainly transposed through entity-level legislation. Further alignment in secondary legislation is necessary to ensure compliance. The Brčko District still needs to carry out the necessary activities in this field. Bosnia and Herzegovina should proceed with the training of designated authorities for buildings efficiency certification.

On **nuclear energy, nuclear safety and radiation protection,** the country has no nuclear sites in its territory nor plans to build any. Nuclear safety is addressed in general terms in the state-level Law on Radiation and Nuclear Safety in Bosnia and Herzegovina. The Law established the State Regulatory Agency for Radiation and Nuclear Safety. The Agency has acknowledged some of the remaining shortcomings deficiencies and is committed to rectifying them, particularly those concerning the Euratom Directive on nuclear safety of nuclear installations. Provisions from the Euratom Directive on responsible and safe management of spent fuel and radioactive waste are taken into account to the necessary extent. Bosnia and Herzegovina has ratified most of the international treaties, conventions and protocols in this area. In terms of meeting international commitments on data submission, the infrastructure available to the Agency needs to be improved, and the coordination and reporting from all relevant parties needs to be enhanced. Bosnia and Herzegovina is not a member of the European Community Urgent Radiological Information Exchange system (ECURIE) but it conducts activities to enable data exchange through the European Radiological Data Exchange Platform (EURDEP). Radon monitoring is carried out only on an ad hoc basis, and data collection is neither systematic nor centralised. The country participates in the activities of International Atomic Energy Agency concerning radon regulation in residential buildings. The State Regulatory Agency for Radiation and Nuclear Safety is an independent agency operating under the indirect supervision of the Bosnia and Herzegovina Council of Ministers. Bosnia and Herzegovina should increase the Agency's capacity as regards staffing and financial resources.

Bosnia and Herzegovina is at an **early stage of preparations** in the sector of energy.

The country needs to reinforce cooperation and coordination within the sector. A fragmented, inconsistent and uneven legislative framework between different levels of government is hampering overall progress. Bosnia and Herzegovina needs to step up its efforts towards the establishment of functional internal markets and its integration into the regional market. As a matter of urgency, Bosnia and Herzegovina needs to adopt state-level legislation aligned with the third energy package in the field of both electricity and gas, which should be followed by compliant entity-level legislation. Overall, the country is lagging behind in implementing its obligations stemming from the Energy Community Treaty. The sector is hampered by political interference, resulting in an unfavourable investment climate and insufficient regulatory independence. The country needs to increase and implement measures relevant for both energy efficiency and renewable energy sources. In order to ensure consistent and comprehensive development of the energy sector, authorities need to draw up concrete action plans to streamline implementation of the country's framework energy strategy in line with climate change commitments.

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 obligations stemming from the Energy Community Treaty.

Chapter 16: Taxation

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

The SAA prohibits fiscal discrimination of products exported by the other party. It also establishes cooperation between the EU and Bosnia and Herzegovina in the area of taxation, the aims being to align with the *acquis*, further reform Bosnia and Herzegovina's tax system, ensure effective tax collection and fighting tax fraud.

According to the constitutional and legal framework competences for taxation are exercised by the state level being competent for indirect taxation and the two entities as well as Brčko District for all other taxes. As for direct taxation, the Federation entity has exclusive responsibility to legislate on fiscal policy while the cantons exercise all competences not expressly assigned to the Federation entity, in particular the powers to draw on taxation as a means to finance activities of cantonal authorities.

Indirect taxes are administered by the Indirect Taxation Authority (ITA), a state-level institution responsible for collecting and distributing indirect taxes. For other taxes such as corporate tax, income tax and contributions the competent institutions are the entities' Ministries of Finance, the cantonal Ministries of Finance as well as the Brčko District Directorate of Finance. The tax administrations of the entities and Brčko District operate within the respective Ministries of Finance and Brčko District Directorate of Finance and are responsible for administering taxes.

The Bosnia and Herzegovina 2003 Law on indirect taxation system provides the legal basis for the ITA. The ITA is an autonomous administrative organisation answering through its Governing Board, to the Council of Ministers of Bosnia and Herzegovina. The ITA proposes and implements legislation in the field of VAT and excise duties.

The legislative framework in the field of **indirect taxation** (value-added tax (VAT) and excise duties) was introduced in 2004, and is partially aligned with the *acquis.* The legislation includes the Law on value added tax, Law on excise duties, Law on indirect taxation system in Bosnia and Herzegovina, Law on the indirect taxation authority, Law on indirect taxation procedure, Law on the procedure of forced collection of indirect taxes, Law on payments to single account and allocation of revenues.

The **VAT** law introduces all the basic principles and follows the structure of the respective EU legislation. It provides for a single tax rate of 17%. Bosnia and Herzegovina needs to fully align certain aspects of its law on VAT with the *acquis*, such as the VAT scheme in construction, the transfer of business assets, and exemptions for international agreements.

A Law on **excise duties** is in force since January 2005. Bosnia and Herzegovina applies excise duties on tobacco, alcohol, non-alcoholic beverages other than natural juices and water, fuel and coffee. The law provides for equal treatment of domestic and imported goods in terms of the excise tax rates applicable. Considerable discrepancies from the *acquis* exist for excisable goods as regards scope, classification of the goods, exemptions, structures and the

minimum rates. Bosnia and Herzegovina needs to align its law on excise tax fully with the *acquis.*

The legislative framework on **direct taxation** regulates corporate tax, property tax, income tax and contributions. In 2016, the two entities adopted harmonised corporate income tax laws to foster consistency, avoid double taxation between the entities, reduce tax incentives and clarify the tax treatment of loan loss provisioning in line with International Monetary Fund (IMF) recommendation. The laws eliminate exemptions for exporters while increasing incentives for investment, and clarify the tax treatment of depreciation and banks' loan loss provisioning.

With regard to **administrative cooperation and mutual assistance,** Bosnia and Herzegovina joined the Global Forum on Transparency and Exchange of Information for Tax purposes in July 2018. The country needs to join the Inclusive Framework of OECD BEPS (Base Erosion and Profit Shifting) and to sign and ratify the Multilateral Convention on Mutual Administrative Assistance by the end of 2019.

Agreements on cooperation and mutual assistance are signed by the ITA for the area of indirect taxation (e.g. with Serbia, Bulgaria, Montenegro). There is also a Memorandum of Understanding between the four tax administrations in Bosnia and Herzegovina on mutual cooperation and data exchange in the area of indirect and direct taxation.

Concerning **operational capacity and computerisation**, electronic submission of VAT and excise duties declaration is in place since 2018 on a voluntary basis and is mandatory as of 2019. As electronic submission of declarations has only been in place for a short time, it is not possible to assess how well it is working. Nevertheless, coordination, cooperation and data exchange between the different tax administrations of the country need to be further improved, including the harmonisation of the e-signature countrywide.

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

The country needs to improve the cooperation between the Indirect Taxation Authority (ITA) and the tax administrations of the entities and Brčko District, including through joint audits, as cooperation between the state level, entities and Brčko District is key in this area. Bosnia and Herzegovina also needs to continue the process of alignment with VAT legislation.

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

→ bring the legislation on excise duties in line with the *acquis*, notably on excise duties on beer;
→ eliminate interoperability burdens in areas such as e-signature in order to have a harmonised countrywide system;
→ ensure that by end 2019 it has joined OECD's Inclusive Framework on Base Erosion and Profit Shifting and has signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

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.

The SAA includes provisions on cooperation and exchange of information, which among others allows Bosnia and Herzegovina to gradually approximate its policies to the stability-oriented policies of the European Economic and Monetary Union.

According to the constitutional and legal framework the competences are exclusively at state level as far as monetary policy is concerned, while for economic policy they are exercised at state level, by the two entities and by Brčko District.

At state level the sole authority for issuing currency and defining and implementing monetary policy is the Central Bank of Bosnia and Herzegovina (CBBiH). As regards economic policy, at state level the main actors are the Ministry of Finance and Treasury, the Directorate for Economic Planning (a permanent body of the Council of Ministers responsible for administrative coordination and monitoring) and the Fiscal Council tasked with coordinating fiscal policy in Bosnia and Herzegovina to ensure macroeconomic and fiscal sustainability of the State, the entities and Brčko District. The Fiscal Council is mandated to adopt the global framework of fiscal balance and policies which contains macroeconomic projections and fiscal targets for various levels of government, to monitor implementation of fiscal targets and to undertake corrective measures. For the *Republika Srpska* entity, economic policy is the responsibility of the Ministry of Finance, while other ministries are in charge of particular aspects of the economy. In the Federation entity, the Institute for Development Programming is in charge of preparing of economic policy, while the Ministry of Finance is responsible for fiscal policy; in the Brčko District, the responsible body is the Directorate of Finance.

Banking supervision is exercised by the respective entity agencies whilst the Central Bank coordinates their activities; both entities have also tripartite Economic-Social Councils for the dialogue with the social partners. The Brčko District government sets direct taxation policy and rates of administrative and court fees, charges and fines collected by Brčko District institutions. The *Republika Srpska* entity contests the role of the state level to coordinate economic policies countrywide.

The formulation, adoption, control and execution of **monetary policy** is the competence of the Central Bank. The country uses the *konvertibilna marka* (convertible mark, KM/BAM) as sole legal tender. All financial obligations arising from transactions concluded in Bosnia and Herzegovina are denominated in convertible marks. Bosnia and Herzegovina runs a currency board arrangement, with the convertible mark pegged to the euro at an exchange rate fixed by the Central Bank Law at 1.96. The instruments of the Central Bank for conducting monetary policy are restricted to the management of required reserves, while the bank is prohibited from extending loans to governments or commercial banks (i.e. the Central Bank cannot act as a lender of last resort, or provide emergency liquidity or solvency assistance) or from conducting open market operations. The Law on the Central Bank is not fully aligned with the *acquis* as regards the prohibition on monetary financing.

In terms of functional independence, the objective of the Central Bank as laid down in the law consists in achieving and maintaining the stability of the domestic currency. This is in contrast with the price stability objective that is a primary objective of monetary policy in the EU. The Central Bank is equipped with regulatory powers, including to implement its basic task of monetary policy.

As regards the Central Bank's institutional independence**,** the Law on the Central Bank refers to it as an independent legal person. Although the law places an explicit prohibition on the Central Bank receiving any kind of instructions from any government body, organisation or a person, there is no general or unconditional prohibition on giving instructions to the Central Bank or directly influencing a member of the bank's management body. Moreover, the law does not prohibit members of its decision-making bodies from seeking or taking instructions. In addition, the law imposes on the bank a duty to report to the Parliamentary Assembly on its audited annual financial statements for parliamentary scrutiny and to report to the Presidency on the preliminary financial reports. This latter requirement could impinge on the

independence of the Central Bank. The Presidency also appoints an external auditor to audit its accounts and records, upon proposal of the Governing Board of the Central Bank.

In terms of personal independence, the members of the Central Bank's Governing Board, including the Governor, are appointed and removed by decision of the Presidency. Legislative provisions governing removals of the Governing Board members are not fully in line with the *acquis*. Besides providing more widely defined grounds for obligatory dismissal, the law allows also for 'discretionary grounds for dismissal'. The law also stipulates that a 'replacement member' of the Governing Board, i.e. one that fills a vacant position in the board due to dismissal or resignation of the previous member, can stay in office only until the end of the mandate of his/her predecessor (possibly less than 5 years).

As regards financial independence, the Central Bank is legally entitled to have its capital position restored by the Ministry of Finance and Treasury in case of losses. It can also acquire and dispose of movable and immovable property. According to the law, the Central Bank allocates part of its profit to general reserve to maintain the amount of share capital and general reserves at the level of 5% of the monetary liabilities, while the rest is divided between the Central Bank (40%) and the state budget (60%). The Central Bank may only create special reserves after receiving the Presidency's prior approval on the accounts of the bank. Finally, cases have been reported in which the Presidency issued instructions that directly impacted the financial operations of the Central Bank, e.g. in terms of setting wage levels of staff, although on the basis of the law it is the Central Bank itself which is in charge of setting the conditions of employment of its staff.

As regards financial supervision, the Central Bank has a coordinating role, while the supervisory powers lie with the two entities' banking agencies. The efficiency of banking sector supervision is impeded by fragmented competences and insufficient coordination.

Regarding **economic policy**, Bosnia and Herzegovina has taken part since 2006 in the EU multilateral surveillance exercise, which among others aims to prepare candidate countries and potential candidates for their eventual participation in the economic policy coordination and budgetary surveillance mechanism in the EU. In this context, Bosnia and Herzegovina submits every year to the Commission a medium-term economic reform programme setting out plans to strengthen macro-fiscal stability and tackle structural obstacles to growth. However, largely as a result of insufficient cooperation among key stakeholders, such as the two entities but also the Central Bank, the quality of the programme is low and the implementation of the jointly adopted policy guidance, which is a central part of the process, is limited. Capacities to design, implement and monitor structural reforms to meet the requirements of the European Semester will need to be significantly enhanced, both in terms of establishing a coherent and countrywide medium term reform programme as well as regarding coordination of and among various governmental bodies.

Alignment with the requirements for reporting public sector data in line with the European System of National and Regional Accounts (ESA 2010) and for participating in the excessive deficit procedure is very limited. Furthermore, the alignment of the underlying statistical framework with ESA 2010 requirements and definitions is also very low. Data provision and transparency is severely hampered by a lack of cooperation between the main statistical bodies. Countrywide forecasts are provided on a regular base, although macroeconomic modelling is still weak. Fiscal rules are established only at entity level and there is no independent fiscal institution to monitor and enforce compliance with countrywide fiscal rules. The medium-term budgetary framework is underdeveloped and not sufficiently used as a policy-guiding instrument.

Bosnia and Herzegovina is at an **early stage** of preparation on economic and monetary policy.

There is a need to introduce significant amendments to the Law on the Central Bank in order to bring it in line with EU law. The independence of the Central Bank must be ensured and preserved. Although monetary policy has so far supported economic stability, substantial additional efforts are required to advance preparations for participation in the third stage of the Economic and Monetary Union as a Member State with derogation. On economic policy, substantial efforts are required to (i) produce timely and good quality countrywide economic statistics in line with EU standards (ii) strengthen capacities and improve the level of cooperation among key stakeholders needed for participation in EU economic policy-making (iii) develop countrywide numerical fiscal rules (iv) establish an independent institution to monitor their implementation (v) enhance macroeconomic forecasting and strengthen the medium-term budgetary framework.

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 different levels of government, possibly by strengthening and expanding the role of the Bosnia and Herzegovina Fiscal Council;
→ ensure consistent political support, high visibility, countrywide ownership and coherence of the Economic Reform Programme; enhance administrative capacity to design, implement and monitor reforms;
→ improve the ERPs medium-term macro-fiscal framework with a view to presenting a consistent and consolidated countrywide analysis and policy document.

Chapter 18: Statistics

EU rules require that Member States are 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.

The SAA establishes that cooperation between the Parties must be aimed in particular at developing efficient and sustainable statistical systems capable of providing comparable, reliable, objective and accurate data needed to plan and monitor the process of transition and reform in Bosnia and Herzegovina.

According to the constitutional and legal framework the competences for statistics rest with the State and the two entities. The state-level competences include collecting, processing and disseminating statistical data on a countrywide basis, based on data collected by state-level authorities or provided by entity institutions. The latter are required to provide the state-level agency with data necessary to compile countrywide statistics.

In economic and financial matters, the Central Bank compiles and disseminates the following statistics: government finance statistics, financial accounts statistics, balance of payments, foreign direct investment, international trade in services, and monetary and financial indicators. It also cooperates with responsible institutions of other states and international organisations.

The state-level institutions relevant to this chapter are the Agency for Statistics of Bosnia and Herzegovina and the Central Bank; the relevant institutions at entity level are the Institute for Statistics of the Federation entity and the *Republika Srpska* Institute of Statistics. The Agency for Statistics of Bosnia and Herzegovina is not provided by the entity statistical agencies with the full range of statistics as required by law. The *Republika Srpska* entity contests a number of actions carried out by the Agency for Statistics of Bosnia and Herzegovina.

As regards **statistical infrastructure**, a Law on Statistics of Bosnia and Herzegovina is in place. It needs 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. In general, resources are adequate to meet current statistical needs for implementation of the *acquis*. The Agency for Statistics of Bosnia and Herzegovina is partially using Eurostat's Electronic Data-flow Administration and Management Information System (EDAMIS) to send data to Eurostat.

The Director General of the Agency for Statistics of Bosnia and Herzegovina has a four-year mandate with the possibility for one additional mandate with maximum duration of four years. The procedure for appointment is regulated by the Law on the Civil Service in Bosnia and Herzegovina. Legislation provides for the independence of the Agency for Statistics of Bosnia and Herzegovina from political and other external influences. Data and information relevant to statistics are obtained using statistical methods and techniques and processed in accordance with scientific principles. Access to new statistical data is given at the same time to all users. In the process of drafting the programme documents, consultations with users and the general public are carried out through the Agency's website and through the government web platform 'e-Consultations'. All programing documents are published after they have been issued. Coordination in the national statistical system between the Agency for Statistics of Bosnia and Herzegovina and other producers needs to be strengthened as well, as cooperation with statistics providers and cooperation between the Agency for Statistics of Bosnia and Herzegovina and the entities' offices. These issues are of particular relevance in order for European methodology 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 of Bosnia and Herzegovina needs to obtain access to administrative data other than that of ITA.

A population and housing census was held in October 2013 and the official results were published in June 2016. The International Monitoring Operation led by the European Commission (EUROSTAT) had confirmed that the census was conducted in compliance with international standards and recommendations. Notwithstanding this, the *Republika Srpska* entity is contesting the official census results as it does not accept the unified methodology of the Agency for Statistics of Bosnia and Herzegovina for data processing in terms of its content in particular concerning the determining of resident status. This methodological disagreement is currently blocking the submission of various statistics to the EU including GDP per capita figures harmonised at NUTS II level as required by the SAA.

On registers, the Agency for Statistics of Bosnia and Herzegovina manages and maintains the data consistency of the Statistical Business Register in cooperation with entity statistical institutes. However, it requires further development, as data received from relevant administrative sources is insufficient. Business demography data is not submitted to Eurostat. The Address List of Agricultural Holdings has been established based on the results of the 2013 population, households and dwellings census in Bosnia and Herzegovina. The Agency for Statistics of Bosnia and Herzegovina produces a single register of spatial units in the country but there is no regular update.

The country needs to provide per capita GDP figures harmonised at statistical regions level (equivalent to NUTS II level), in line with the provisions of the SAA. A provisional NUTS II level has been defined, consisting of the Federation entity, the *Republika Srpska* entity and the Brčko District, while NUTS III is not defined.

The classification of business activities in Bosnia and Herzegovina is harmonised with the EU NACE Rev 2. The 'Classification of Products by Activities Bosnia and Herzegovina 2010' is fully compliant with CPA 2008. GEONOM (Geonomenclature) is in place. The classification of occupations is aligned with the International Standard Classification of Occupations (ISCO 08). Data for all levels of education is collected, processed and published according to the International Standard Classification of ISCED 2011. Classification of individual consumption by purpose (COICOP) is only compliant with SNA 93 and ESA 95. Other classifications need to be aligned with EU standards.

On **macroeconomic statistics**, the organisation of the production of national accounts and responsibility for them is not in line with the EU *acquis*. A master plan for the development of national accounts needs to be adopted as common and coordinated work to develop 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 approach. Supply and use tables and input-output tables are not compiled regularly. Annual sector accounts and quarterly sector accounts are not produced.

The Agency for Statistics of Bosnia and Herzegovina reports GDP figures for the country to Eurostat. Regarding the transition to ESA 2010 methodology, the sector classification was completed but without an agreement on sub-sectors of the general government sector. The lack of such an agreement hinders 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. Regional accounts are not produced in accordance with Eurostat methodology. The ESA 2010 transmission table is not followed. As regards fiscal notifications, the Central Bank sent the excessive deficit procedure tables for 2016 and 2017 to Eurostat for review. 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. The methodology used for the statistics of international trade in goods is based on the recommendations of the European Commission; currently Bosnia and Herzegovina sends to Eurostat two sets of data out of the three requested.

The Central Bank of Bosnia and Herzegovina uses the international Governance Finance Statistics Manual 2014 for the compilation of government finance statistics (GFS) on the sector of general government. The Central Bank of Bosnia and Herzegovina reports to Eurostat ESA 2010 based GFS that are not yet fully aligned with ESA methodology. As is currently the case with expenditure, revenues should also be recorded on the basis of accrual accounting rather than on cash basis.

Financial intermediation services indirectly measured data need to be calculated according to EU regulations. Harmonised indices of consumer prices (HICP) need to be produced.

On **business statistics,** some figures are produced in line with the EU *acquis*. The coverage of structural business statistics (SBS) has been extended using a combined method of full coverage (for enterprises with 20 or more employees) and the sampling method for remaining enterprises. Currently, the regular survey covers all companies/corporations (not entrepreneurs) from activities that are required for Annexes I-IV of the SBS Regulation. Indicators and definitions in short-term construction statistics comply with the EU recommendations. Short-term statistics for industry, construction and services are not available and will need to be established as per acquis requirements. The PRODCOM survey of industrial production is conducted and sent to Eurostat on an annual basis.

Foreign affiliates' statistics (FATS) are produced by the Agency for Statistics of Bosnia and Herzegovina for inward statistics and by the Central Bank of Bosnia and Herzegovina for outward statistics. Full compliance with FATS regulations needs to be ensured. On tourism, Bosnia and Herzegovina is currently only producing accommodation statistics. The data collection methodology does not comply with the EU methodology for road transport of goods. Rail and air transport statistics are reported to Eurostat via a simplified questionnaire. Research and development statistics are compiled for four sectors - business, government, higher education and NGOs - and are published annually. The Community Innovation Survey is conducted on a regular basis. The information and communication technology survey for households, individuals and enterprises is conducted but the level of compliance with the EU regulations is not assessed. The survey on innovative activities of enterprises is fully compliant with the biennial Community Innovation Survey conducted in the EU. The survey on the use of ICT is fully compliant with Eurostat's methodology and covers a broad spectrum of topics, such as computer use, internet use, e-commerce in enterprises, for both enterprises and households.

On **social statistics,** results of the 2013 population and housing census have been available since June 2016. Preparations for the 2020/2021 population and housing census round have not started. The preparation of a new master sample frame is necessary, not only for the household survey, but also for the upcoming surveys, such as the Labour Force Survey (LFS), a full-scale survey of Income and Living Conditions (EU-SILC) and the Multiple Indicator Cluster Survey (MICS). The Labour Force Survey is implemented annually but not quarterly. To comply with the EU requirements in terms of implementation frequency, the preparations for the continuous LFS began in 2016, but a new sampling frame needs to be created from the database of the 2013 population census. The Labour Cost Survey will have to be harmonised with Eurostat recommendations. The calculation of the labour cost index and the introduction of the Structure of Earnings Survey are not implemented. Since 2011, Job Vacancy Statistics data have been collected regularly. Social protection statistics (ESSPROS) were submitted to Eurostat on six social protection schemes in 2018 based on a full-scale survey. National health accounts were submitted to Eurostat for the years 2009-2014. Cooperation with the institutions competent for monitoring migration flows has to be intensified in order to obtain complete data on external migration. In education statistics, all levels of education are covered and published on an annual basis. Culture statistics include 15 cultural domains; their coverage needs to be adjusted to Eurostat requirements. Data on crime statistics 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** and limits the availability of reliable data to design agriculture and rural development policy. Relevant legislation and methodology need to be adopted, and consequently, a statistical framework to conduct statistical surveys and analysis in agriculture is not in place. 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 acquis and the same goes for slaughter statistics.

Annual **energy statistics** on electricity and heat, coal, coke, natural gas and oil/petroleum products are available. An overall statistical energy balance for the reference years 2014 to 2016 was published. Short-term energy statistics were established in 2012 and the methodology for collecting monthly data is harmonised with international standards of Eurostat. Data on municipal waste are collected through annual statistical surveys. Public utility enterprises and other waste collection and disposal enterprises submit annual reports, as do enterprises managing the landfills. The Agency for Statistics of Bosnia and Herzegovina

regularly reports to Eurostat with data on municipal waste, and submits a quality report. Data from annual water statistics surveys is regularly published. Further work is needed to improve data quality in line with EU requirements, in particular as regards annual data on renewable energy source and basic monthly data on oil.

Regarding **environmental statistics**, the Agency for Statistics of Bosnia and Herzegovina regularly publishes data from the annual statistical surveys on climate change, greenhouse gas emissions from agriculture and from waste disposal, in accordance with the Revised 1996 IPCC Guidelines for National GHG Inventories and the IPCC Tier 1 methods. A survey is conducted with a basic set of tables for environmental protection expenditure. Physical environmental accounts were introduced in 2016 covering domestic material consumption and resource productivity. The Agency for Statistics of Bosnia and Herzegovina is not reporting to Eurostat on monetary environmental accounts; this is needed to improve the quality of data and modes of their collection, for the purpose of better coverage and comparability. BHAS regularly publishes and reports to Eurostat data on domestic material consumption.

Preparations in the area of statistics are at an **early stage of preparations**.

Capacity constraints of the statistical offices are exacerbated by increasing demands for statistics, as Bosnia and Herzegovina further progresses on its EU integration path. Special attention needs to be paid to (i) improving cooperation, coordination and decision-making processes to develop the national statistical system; and to (ii) increasing the use of administrative data sources and registers for statistical production. Data exchange between entities and the Agency for Statistics of Bosnia and Herzegovina needs to be improved, in particular to ensure sufficient quality of the data received. Bosnia and Herzegovina needs to implement a full and consistent system of national accounts and to apply the European System of National and Regional Accounts (ESA) 2010, methodology, in particular regarding government finance statistics. Revenues need to be recorded on the basis of accrual accounting. Bosnia and Herzegovina will need to define its NUTS III regions and prepare for the next population census.

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

→ adopt a master plan for production of National Accounts for Bosnia and Herzegovina
→ implement a Labour Force Survey on a quarterly basis
→ adopt a methodology, responsibilities and budgetary aspects of a future agricultural census and adopt a roadmap for preparation of the next population census in 2020/2021.

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.

Under the SAA Bosnia and Herzegovina and EU Member States shall cooperate for the development of social policy and employment policy, with a view to ensuring equity of access and effective support to all vulnerable people and to supporting Bosnia and Herzegovina's alignment with the EU *acquis*.

According to the constitutional and legal framework the competences on social policy and employment rest predominantly with the two entities and Brčko District; in the Federation entity competences are shared with the cantons. The state-level competence is primarily exercised through internal coordination, based on the constitutional responsibilities to represent and commit the country at international level.

Ministries in charge of social policy and employment are in place at entity and cantonal level as well as in the Brčko District. At state level, there is no specific Ministry of Social Policy and Employment, but the Ministry of Civil Affairs is responsible for: (i) defining basic principles of coordination of activities, (ii) harmonising plans of the Entity authorities, (iii) defining a strategy at the international level in the fields of health and social care, pensions, labour and employment. The legislation at state level regulates solely the labour status of employees and civil servants in state institutions.

Regarding **labour law**, competences rest with the entities, the cantons and Brčko District, whereas the state level regulates labour relations of employees and civil servants working in the institutions of Bosnia and Herzegovina. Labour laws are in place at entities' and Brčko District level.

The labour laws are applied to all employees, apart from civil servants, and guarantee a minimum level of protection of employees' rights and regulate issues such as the conclusion and termination of labour contracts, prohibition of discrimination, maximum working hours, minimum annual leave, salaries, and the conclusion of collective agreements and peaceful settlement of collective labour disputes. In order to fully meet EU standards in this area, additional improvements of the legal framework are needed, especially when it comes to protection of workers, including protection against discrimination.

The implementation of the labour laws is inadequate, especially when it comes to social dialogue, protection for workers and enforcement of labour inspection. Labour law only provides for specific conditions for work for minors above 15 years of age, while child labour exploitation falls under the criminal law. The institutional mechanisms for the enforcement of laws and regulations tackling child labour exist, but there are gaps that may hinder their adequate enforcement. The legal framework lacks provisions to adequately protect children from child labour as the minimum age protections in the labour laws do not apply to children who are self-employed or working outside of formal employment relationships (e.g. forced begging cases, engagement in military recruitment by non-state armed groups). In addition, the Anti-Trafficking Strike Force lacks coordination between government and criminal law enforcement members, and labour inspectors do not have jurisdiction to investigate forced begging cases.

On occupational **safety and health at work,** laws on occupational health and safety are in place at entity and Brčko District level. The level of harmonisation with the *acquis* is 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 trainings or proper risk control.

The country has ratified a number of the International Labour Organization's conventions including all fundamental conventions and Protocol 29 on forced labour, and regularly reports on their implementation. In the Federation entity, a Law on occupational health and safety is in force, but not aligned with EU legislation. Laws on occupational and safety at work are in place in the *Republika Srpska* entity and the Brčko District.

The employment relations of employees working in the state-level institutions are regulated by the Law on the Civil Service and the Labour Law. In line with this legislation, employers are required to provide the necessary work protection conditions ensuring protection of life and health of employees.

Enforcement of the occupational health and safety legislation rests with the competent inspection authorities at entities and cantonal levels and is done by the relevant labour inspections. At state level, the Administration Inspectorate and the employer are

predominately in charge of ensuring occupational safety and health for state employees. The number of reported workplace accidents in 2017 was 2,374, out of which 16 fatalities, with an increasing trend of accidents and fatalities. The most affected sectors were civil construction, mining, forestry, metal and wood industry.

On the issue of **social dialogue**, labour laws in the country provide a basis for concluding both the general collective agreements which are applicable to all employees, as well as the branch collective agreements. Economic and Social Councils operate at the entities' level, whereas a State Council has not been established. General collective agreements have expired in both entities, but a number of branch agreements are in place. Social dialogue is weak at all levels.

The right to strike is regulated by the labour laws and laws on striking that are in place in both entities and in Brčko District, while the state-level Law on striking is applicable only to employees in the institutions of Bosnia and Herzegovina. Legislation on amicable settlement of labour disputes exists only in the *Republika Srpska* entity.

As for **employment policy**, there is no countrywide strategy in place. The *Republika Srpska* entity has an employment strategy for 2016-2020 in place, with a 2018 action plan. Although there is no employment strategy in the Federation entity, several employment programmes are currently implemented. To provide a credible and relevant reform on employment policy, a countrywide strategy is required as well as an effective institutional coordination on implementation and monitoring of the strategy.

According to the Labour Force Survey 2018, the unemployment rate is 18.4% (17.2% men; 20.3% women). At 38.8%, the unemployment rate is the highest among young people aged 15 to 24 years (35.4% men; 45.5% women). The activity and employment rates are 54.2% and 44%. Both rates are higher for men (66.4% and 54.7%) than for women (41.8% and 33%). The activity and the employment rates are by far the highest in the 25 to 49 age group years (73% and 58.9%). Youth activity and employment rates represent 32.3% and 19.7% respectively.

The Labour and Employment Agency of Bosnia and Herzegovina is responsible for international employment related obligations in coordination with the Ministry of Civil Affairs, while cooperating with the responsible entity employment institutes in the entities and of the Brčko District.

The public employment services are organised at entities and Brčko District level, and in case of the Federation entity further decentralised at cantonal level. The employment institute of the Federation entity coordinates the activity of cantonal Public Employment Services and local offices. The Employment Institute of the *Republika Srspka* entity coordinates the activities of regional and local offices. The employment institutes at entity level are involved in the overall coordination and methodological development, while local offices are mainly responsible for implementing active and passive labour market policies. The Brčko District has an employment institute and a local employment office in place.

Labour market institutions in Bosnia and Herzegovina are undergoing reform aiming at the transition from mainly administrative work to a client focused approach based on consultative services to improve job mediation. Their work has so far been characterised by the predominance of passive labour market policies caused by the lack of administrative and financial capacities of the public employment services to implement active labour market policies. Both lack of human resources and lack of finance prevent the public employment services from the implementation of comprehensive active labour market policies.

The level of informal economy in Bosnia and Herzegovina is estimated at 25.5% of the GDP and about 30% of all workers are in informal employment. As regards labour statistics, Bosnia and Herzegovina uses the International Labour Organisation's methodology for collection and processing of survey-based data. The annual labour force survey frequency is insufficient and regular data submission to Eurostat is incomplete. Bosnia and Herzegovina needs to submit a comprehensive quarterly labour force survey to Eurostat and reinforce administrative capacity to that end.

In Bosnia and Herzegovina, the preparation for using the **European Social Fund** has not started and there are no administrative structures established for the operation of this fund.

On **social inclusion and protection**, there are no countrywide strategies on poverty reduction, social inclusion and protection or a system at countrywide level for monitoring policy implementation. In relation to 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 of deinstitutionalisation. At entity level there is a wide range of strategies and laws related to social inclusion and protection and their implementation systems. However, these are not enforced due to a lack of funding, inadequate procedures, standards and referral practices and a general lack of coordination. The household budget survey of 2015 is the most recent assessment on poverty in the country.

There are three databases that contain specific indicators of social exclusion: the Household Budget Survey, the Labour Force Survey and the Multiple Indicator Cluster Survey. In 2011, the multiple indicator cluster survey was conducted for Roma households with children. The state of social exclusion, and the frequency of conducting the surveys and the lack of data on income poverty and income inequality is problematic. Bosnia and Herzegovina needs to participate in the exercise of the new multiple indicator cluster survey, which is under consultations with UNICEF.

Almost a third (31.6%) of children aged 5 to 15 are at risk of poverty. Children in female-headed households and children in families with two or more children are substantially more likely to be poor. 4% of children are simultaneously poor and materially and housing deprived.

Despite the high poverty and poverty-related social challenges, the social protection system is underdeveloped, while the effectiveness of social transfers is limited. Social benefits are extremely low, and insufficient to fulfil basic needs and targeting of social transfers is inadequate, making their effects on poverty reduction very limited. Only about one quarter of social assistance benefits are granted based on needs assessment, while the other three-quarters are status-based benefits, mainly to war-related categories of beneficiaries.

Social assistance is neither well targeted, nor needs-based, as there is no adequate system for data collection. Cooperation between the social service centres and employment bureaus is not well established. The transformation of institutions for social protection and, in particular, those for children without parental care is ongoing.

According to the latest available official government statistics (dating from 2015), the number of children without parental care in Bosnia and Herzegovina was 2,435 (0.35% of the child population). According to the analysis conducted in 2016 by UNICEF, estimates put the figure at 1,640 children without parental care. Among all children without parental care, 17.7% were children with disabilities. Bosnia and Herzegovina is working on strengthening models of alternative, community-based social care for children without parental care and for children and adults with disabilities including persons with mental health problems. There are no systematic measures to improve the situation of older persons.

As regards **equality between women and men in employment and social policy** on the grounds of sex 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, etc.) but in practice the enforcement of non-discrimination legislation is extremely low.

Bosnia and Herzegovina is a signatory of 81 conventions of the International Labour Organization. Data from the Bosnia and Herzegovina Statistics Agency shows obvious gender gaps in employment – the current employment rate of women (15-64 years old) is 33% and of men is 54.7%. Bosnia and Herzegovina has the second highest level of inactivity in the region. Two out of three inactive persons are women, and almost 60% of the working age women are inactive. No sex-disaggregated data is provided on occupational segregation in the labour market and gender pay gap. Estimates are that women earn around 78% to 85% of a men's salary for the same position. The provision of maternity leave and related compensation are inconsistent across the country, with inequalities in the provision of maternity rights. Women and men have equal property rights, as well as equal legal status in relation to access to financing and services. Work-life balance for working parents is addressed by the relevant labour laws.

Labour laws within the country also address the issue of non-discrimination at work, there are no targeted strategies or action plans in place that were developed specifically for employment-related discrimination. The Human Rights Ombudsman institution is the body in charge of protection from discrimination. In 2017, the Ombudsman dealt with a couple of cases of employment-related discrimination in which the complaints pointed to a violation of gender equality, and in particular, to the fact that pregnant women had their employment contracts cancelled or were not offered the extensions of a labour contract of limited duration time.

Bosnia and Herzegovina has **some level of preparation** in the field of social policy and employment.

There are serious challenges to be addressed in employment, social inclusion and protection and in poverty reduction, especially related to coordination among the responsible institutions across the country. The informal economy has a high share in the Bosnia and Herzegovina's economy. Social dialogue is weak and scattered across different administrative levels. Passive labour market measures prevail over active measures while social inclusion and protection are weak and not coordinated. Gender equality and anti-discrimination legislation is not being fully implemented. Measures need to be taken to ensure a better coordination of active labour market policies with the social assistance programmes to ensure smooth inclusion of beneficiaries' to labour market. Also, special measures are needed to modernise and harmonise occupational health and safety laws throughout the country to bring them in line with the EU *acquis.*

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;
- → promote social dialogue at all levels and conclusion of general collective agreements.

Chapter 20: Enterprise and industrial policy

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

The SAA establishes cooperation to promote modernisation and restructuring of industry and individual sectors and to develop and strengthen SMEs. The SAA also covers industrial cooperation between economic operators, with the objective of strengthening the private sector while ensuring environmental protection. Initiatives include a suitable framework for businesses, and for improving of management and know-how and the business environment. Cooperation also needs to include strengthening private sector small and medium-sized enterprises.

According to the constitutional and legal framework the competences for enterprise and industrial policy rest with the two entities, the cantons and Brčko District. The state level has a coordination role and represents and commits the country internationally.

At state level, the main actors are the Ministry of Foreign Trade and Economic Relations and the Directorate for Economic Planning, which have a coordination role. At the Federation entity level, the Ministry of Energy, Mining and Industry deals with industrial policy, while the Ministry of Development, Entrepreneurship and Crafts is responsible for entrepreneurship-related issues. In the *Republika Srpska* entity, the Ministry of Economy and Entrepreneurship has the lead responsibility. Various other entity ministries are responsible for implementation of industrial development policies. In the Brčko District, industrial policy is under the competence of the Department for Economic Development, Sports and Culture. At the cantonal level, ministries in charge of industrial development and entrepreneurship are also in place.

The *Republika Srpska* entity contests the competence of the state level to coordinate policies countrywide.

This decentralised institutional set-up is reflected in businesses' negative perception of public administration in the institutions component of the Global Competitiveness Index 2018, where it contributes to the country being ranked in 111th place, the lowest ranking in Europe.

As regards **enterprise and industrial policy principles**, Bosnia and Herzegovina lacks a countrywide industrial development strategy and there is no state-level body promoting consistency between industrial strategies or with other policies affecting industrial competitiveness. The *Republika Srpska* entity has a strategy, including an action plan for industrial development until 2020. The Federation entity uses an action plan, whose latest amendment runs until 2019. The actions fall into several policy areas, partly unrelated to industry. Brčko District covers industrial aspects in its 2008-2017 development strategy which is currently being renewed, while support to SMEs is limited to a legislation on incentives.

The informal economy continues to be significant, causing unfair competition. The rule of law needs to be strengthened in areas affecting industrial cooperation. Reduction of regulatory uncertainty through regulatory impact assessment is carried out in the *Republika Srpska* entity and to some extent in the Federation entity; enforcement is weak. The application of a regulatory guillotine in both entities has led to some simplification of business permits. Despite improvements, the simplification of business-related legislation is 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.

The World Bank's Doing Business 2019 index (the report investigates the regulations that enhance business activity and those that constrain it) puts Bosnia and Herzegovina 89th out of 190 countries – the lowest ranking country in the region. The most pressing issue is the reduction of barriers to starting a business, although business registration reform is underway in both entities (e.g. one stop shops, online registration), albeit at different pace. Other issues of contributing to the country's very low ranking are - dealing with construction permits, the administrative burden to pay taxes and getting electricity.

The complex regulatory and business environment impinges on both domestic and foreign investment. This effect is compounded by the low share of public investment and its poor management, particularly for infrastructure and innovation. Business investment in innovation activities is very low and interactions within the innovation system are underdeveloped. Innovation policy is dealt with at entity level, the Federation entity having decentralised it to the cantons. Brčko District has no such policy. Strengthening the link between business and research is part of the science strategy of the *Republika Srpska* entity. The low investment affects crucial areas of innovation, above all digitalisation, which in general is at a very low level in the country. In spite of the significance of digitalisation for the entire industry and the construction sector, it is absent from the industrial policy documents. The significance of another key area of industrial policy, namely resource efficiency and circular economy is acknowledged by references in the entities' industrial policy documents. However, the same does not hold for decarbonisation, including its implication for energy-intensive industries. The potential opportunities that eco-innovation offers for competitiveness remains unrecognised.

A countrywide strategic framework to encouraging foreign direct investments (FDI) is not in place. A state law and entity legislation on FDI exists, including legislation on foreign investments adopted in the *Republika Srpska* entity in 2018 to implement its earlier adopted strategy. In spite of some regulatory improvements, FDI is by far the lowest in the region. Aftercare support to increase prospects for FDI inflows is insufficient. There are no comprehensive programmes to better connect foreign investors and domestic firms, particularly SMEs, to enhance the impact of FDI. The industrial action plans contain export enhancing support measures, but these lack linkages to innovation or a sectoral focus. The participation of enterprises in global value chains is lower than in comparable economies, even though several sectors, such as wood processing, have a relative comparative advantage. Conformity with EU product standards is a significant constraint.

The capacity of enterprises to find new information, recognise its value and apply it to business ends is limited. This limits the ability to make the most of potential for investment, innovation and foreign trade. Staff in companies, including managers and employees, needs advice and training that is both company and job specific. Industrial policy documents cover items on skills that are limited to specific short-term needs. The continuous development of skills depends on having a policy to structurally improve the delivery of services that enhance company specific know-how. Such a policy will have to be designed in consultation with enterprises and should include evaluation of the effectiveness of the advice and training provided.

The governance of public enterprises needs reform. Public enterprises maintain a strong position in sectors crucial for technological modernisation, e.g. in energy and, in the Federation entity, in telecommunications. Plans for privatisation are set out in the entities' plans which are managed by the privatisation agencies, including cantonal ones. Privatisation has been completed in Brčko District. The Federation entity disposed of its minority stakes in its major pharmaceutical and tobacco companies in 2016 and has taken steps to put its telecom sector on a path to sustainability. Privatisation of utilities is ongoing in the *Republika*

Srpska entity and has taken place in some cantons. The *Republika Srpska* entity is also restructuring its railways. The banking sector is almost fully privatised in the country and there are no plans for re-nationalisation at any level of authority. Major obstacles to industrial privatisation are legal uncertainty, corruption and the unfavourable business environment.

The EU's 2008 Small Business Act (SBA) constitutes a reference for policy on small and medium sized enterprises (SME) in Bosnia and Herzegovina. An institutional framework is in place, including state-level coordination for entrepreneurship promotion. Reporting on the SBA principles is assigned to the state-level Ministry for Foreign Trade and Economic Relations. Competence for dealing with SMEs in the Federation entity is shared with cantons. The *Republika Srpska* entity has an agency for implementing SME policies. However, there is no countrywide framework for SME policy. SME strategies and legislation exist at entity level and partly at cantonal level, not though in Brčko District. The Herzegovina-Neretva Canton and Sarajevo canton both have strategic documents in this area, while other cantons have addressed the issue of SME development as part of their development strategies.

Support to business infrastructure is based on the entities' SME strategies as well as on some cantonal development strategies. Some incubators are operational, but not fully developed. Basic business support services for SMEs and start-ups are in place, but technology extension services (advisory and support services for technology adoption and diffusion) are non-existent. SME strategies refer to clusters, i.e. the agglomeration of enterprises, either as a tool for export promotion (in the *Republika Srpska* entity) or for production efficiency (in the Federation entity). Small-scale donor-supported schemes are available for innovative SMEs. Bosnia and Herzegovina's level of assistance to innovation by SMEs is the lowest in the region. SME skills programmes are supported mainly by international donors and implemented by the chambers of commerce and development agencies across the country. Bank lending is the dominant source of SME finance. Financial instruments for innovative start-ups and high-growth enterprises are almost absent.

Evaluations of planned measures in the area of enterprise and industrial policy lack budget and systematic integration in action plans. Monitoring of outputs is envisaged, but evaluation of impact on objectives is absent.

As regards **enterprise and industrial policy instruments**, both entities have in place legislation on financial transactions to combat late payment in commercial transactions which is partly aligned with the *acquis*. Brčko District should adopt such legislation as well.

Data to describe the structure and dynamics of industry, including construction, is insufficient as a basis for effective formulation and evaluation of strategies. SME definitions used (among other things) for reporting and incentive allocation are neither harmonised throughout the country, nor aligned with the EU Recommendation on the definition of micro, small and medium-sized enterprises.

Bosnia and Herzegovina participates since 2017 in the EU's COSME programme on the competitiveness of enterprises and small and medium-sized enterprises. It has entity-based European Enterprise Network consortia (leaving Brčko District uncovered by the programme) and uses the Loan Guarantee Facility that lent almost EUR 14 million to 132 beneficiaries through a sole intermediary. Some 13 exchanges have taken place through the Erasmus for Young Entrepreneurs programme.

The potential of COSME to assist SMEs in accessing markets is not fully used. Bosnia and Herzegovina is not participating in the Enterprise Innovation Fund (ENIF) of the Western Balkans Development and Innovation Facility, as it has not paid its financial contribution - a precondition to be allowed to use the funds.

Bosnia and Herzegovina is associated with Horizon 2020, where it participates in the activities more directly related to industry mainly with providers of support services and not in the SME Instrument. The country is not associated with the EU's LIFE programme for the environment and climate action that encompasses themes relevant for industrial applications in resource efficiency and circular economy.

As regards **sectoral policies**, the industry action plans in Bosnia and Herzegovina do not prioritise specific sectors. The manufacturing sector of processed agricultural products is not covered by the action plans, nor are mining and construction sectors. The Federation entity has development strategies or action plans, for a few manufacturing sectors. Industrial policies do not recognise linkages between manufacturing sectors and specific business services that add a significant share to the value of manufactured goods.

Bosnia and Herzegovina is at an **early stage** of preparation in the area of enterprise and industrial policy.

Special attention needs to be paid to ensure more effective policy formulation and implementation by stronger institutional capacities. The complex business environment in the country results from its fragmented administrative structure and puts an added burden on businesses through excessive regulation, lengthy and complex administrative procedures, red tape, taxes and local fees. Bosnia and Herzegovina should draw up a countrywide policy framework for industrial and SMEs competitiveness and for encouraging foreign direct investment. Programmes which link domestic businesses with foreign investors should be enhanced. Bosnia and Herzegovina should reduce the institutional and regulatory barriers and address the lack of a single economic space by harmonising key business-related legislation and by improving coordination and cooperation between different levels of government.

In the coming year, the country 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.

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.

The SAA requires the Parties to focus on cooperation in priority areas of transport, including supporting the development of multimodal infrastructures in connection with the main trans-European networks. This is specified for transport in the Transport Community Treaty which supports the development and implementation of the indicative TEN-T extension of the comprehensive and core networks to the Western Balkans, and for energy in the Energy Community Treaty which obliges the parties to align with the EU Regulation on Guidelines for trans-European Energy networks covering the timely development and interoperability of projects of Energy Community interest.

According to the constitutional and legal framework, competences on trans-European networks are exercised at state level, by the two entities and by Brčko District. The state level is responsible for international and inter-entity transport and infrastructure including preparation of strategic and policy documents. The State also has a coordination role and the responsibility to represent and commit the country at international level. The state level is also responsible for harmonisation, coordination and planning in the field of energy infrastructure. The two entities and Brčko District have legislation relevant for the planning and implementation of projects under the trans-European networks.

At state level, the Ministry of Transport and Communications is responsible for international and inter-entity transport, including agreements, relations with international organizations and preparation of strategic and planning documents. The Ministry of Foreign Trade and Economic Relations is in charge of setting energy policy, basic principles, coordinating activities and harmonising entities' plans at the international level. At entity level, the responsible ministries on transport infrastructure are the Ministries of Transport and Communication of the Federation and of the *Republika Srpska* entity, while for energy infrastructure they are the Federation Ministry of Energy, Mining and Industry and the *Republika Srpska* Ministry for Energy and Mining. In Brčko District the Department for Public Affairs and the Department for Communal Affairs are responsible for transport and energy infrastructure.

On transport networks an indicative extension of the trans-European transport network (TEN-T) including core network, core network corridors and pre-identified priority projects for infrastructure investment was set in 2015.

The legal framework is aligned with the EU *acquis*. Bosnia and Herzegovina participated in the South East Europe Transport Observatory (SEETO), until it reached the end of its mandate in December 2018, succeeded by the Transport Community Treaty. It participates in the Western Balkans 6 (WB6) processes focusing on improving connectivity within the Western Balkans 6 and with the EU. Priority connectivity projects on the indicative extension of the TEN-T core network to the Western Balkans have been planned through the single priority project pipeline. Their implementation is uneven and hampered by poor preparedness and ineffective use of available funds. Bosnia and Herzegovina has made slow progress on implementing the connectivity reform measures. Much of the progress achieved is related to the measures supported by EU technical assistance. Further efforts are needed on border crossing facilitation measures, road safety and infrastructure maintenance plans (road and rail). Bosnia and Herzegovina ratified the Transport Community Treaty in 2018 and needs to further improve and increase its administrative capacity to mobilise sufficient resources to support its implementation. A 2015 framework transport policy and a separate framework transport strategy and action plan are in place, setting out the main strategic framework for the development of the TEN-T comprehensive and core networks until 2030. Future infrastructure investments need to be implemented in compliance with EU standards on public procurement, State aid and environmental impact assessment. Projects should be channelled through a single project pipeline, confirming the strategic orientation towards the trans-European networks.

Road network improvements focus mostly on the project to complete the Corridor Vc motorway crossing Bosnia and Herzegovina from north to south between the border of Bosnia and Herzegovina at Svilaj and the port of Ploče in Croatia. The interstate bridge over the Sava River at Svilaj is under construction with a contract deadline for the completion of works by mid-2019. The connecting Svilaj to Odžak motorway section on Corridor Vc is completed. Most of the remaining sections are under preparation, while a few are under construction. A second interstate bridge with Croatia is planned on route 2A, connecting Banja Luka with

Gradiška. The Banja Luka to Doboj highway on comprehensive network route 9a was completed in 2018. Investments in the rail network are limited. Inland waterways need improvement and regular maintenance. The navigability of the Sava River requires further demining and rehabilitation.

Trans-European energy networks *(TEN-E) cover gas transport and storage facilities and electricity transmission and make a significant contribution to the electricity and gas market. The TEN-E are a response to the growing importance of securing and diversifying the EU's energy supplies, integrating the energy networks of the Member States, candidate countries and potential candidates, thus ensuring the coordinated operation of the energy networks in the EU and in neighbouring countries.*

Bosnia and Herzegovina needs to transpose Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure, as adapted and adopted by the Ministerial Council of the Energy Community. The country failed to comply with the specific provisions of this Regulation which would support the definition and promotion of strategic infrastructure projects both in electricity and gas by 31 December 2016, and to apply them as of 1 January 2017. As a result, the Ministerial Council of the Energy Community adopted a decision at the end of 2018 identifying the breach and asked the country to report to the Secretariat and the Permanent High-Level Group about the measures taken to ensure transposition. The country needs to ensure full compliance by 1 July 2019, otherwise further measures will be recommended against the country. The long-term transmission network development plan for 2018-2027 identifies priority electricity transmission interconnections with neighbouring countries. The country has four electricity transmission interconnections included on the list of projects of energy community interest (PECI) and projects of mutual interest (PMI).

There is no legislative framework at state level on natural gas, and no compliant harmonised laws at entity level. This hampers the development of natural gas infrastructure and the gas market. The country has three projects for gas interconnections on PECI/PMI lists that would connect its infrastructure with the Croatian natural gas system. The project connecting the country's gas infrastructure via Slobodnica-Brod-Zenica is blocked due to lack of political consensus. The development of project documentation for the Zagvozd–Posusje–Travnik southern gas pipeline interconnection is advancing, although it is currently being challenged by the government of the *Republika Srpska* entity. The country is currently supplied through a single-entry point and is fully dependent on Russian natural gas. It needs to ensure proper maintenance of infrastructure and enhance the security of supply.

Bosnia and Herzegovina has achieved **some level of preparation** in the area of trans-European networks.

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:

→ proceed with the development of the core transport networks *(Regulation No. 1315/2013 guidelines for the development of the trans-European transport network*) and core energy networks in line with the infrastructure investment priorities agreed under the regional connectivity agenda;

→ accelerate the implementation of connectivity reform measures and continue with 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.

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.

The SAA establishes measures to strengthen regional and local development cooperation, with the objective of contributing to economic development and reducing regional imbalances.

According to the constitutional and legal framework competences in the thematic areas relevant to the implementation of regional policy rest with the state level, the two entities, the cantons and the Brčko District. The state level has a coordination and planning function and represents as well as commits the country internationally.

At state level there is no specific ministry in charge of regional policy; there are, however, state-level ministries who have a coordination function in thematic areas relevant to the implementation of regional policy, such as environment, transport, competitiveness, labour and employment. At entity and cantonal level there are ministries in charge of all these thematic areas although none of them is specifically tasked with preparing possible future implementation of structural instruments.

Republika Sprska entity contests competences of the National IPA coordinator as defined in the IPA Framework Agreement and the role of the National Investment committee.

Bosnia and Herzegovina prepared the Nomenclature of Statistical Territorial Units in 2013, according to which the country as a whole represents the NUTS I level, and the Federation entity, *Republika Srpska* entity and Brčko District make up the NUTS II level. The NUTS II regions are only provisionally defined and accepted by the European Commission until Bosnia and Herzegovina finalises and agrees the entire classification to include definition of the NUTS III level as well. Bosnia and Herzegovina needs to provide the European Commission with its GDP per capita figures harmonised at NUTS II level, an obligation stemming from the SAA, overdue since 2013, i.e. 5 years after the entering into force of the Interim Agreement in 2008.

Bosnia and Herzegovina needs to adopt a **legislative framework** establishing a system for managing Structural Funds in compliance with the requirements of Article 174 and 175 of the Treaty on the Functioning of the European Union. Alignment of the legal framework in thematic areas relevant to the implementation of regional policy is not complete. The Law on Financing of the Institutions of Bosnia and Herzegovina and the Law on the Budget of the Institutions in Bosnia and Herzegovina and International Obligations allow for budget flexibility. Multiannual budgeting at state level is not regulated as such, but there is an obligation to prepare a three-year budget framework paper that, in turn, guides the preparation of the budget for the following year. The Federation entity Law on Budgets and the *Republika Srpska* entity Law on Budget Systems and Law on Budget Execution regulate both flexibility and multi-annual budgeting. However, the manner in which multiannual projects and programmes are included in the entities' budgets is neither comprehensive nor consistent across various administrative levels. As part of the annual 'Economic Reform Programme' exercise, a consolidated three-year budget outlook is prepared, but it is still insufficiently comprehensive, especially as regards foreign-financed projects. IPA-funded projects can be co-financed at state, entity and local level. The country needs to adapt necessary legislation

and budget provisions allowing for co-financing of multiannual cohesion programmes. Bosnia and Herzegovina has a legal framework at state and entity levels regulating internal audit and financial management and control as well as determining which public bodies are required to set up financial control and audit structures.

As to the **institutional framework,** the Directorate for European Integration is responsible for coordinating the planning, implementation and monitoring of EU financial assistance in Bosnia and Herzegovina, including the programming of IPA multi-country funds through the Western Balkans Investment Framework (WBIF). The National IPA Coordinator (NIPAC) was appointed in 2017 on a temporary basis. The coordinator's office supports the country's participation in the macro-regional strategies and EU programmes and coordinates cross-border, transnational and interregional cooperation programs. Bosnia and Herzegovina has not reached political consensus on methods of coordination for effective use of pre-accession funds. The administrative set-up of Bosnia and Herzegovina and the high number of actors involved in the programming and implementation of EU funds requires a high degree of coordination between authorities at state level and between the state level and other levels of government. The current level of coordination needs strengthening, for instance, by an agreement of the key stakeholders on how the coordination mechanism on EU matters could be utilised in certain IPA related issues, such as the needs assessment, while respecting the existing functions of the NIPAC deriving from the IPA Framework Agreement. In all thematic areas relevant to regional policy, Bosnia and Herzegovina should improve ownership of the institutions involved in the planning and programming of EU funds. Countrywide institutional and administrative structures as well as legislative acts for the management and implementation of future EU funds need to be put in place to prepare for the future coordination of EU structural instruments and ensure the sustainability of their future operational programmes.

Bosnia and Herzegovina has insufficient **administrative capacity** to deal with the requirements of EU regional policy. Resources allocated to EU programmes and projects vary across institutions, as do staff expertise and experience of management, public procurement, evaluation, financial monitoring and control of funds. Specialised competences and specific sector knowledge are limited and need to be developed in most institutions. Numerous authorities benefit from relevant training opportunities, including capacity-building activities provided by EU-funded projects. Some training plans to strengthen the skills of civil servants in EU funds management have been established. Bosnia and Herzegovina has not established a provisional plan on a capacity-building needs assessment or training measures in relation to the preparation of cohesion policy. In addition, it does not have any other systematic plan to prepare the administrative capacity of relevant bodies to implement cohesion policy.

On **programming**, Bosnia and Herzegovina has adopted countrywide strategies including priorities at state, entity and Brčko District levels in some fields relevant to cohesion policy, namely transport (2016), environmental approximation (2017), and a strategy for climate change adaptation and low emission development (2013). The country has a 2017-2020 information society development policy and related action plan. Countrywide sectoral planning and strategic documents on social inclusion, human rights, anti-discrimination, public administration reform, public finance management, employment, education and SME competitiveness have not been adopted. Coordination at all levels on selecting, prioritising and implementing the planned strategic interventions needs to improve. Medium-term financial planning for investments is not systematically introduced in line with the objectives of the strategic documents.

Bosnia and Herzegovina's National Investment Committee (NIC) was set up in 2015 and the NIPAC Office was appointed as its Technical Secretariat. The NIC composition reflects the

constitutional competences at various levels of government in Bosnia and Herzegovina, but the *Republika Srpska* entity does not send its representatives to the meetings. A methodology for prioritisation of infrastructure projects and a single project pipeline have been adopted in the same year for the transport sector, followed by the adoption of a countrywide framework transport strategy. A revised single project pipeline covering transport and environment was adopted in February 2019. Single project pipelines in the energy and social sectors need to be set up.

There are no institutions or bodies in the country with sufficient experience and capacity to perform **monitoring and evaluation** of public investment programmes. The Monitoring and Evaluation Department within the NIPAC Office, responsible for the overall coordination of monitoring activities for IPA, has insufficient capacity and experience to perform its tasks well at project level. There are currently no concrete plans to build such a capacity at state level and create an efficient system that could constitute the basis for monitoring and evaluation of future cohesion policy programmes.

There is no **financial management and control system** for EU funds in place in Bosnia and Herzegovina, except for EU funds in shared management and indirect management for cross border cooperation programmes, where the state-level Ministry of Finance is responsible for verifying the correct implementation of operations and expenditure certification. Bosnia and Herzegovina needs to establish most structures and bodies defined in Annex A of the Framework Agreement.

Impact

Bosnia and Herzegovina had a nominal GDP of EUR 4.5 billion in 2016. This equals about 0.01% of EU-28 GDP for about 0.68% of the EU-28 population. Considering the size of its economy and population, Bosnia and Herzegovina's accession would only marginally reduce the EU's average GDP per capita compared to today's data and hence would slightly influence the eligibility of regions. Given that the country's GDP per capita is considerably below the EU average, Bosnia and Herzegovina would be entitled to receive EU cohesion policy contributions under the convergence objective. Following a preliminary assessment of the country's economic situation and considering the current capping rules of the Structural Funds, the estimated impact of its possible accession on the EU cohesion policy is considered marginal.

Bosnia and Herzegovina is at an **early stage of preparation** in the area of regional policy.

Significant efforts are needed to align the legislative framework on regional policy and to implement this policy effectively. The country needs to strengthen its administrative capacity in terms of programming, implementation, monitoring and evaluation of EU funds. An efficient coordination is needed among the levels of government on preparing and implementing relevant sector strategic and planning documents. Bosnia and Herzegovina has to improve the prioritisation of planned interventions in the context of programming EU funds.

In the coming year, Bosnia and Herzegovina should 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 and ensure its endorsement by the National Investment Committee;

→ reach agreement on coordination modalities for the effective use of pre-accession funds while respecting the NIPAC's functions as provided for in the IPA Framework Agreement.

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 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.

Under the SAA Bosnia and Herzegovina and EU Member States are to encourage cooperation in civil scientific research and technological development on the basis of mutual benefit. This is to be done taking into account the availability of resources, and adequate access to the specific programmes, subject to appropriate levels of effective protection of intellectual, industrial and commercial property rights.

According to the constitutional and legal framework, competences in the area of science and research rest predominantly with the *Republika Srpska* entity, Brčko District and the cantons, while the Federation entity exercises a coordinating role. At state level, there is framework legislation on the fundamentals of scientific research and coordination of internal and international cooperation. Based on constitutional framework, at state level, the competence primarily takes the form of defining basic principles of internal coordination, harmonising plans of entity authorities, and representing and committing the country at international level.

At state level there is no specific ministry of science and research, therefore the Ministry of Civil Affairs has a coordinating role in the areas covered by this chapter and hosts the Horizon 2020 coordinator. Ministries in charge of science are in place at entity and cantonal level. There is a competent department in Brčko District.

On **research and innovation policy**, the legislative framework regulating science and research development, based on the 2009 Framework Law on the fundamentals of scientific research activity and coordination of internal and international scientific research cooperation, is fragmented and needs to be improved throughout the country. The revised strategy for scientific development (RSSD) for the period 2017-2022 needs to be implemented, and its Action Plan has to be adopted.

A smart specialisation strategy needs to be adopted and specific strategic priorities have to be identified. The Smart Specialisation process in Bosnia and Herzegovina is currently in its initial stages of preparation. The process in which scientific knowledge is fed into policy-making is rather weak and non-inclusive. Systemic collaboration and interaction needs to be enhanced between 'triple helix' actors - academia, industry and governments. The country's research capacities are very limited with a total of 1 942 researchers in 2016, while a trend of brain drain has been observed, most notably in the health and medical sector, with no systematic measures to address the issue. The country's estimated total allocations for research amounts to 0.3% of GDP. The RSSD sets the goal to reach 0.8% of GDP investment in research and development by 2022, which is far from the 3% EU target for 2020.

The country lacks reliable and comprehensive statistics. Data collection and processing is done by each entity's statistics institute, which submit relevant data to the Bosnia and Herzegovina Agency for Statistics that publishes countrywide data. As this Agency has

limited capacity, notably regarding staffing, it does not collect sufficient data on research and innovation hampering the monitoring of the implementation and impact of research and innovation efforts.

Bosnia and Herzegovina is not included in the European Innovation Scoreboard as not all indicators necessary to participate are available. Bosnia and Herzegovina is intensifying its statistical data collection efforts to make all indicators available.

On **framework programmes**, the country participates in Horizon 2020, the European Cooperation in Science and Technology (COST) and EUREKA research programmes. It has also established the network of national contact points. The country shows good performance in Horizon 2020. It also cooperates at regional level, as co-signatory of the Regional Strategy on Research for Innovation, with the Central European Initiative, the Danube Initiative, and it is a member of UNESCO.

In terms of **European Research Area** priorities, Bosnia and Herzegovina participates in the European Research Area Committee and related advisory bodies and initiatives. It also participates in the European Strategic Forum on Research Infrastructure, but has to develop the roadmap for researcher infrastructure. Bosnia and Herzegovina has concluded numerous bilateral cooperation agreements, with a focus on close cooperation with neighbouring countries and the EU.

All competent authorities need to agree in order to enable the implementation of international research and innovation agreements. The allocated staffing and budget for supporting international cooperation are not adequate and need to be increased. An observer to participate in the Strategic Forum on International Cooperation has not been nominated.

Bosnia and Herzegovina has **some level of preparation** in the area of science and research.

The country actively participates in the EU research programmes and other regional initiatives, but its capacity for technological absorption and for research, development and innovation actions is limited due to its fragmented national research landscape. Key obstacles include low expenditure and investment in research and development, a very low number of researchers per inhabitants, very few innovation related policies or strategies and very limited cooperation between academia and the private sector. Bosnia and Herzegovina should increase investment in research and innovation and introduce concrete measures which would effectively prevent brain drain. Strong efforts are needed to ensure a harmonised and systematic approach from all levels of authority in addressing priorities in this sector, ensure effective implementation of strategic objectives, as well as the adoption of the smart specialisation strategy.

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;
→ adopt the smart specialisation strategy;
→ prepare and adopt the roadmap for research infrastructure.

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.

Under *the SAA* Bosnia and Herzegovina and the EU Member States are required to cooperate with the aim of raising the level of general education and vocational education and training in Bosnia and Herzegovina. They are also required to cooperate on youth policy and youth work, including on non-formal education. Achieving the objectives of the Bologna Declaration is a priority for higher education systems on both sides. The cooperation needs to aim at ensuring that access to all levels of education and training in Bosnia and Herzegovina is free of discrimination on any grounds.

According to the constitutional and legal framework, in Bosnia and Herzegovina, the competences in the area of education and culture rest predominantly with the *Republika Srpska* entity, Brčko District, and cantons with the Federation entity playing a coordinating role. The state-level competence primarily takes the form of internal coordination, based on the constitutional responsibility to represent and commit the country at international level, and in case of education, to oversee implementation of framework legislation.

Ministries in charge of education and culture are in place at entity and cantonal level and there is a competent department in Brčko District. At state level there is no specific ministry of education and culture although, the Ministry of Civil Affairs has a coordinating role for the areas covered by this chapter.

There are competence disputes between the *Republika Srpska* entity and the state and between the cantonal and the Federation level. Such disputes impede the capacity of Bosnia and Herzegovina to effectively communicate with the EU institutions, as demonstrated in the preparation of the replies to the European Commission's follow-up Questionnaire: due to disagreements no replies could be given to a number of questions in areas covered by this chapter

As regards the legislative framework, four framework laws are in place at the state level, and the other levels of government need to harmonise their laws with them. Some cantons have not adopted their specific legislation. The purpose of framework laws is to provide principles and standards and to harmonise and to coordinate legislation and policies of educational authorities within Bosnia and Herzegovina and with EU standards and principles, and cover pre-school, primary and secondary education, secondary vocational education and training and higher education. Legislation needs to be harmonised between the state level, entity and cantons.

The constitutional set-up provides for a complex and fragmented system which contributes to the lack of common standards for the different levels of education, as well as in teacher training and performance evaluation.

Due to demographic changes, the number of students enrolled at all levels of education is gradually decreasing. In pre-school education the enrolment trend is positive, but still very low compared with the EU average (in 2017/18: approximately 18% compared with 95.3% in the EU, for children from the age of 4 until the start of the compulsory primary education).

Comprehensive reforms have been undertaken in education. Recent reforms addressed mostly the labour market needs through the development of Bosnia and Herzegovina qualifications framework for all levels of education. However, enrolment policies are inefficient in channelling students to fields of study which are on demand on the domestic labour market.

The lack of relevant strategic documents in the labour sector prevents the establishment of an interface with educational reforms. In addition, an inter-sectoral Commission for qualification framework has to be established. A state-wide vocational education and training strategy expired in 2015. A new strategy should give particular focus to skills development in sectors with growth potential. The mismatch of qualifications of labour force and labour market

needs has to be decreased especially in higher and vocational education. The efforts of education authorities to cover this mismatch are not harmonised. Additional efforts are needed to improve also the quality of non-formal education, especially in terms of development of the policies related to validation of non-formal and informal learning. Measures dedicated to disadvantaged groups are in place regulating qualifications and standards for semi-qualified labour force giving an opportunity to continue education. Disabled persons are part of mainstream education.

Better efforts to improve quality assurance across all levels of education are required. Quality assurance procedures for developing and validating learning outcomes-based qualifications have to be established.

The longstanding disputes between the two Accreditation Agencies, the one at state level and the one in the *Republika Srpska* entity hamper the accreditation of higher education institutions and the new study programmes. This situation has a negative impact on the overall quality of the education system and puts the participation of the country in Erasmus+ projects at serious risk.

Participation in this EU programme fosters young people's non-formal learning at international and national levels so as to enhance their competences, skills and employability. Records show 3,700 mobilities of staff and students from Bosnia and Herzegovina since 2015, and 30 capacity building projects are currently being implemented in the field of higher education involving local beneficiaries.

Bosnia and Herzegovina also needs to enhance the administrative capacities of the National Erasmus+ Office, responsible for the local management of the international dimension of the higher education aspects of this programme.

The lack of cooperation and coordination between entities on areas of education, training and employment continues to undermine overall policy, including as regards obtaining consolidated education related data on vocational education and training. Initial teacher education needs to be reformed in line with developed qualification and occupational standards. The continuous professional development of teachers is not harmonised within the country and is not based on results from an external assessment of learning outcomes and students achievements but is the result of consultations between pedagogical institutes, school principals and teachers in each entity/canton separately. Student-centred and competence based learning are in an initial stage due to a very low level of implementation of outcome-based curricula

Children with disabilities are part of mainstream education, but most schools in Bosnia and Herzegovina are not ready to fully accept them as they lack required infrastructure and transportation. Teachers are not sufficiently trained to use adequate learning methods to work with children with special needs and to give individual support. There is a lack of school assistants to support both children and teachers.

In 2018, the country participated in the OECD Programme for International Student Assessment (PISA) for the first time with results due to be published in December 2019. The country will also participate in the TIMMS 2019 and PIRLS 2021 international assessments.

On cultural policy, the Strategy of Cultural Policy in Bosnia and Herzegovina was adopted in 2008 and its objectives are pursued through support for projects from budget grant funds. The institutions at state level are the Commission to Preserve National Monuments, the Archive of Bosnia and Herzegovina and the State Commission for Cooperation of Bosnia and Herzegovina with UNESCO. On Creative Europe, two coordination desks have been nominated, one for the cultural sector and one for the audio-visual sector. Regarding the

youth, there are no youth policies at state level, nevertheless there is the Commission for Coordination of Youth Issues within the Ministry for Civil Affairs. This commission comprises representatives of competent state, entities' and Brčko District ministries, and youth NGOs.

According to the Federation entity Law on youth, all levels of authority (municipalities/cities/cantons) are obliged to define, adopt and implement youth strategies. Brčko District has its own Law on Youth, which regulates, inter alia, conditions for institutional and systematic care for youth, their organisation, social action and participation in decision-making. In the *Republika Srpska* entity the Youth Policy 2016-2020 is under implementation and it focuses on youth employment.

Regarding the bodies representing the young people, in the Federation entity there are Youth Councils, established at the municipalities, cantonal and entity level. The youth Council of the Federation entity is defined as an umbrella youth association composed of cantonal youth councils. The Youth Council of the *Republika Srpska* entity is also the umbrella organisation of the youth, gathering local and the entity's youth organisations with the aim of representing their interests in the institutions of the entity and in international cooperation.

On sport, Bosnia and Herzegovina has not ratified the Council of Europe Convention on the Manipulation of Sports Competitions and the Convention on Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events. The Council of Europe Anti-doping Convention and the UNESCO International Convention against Doping were ratified in 1994 and 2009 respectively.

Bosnia and Herzegovina is **at an early stage** of preparation in the area of education and culture.

The education system lacks common standards for the different levels of education, as well as in teacher training and performance evaluation. Teaching curricula are outdated and not aligned with the country's needs, leading to wide skills mismatches, a major impediment preventing graduates from entering the labour market. 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 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 across the country;
→ develop a Vocational Education and Training strategy addressing labour market needs;
→ establish an inter-sectorial commission for National Qualification Framework.

Chapter 27: Environment

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.

The SAA requires the parties to develop and strengthen their cooperation in the environmental field with the vital task of halting further degradation and start improving the environmental situation with the aim of sustainable development. The parties shall, in particular, establish cooperation with the aim of strengthening administrative structures and procedures to ensure

strategic planning of environment issues and coordination between relevant actors and shall focus on the alignment of Bosnia and Herzegovina's legislation to the EU acquis. Cooperation could also centre on the development of strategies to significantly reduce local, regional and trans-boundary air and water pollution, including waste and chemicals, to establish a system for efficient, clean, sustainable and renewable production and consumption of energy, and to execute environmental impact assessment and strategic environmental assessment. Special attention shall be paid to the ratification and the implementation of the Kyoto Protocol. Protection of environment should be addressed also in other policy areas such as in transport and industrial cooperation.

According to the constitutional and legal framework, the competences for environment and climate change rest predominantly with the two entities, and Brčko District. In the Federation the competence is shared between the Federation and the cantons. The state level draws up policy and harmonises and coordinates entities' activities and plans that have an international dimension. It has the constitutional responsibility to represent and commit the country at international level.

At state level the Ministry of Foreign Trade and Economic Relations is responsible for drawing up policies and basic principles and for coordinating of activities and harmonising entity level plans relevant for international relations with regard to the environment and climate change. In the *Republika Srpska* entity, responsibility for the environment lies with the Ministry of Spatial Planning, Construction and Ecology and the Ministry of Agriculture, Forestry and Water Management while in the Federation responsibility lies with the Ministry of Environment and Tourism and Ministry of Agriculture, Water Management and Forestry are responsible for environment. Brčko District Department of Agriculture, Forestry and Water Management and the Department for Spatial Planning, Proprietary and Legal Affairs are in charge. In all cantons there are ministries in charge of environmental issues.

The *Republika Srpska* entity contests state-level competences to represent and act on behalf of the country at international level. This is particularly prominent when it comes to the strategic framework, policy setting, data exchange and reporting, as well as formally regulating roles and appointment procedure for the National Focal Point (NFP) to international conventions.

Due to the complex political and institutional set-up, lack of political consensus and awareness, understaffing and scare financial resources, progress with legal and policy measures requires considerably greater efforts and much more time than in other countries. This has created a considerable backlog in aligning with the EU *acquis* in this area.

Environment

Bosnia and Herzegovina has no state-level law on environmental protection and no state-level authority exclusively dealing with the environment. The alignment of legislation with the *acquis* has been undertaken so far without a National Programme for the Adoption of the Acquis (NPAA) in place or a vertically coordinated approach. Bosnia and Herzegovina needs to develop a systematic monitoring of alignment on the basis of tables of concordance in the field of environment protection and climate change. Implementation often takes place on a project-by-project basis. This entails the danger of lack of ownership by the administration and will have effects on how strategies and legislations are implemented.

A countrywide environment approximation strategy was adopted in 2017, and supplemented by more specific environmental approximation programmes for the entities and Brčko District. There are few sub-sector strategies at state and entity level in place. These are mostly not harmonised between the entities for the respective areas covered. Thus the existing strategies provide unevenly coverage of the environment sector countrywide. A countrywide

harmonised approach in strategic planning needs to be ensured to address the issues in a consistent and comprehensive manner.

Bosnia and Herzegovina needs to ensure an efficient, cohesive and comprehensive environmental inspection and monitoring system or a central database, e.g. for air quality, water, noise and biodiversity.

Horizontal legislation is to a limited extent aligned with the *acquis*. Bosnia and Herzegovina needs to align with the EU environmental *acquis* at all levels of government and strengthen administrative capacities for efficient implementation. Practical implementation at entity level of strategic environmental assessments (SEAs) is very limited. Environmental impact assessments (EIAs) are a widespread tool in the permitting process of both entities. However, for both SEA and EIA, the authorities have a rather wide mandate of discretion. Secondary legislation is not fully aligned with the *acquis* on public participation, which remains often limited. It is necessary to formalise the procedures for appointment and the functions of the NFP for Bosnia and Herzegovina for the implementation of environmental conventions to which Bosnia and Herzegovina is a signatory party. This act is pending and by its adoption the issue of appointment of NFPs to all conventions will be addressed in a systematic manner.

Air protection and **air quality** are under the responsibility of the entities and Brčko District. Industrial air emissions and emissions from vehicles and from domestic heating using firewood and lignite create severe air pollution. They often exceed considerably WHO and EU air quality standards and cause one of the highest average mortality rates by air pollution in the world. Alignment with the *acquis* on air quality is limited and hampered by the complex political and administrative structure, lack of staff and funding. There is neither a national or countrywide strategy or programme for air quality improvement and monitoring nor a functioning countrywide air monitoring network. Reporting to international authorities such as the European Environment Agency has not been formally defined and there is no reporting to the European Commission under the Directive on ambient air quality and cleaner air for Europe. Air quality monitoring networks exist in both entities but not in Brčko District. Due to a lack of resources for the maintenance of devices there is no full and regular monitoring of all parameters in the Federation entity. Air quality plans for areas where levels of pollutants exceed limit values need to be adopted. In the Federation entity, some cantons have their own air quality protection plans for areas where levels of pollutants exceed limit values. In cantons where there are no such laws or plans these are regulated by the Federation entity-level law and strategy. In the *Republika Srpska* entity only Banja Luka has a local air protection programme and air protection plan for areas where air quality limit values are exceeded.

Alignment with the EU *acquis* on reducing the sulphur content of certain liquid fuels (heavy fuel oil limiting value for sulphur content being 1%) has been pending for several years and is considered by the Energy Community Council as a serious and persistent breach of the Energy Community Treaty. Bosnia and Herzegovina is only partially aligned with EU legislation on volatile organic compounds (VOC). Control of VOC emissions in the Federation entity is regulated in rulebooks taken over from Socialist Federal Republic of Yugoslavia. There are no accredited bodies in Bosnia and Herzegovina for monitoring VOC emissions.

Regarding **waste management,** strategies exist only at entity and Brčko District level. The Federation entity is implementing its 2008-2018 waste management strategy through the 2012-2017 waste management plan. A 2017-2026 waste management strategy is in place in the *Republika Srpska* entity, but a related waste management plan for its implementation

needs to be adopted. In the Federation entity, cantons are obliged to develop and subsequently implement their own cantonal waste management plans. Seven out of ten have done so[12].

In terms of the legislative framework, waste management is implemented primarily through entities and Brčko District laws on waste management. In the Federation entity, waste management is a shared responsibility with cantons. Some of the cantons have their own legislation on waste management. Due to the administrative order of Bosnia and Herzegovina, the country 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. Insufficient human and financial resources hamper the development of legislation and its implementation. Bosnia and Herzegovina needs to align with the EU *acquis* on sewage sludge, batteries, packaging, polychlorinated biphenyls/polychlorinated terphenyls and end-of-life vehicles. It also needs to align with the Landfill Directive, adopt a respective Directive Specific Implementation Plan and close or rehabilitate non-compliant landfills. Substantial efforts and awareness raising measures are required to reduce waste generation and promote reuse and recycling.

On **water quality**, the Ministry of Foreign Trade and Economic Relations coordinates cooperation with international institutions in water management affairs. Water resource management is fully assigned to entities and Brčko District. Cantonal authorities are responsible for water management at local level and for tariff supervision. In the *Republika Srpska* entity, tariff oversight is covered by the municipalities. The Federation entity is implementing its water management strategy for 2010-2022, and the *Republika Srpska* entity is implementing its strategy for integrated water management for 2015-2024. Alignment with the EU *acquis* on water quality is advanced. There is no state-level law on water. Thus, alignment with EU water-related legislation is done through entity-level and Brčko District-level laws on water. Specific plans for implementing the EU legislation on drinking water, urban waste water and flood risk management need to be adopted. Following the adoption of the Sava River basin management plans by both entities' and Brčko District, the water management plan for the Adriatic Sea River Basin in the Federation and the decision on the adoption of the Trebišnjica River Basin management plan of the *Republika Srpska* entity , the competent authorities at state level now need to adopt a 'Roof report on river basin management plans' for the country. An action plan for flood protection and river management in Bosnia and Herzegovina for 2014-2021 is being implemented. Floods hazard and risk mapping for the entire country is under preparation.

Due to its specific geographical position, Bosnia and Herzegovina is one of the richest countries in Europe in terms of biodiversity. However, alignment with the *acquis* on **nature protection**, in particular the habitats and birds directives, is very limited. The protection of nature and biodiversity is regulated to some extent by the laws on nature protection at the level of the entities and Brčko District. A 2015-2020 strategy for biodiversity and landscape protection for Bosnia and Herzegovina and action plan are in place. The list of potential Natura 2000 sites and secondary legislation needs to be adopted. The planning and construction of power plants, including hydro, wind and solar power plants, requires *inter alia* compliance with EU environmental legislation including the directives on birds and habitats, SEA and, for concrete projects, EIA. There is no system in place in Bosnia and Herzegovina for collecting information on biodiversity and for systematic monitoring of the biodiversity. The 2015-2020 strategy and action plan for the protection of biological diversity in Bosnia and Herzegovina aims to aligning with the requirements under the UN Convention on Biological Diversity. Bosnia and Herzegovina needs to designate institutions, ensure the necessary human and financial resources and establish structures for implementing the

[12] Except the Herzegovina-Neretva, Posavina and Zenica-Doboj Cantons

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Biannual and annual reports on trade in CITES species have been submitted.

Alignment with the EU *acquis* on **industrial pollution control and risk management** is very limited. A national emission reduction plan (NERP) for large combustion plants was adopted in December 2015 and submitted to the Energy Community Secretariat. The plan is under implementation. A pollutant release and transfer register (PRTR) needs to be fully operational for Bosnia and Herzegovina. This includes enforcing the obligation to report to PRTR countrywide, enabling public access and integration of collected data and transmission to the EU institutions. Due to insufficient resources the ratification of the PRTR Protocol to the Aarhus Convention was stopped. Bosnia and Herzegovina needs to further align with the Industrial Emissions Directive (IED). Bosnia and Herzegovina is party to the Convention on the Transboundary Effects of Industrial Hazards. Related controlling procedures at state, entity and Brčko District level are in place. Bosnia and Herzegovina is not aligned with the EU Directive on the control of major-accident hazards involving dangerous substances (Seveso III).

On **chemicals,** a national implementation plan for the Stockholm Convention on Persistent Organic Pollutants (POPs) in Bosnia and Herzegovina was adopted in 2016. It contains 19 strategies and action plans. There is no state-level law on chemicals. Legislation covering chemicals is at entity and Brčko District level. Bosnia and Herzegovina needs to align with the EU's REACH Regulation concerning the registration, evaluation, authorisation and restriction of chemicals at all levels of government and strengthen the administrative capacities necessary for effective implementation. The country also needs to implement the EU Regulation on Classification, Labelling and Packaging of substances and mixtures (CLP) and appoint the bodies responsible for receiving information for formulating preventative and curative measures. It also needs to align with EU legislation on asbestos and on the protection of animals used for scientific purposes. Bosnia and Herzegovina is a party to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade but has not fully implemented it.

There is no state-level law or countrywide **noise** reduction policy in Bosnia and Herzegovina. Noise levels are only measured as needed for spatial planning purposes. The area is regulated by entity, Brčko District and cantonal regulations. In the Federation entity it is covered by the law on chemicals while in the *Republika Srpska* entity the noise area is regulated by the law on environmental protection.

Regarding **civil protection**, earthquakes, floods, heavy snowfall, landslides, mine contamination as well as forest fires have been identified as the main disaster risks for Bosnia and Herzegovina citizens. At the state level, the competent administrative bodies for disaster risk management are the Ministry of Security and the Coordination Body for Protection and Rescue, an expert operational body at the Bosnia and Herzegovina Council of Ministers. The Ministry of Security hosts the BiH-112 Operational-Communication Centre which is not linked to the Common Emergency Communication and Information System (CECIS) of the Commission. There are also civil protection authorities at the entity, Brčko District and canton level. At municipality level there are civil protection services, with mayors having the ultimate authority. Due to decentralised political structure and the existence of several levels of government, the normative, strategic and institutional framework for civil protection in the country is complex. There is a lack of cooperation in civil protection between the entities and the Brčko District.

The Framework Law on Protection and Rescue in Bosnia and Herzegovina regulates international cooperation as well as the competences and coordination among the designated

civil protection authorities in Bosnia and Herzegovina. The operative system, including resources for the protection and rescue of people and property, are regulated by entity legislation and a Brčko District law.

The country is preparing to become a participating state of the Union Civil Protection Mechanism (UCPM). There is a need for more systematic horizontal cooperation and enhanced vertical coordination, including on standardisation and methodologies applied. The 112 European unified emergency number (for police, ambulance and firefighters), the connection to CECIS and the Secure Trans European Services for Telematics connections between Administrations (sTESTA), as a precondition to connect to CECIS, need to be established.

Climate change

Climate change policy and legislation are under the responsibility of ministries and bodies at all levels of government. The Ministry of Foreign Trade and Economic Relations is the state-level ministry in charge. However, neither at entity and Brčko District nor cantonal levels are there clearly defined roles of specific ministries or bodies regarding responsibilities for drafting, implementation and monitoring of policies, legal acts and measures for climate change. There are no clear efforts to mainstream climate considerations into other relevant policy areas. Bosnia and Herzegovina authorities suffer from insufficient human and financial resources also in this area. Bosnia and Herzegovina has a focal point as regards the UN Framework Convention on Climate Change (UNFCCC). However, an overall formal procedure needs to be put in place to appoint and determine the functions of a NFP for implementation of all environmental conventions to which Bosnia and Herzegovina is a signatory.

The level of alignment on EU climate *acquis* is limited. Bosnia and Herzegovina does not have a separate state-level law on climate change. The legal basis for action in the field of climate in the *Republika Srpska* entity is a provision in the Law on Air Protection. The Federation of Bosnia and Herzegovina does not have any specific legislation on climate. The countrywide 2013 climate change adaptation and low emissions development strategy for Bosnia and Herzegovina covering the period 2013 – 2025 is currently being updated. However, its implementation consistent with the EU 2030 framework on climate and energy policies and its integration into all relevant sectors is very slow, mainly due to lack of knowledge and institutional capacity. 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 climate *acquis* and on building institutional capacities in the medium term. Bosnia and Herzegovina has established a working group with the aim to develop an integrated national energy and climate plan (NECP) in line with the 2018 Energy Community recommendation and related policy guidelines.

As for the UNFCCC, the third national communication, containing the greenhouse gas (GHG) inventory reports for 2002-2009 and 2012-2013 and the second Biennial Update Report on GHG emissions containing inventory data for 2014, was adopted in May 2017 and submitted to the UNFCCC secretariat. The responsibility for compiling GHG inventory reports lies with the entity-level hydro-meteorology services. Preparation has started on the fourth national report and the third biannual report on climate change. Bosnia and Herzegovina ratified the Paris Agreement in April in December 2016 and should now give priority to implementing its National Determined Contribution (NDC) as specified in its first report of March 2017 to UNFCCC.

Bosnia and Herzegovina needs to align with the climate *acquis* including the EU Monitoring and Reporting Regulation, the directives on fuel quality, ozone depleting substances, fluorinated gases, carbon capture and storage and other relevant legislation. Bosnia and Herzegovina has not ratified the 2016 Kigali amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer which entered into force in January 2019. Administrative capacities of the respective ministries and bodies at all levels need to be strengthened significantly, and particularly in support of the implementation of NDC.

Bosnia and Herzegovina is at an **early stage of preparation** / **has some level of preparation** in the area of environment and climate change. Following the adoption of the countrywide environmental approximation strategy for Bosnia and Herzegovina, the country needs to strengthen and fully implement a countrywide coordinated and harmonised approach in strategic planning and legislation in the environment sector and all sub-sectors, aiming at further alignment with the EU *acquis* at all levels of government. Bosnia and Herzegovina has to establish a functioning air monitoring network throughout the country and ensure harmonised collection of data in order to take appropriate measures against air pollution.

On climate change, Bosnia and Herzegovina should considerably strengthen its administrative capacities across the country and improve inter-sectoral cooperation to (i) address climate change in a systematic manner that goes beyond the current project-by-project approach and (ii) ensure further alignment with climate *acquis* and enable its efficient implementation and enforcement.

In the coming year, Bosnia and Herzegovina should:

→ start the process of implementing the adopted countrywide Bosnia and Herzegovina environmental approximation strategy, and accordingly enhance the legal framework, strengthen administrative capacity and monitoring systems and improve inter-institutional coordination among all authorities on environmental protection;

→ formalise procedures for the appointment and functions of the national focal point 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 NDC, update and implement the climate change adaptation and low emissions development strategy and start to develop an integrated NECP in line with the Energy Community recommendation.

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.

The SAA provides for enhanced cooperation between the EU and Bosnia and Herzegovina with the aim of aligning consumer protection standards in Bosnia and Herzegovina with those of the EU, including by means of active consumer protection and efficient law enforcement.

According to the constitutional and legal framework, the competences for consumer protection are exercised by the state level, the two entities and Brcko District: the state level

has legislation in place which is applied in the two entities, cantons and Brčko District alongside their own legislation regulating certain issues in this area. For health protection the competences rest predominantly with the two entities, cantons and Brčko District. The state level has mainly a coordination function, and represents and commits the country at international level, whereas there is no state-level legislation or strategy in this area.

As regards consumer protection, at state level the Ministry of Foreign Trade and Economic Relations, the Market Surveillance Agency and the Ombudsman for Consumer Protection are the lead institutions for consumer protection, while at the entity level these are the Federation Ministry of Trade and the *Republika Srpska* Ministry of Trade and Tourism. In Brčko District the Department of Economic Development, Sports and Culture is in charge. Competent inspection authorities are also in place at entity, cantonal and Brčko District level. In addition, consumer protection associations have an important role in this area.

In the area of health protection, at state level the Ministry of Civil Affairs has a coordinating role and deals mainly with the country's international obligations, while the entity Ministries of Health and 10 cantonal ministries are in charge of health protection.

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*. Consumer protection policy in the country consists of a series of measures intended to protect consumers' health and safety, and economic interests, to ensure that damage compensation is paid to consumers and inform consumers. The Law on consumer protection applies in the Federation entity and Brčko District, whereas the *Republika Srpska* entity applies its separate law on consumer protection.

A Consumer Protection Council is in place acting as an expert and advisory body of the Council of Ministers. The basic tasks of this Council include proposing an Annual State Consumer Protection Programme, monitoring the implementation of that programme, defining the fundamentals of consumer protection policy and direction of the scope of activities funded from the state budget. It also defines the goals and tasks related to educating, informing and raising awareness of consumer protection. There are 16 consumer protection organisations in the country – 7 in the Federation entity, 8 in the *Republika Srpska* entity and 1 in the Brčko District. A consumer is entitled to court and out of court protection and to alternative dispute resolution.

As regards *product safety*, the market surveillance system in the country is composed of the Market Surveillance Agency and other administrative authorities at entity and Brčko District level. The market surveillance system authorities check and ensure the compliance of non-food products that are placed on the market with regard to the product safety requirements. They demonstrate a good level of cooperation and coordination through the regular work of the coordination board, though further improvement is needed. The legal framework consists of the Law on market surveillance and the Law on general product safety adopted at state-level. Full alignment of the legislation with the *acquis* needs to be ensured.

As regards **public health**, there is no health strategy at the state level or in the Brčko District. In the Federation entity the strategic plan for health development expired in 2018. The *Republika Srpska* entity has a policy for improvement of health of the population valid until 2020. Three cantons (Zenica-Doboj, Sarajevo and Herzegovina-Neretva) have developed their own strategies. There is no harmonisation between the strategic documents developed at the different levels of decision-making. The relevant legislation is not aligned with the EU *acquis* across the country.

International reporting is performed by the Ministry of Civil Affairs, which collates the data collected by healthcare institutions in the entities and Brčko District. There is limited capacity for statistical governance as a prerequisite for evidence-based policy due to lack of harmonisation and cooperation between the different levels of government.

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

Legislation on the protection of the population against communicable diseases needs to be aligned with the EU *acquis* at all level 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 Brčko District. These measures are implemented in cooperation with international organisations and civil society.

The legal framework regulating the areas of *blood, tissues, cells and organs*, at entity and Brčko District level needs to be 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 does not have the necessary administrative capacities, including human and material resources, to fulfil the requirements laid down in the EU *acquis* on human organ, tissue and cell transplantation.

As mentioned in Chapter 23 (*Judiciary and fundamental rights*), Bosnia and Herzegovina has a network of 74 community-based *mental health* centres with multi-disciplinary teams and some of them with additional specialists. Beds are available on psychiatric wards in general hospitals for acute cases, and secondary and tertiary healthcare services are provided by the teaching clinical centres. A special forensic psychiatric hospital provides treatment to forensic patients from across the country.

Preventative measures in respect of *drug abuse prevention and harm reduction* 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 there is a need to introduce a more systematic approach.

As regards *cancer screening*, Bosnia and Herzegovina has no countrywide cancer control plan, or a countrywide early detection programme. At the entity level, the Federation 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. Brčko District has no register or early detection programmes.

There is no countrywide plan for *rare diseases*. Entity strategies exist with a timeframe for implementation until 2020, but their implementation is limited. There is no register in Brčko District and some cantons.

Bosnia and Herzegovina is at an **early stage** of preparation in the field of consumer protection and public health.

Special attention should be paid to aligning the legislation on consumer protection at all levels with the EU *acquis* and ensuring its proper enforcement. In the area of public health, Bosnia and Herzegovina should make additional efforts to establish an effective system of coordination and cooperation between different levels of government and further align its legislation with the EU *acquis.*

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 and establish an oversight system in the field of substances of human origin with a view to ensuring efficient coordination in the whole country;
→ align the state-level Law on consumer protection with the EU *acquis*.

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.

Under the SAA a free-trade area between Bosnia and Herzegovina and the EU is established with a progressive removal of customs duties on a wide range of products. The Agreement requires Bosnia and Herzegovina to gradually align its customs system and customs legislation to that of the EU. The SAA also includes provisions on rules of origin, which have to be complied with in order to benefit from trade preferences.

According to the constitutional and legal framework, in Bosnia and Herzegovina customs policy is an exclusive competence of the state level.

The Indirect Taxation Authority (ITA) is the competent body in charge of implementing customs legislation and policies, while the Ministry of Foreign Trade and Economic Relations is responsible for customs policy. The ITA is an autonomous administrative organisation responsible for its activities, through its governing board, to the Council of Ministers of Bosnia and Herzegovina. *See also Chapter 16 on taxation*.

The **customs legislation** is regulated by the 2003 Law on customs policy and its implementing provisions, the Law on customs tariff and the Law on customs offences. The 2015 Law on customs policy, which is partially aligned with the *acquis*, is not implemented. Further alignment with the Union Customs Code is needed, notably on custom procedures and simplified procedures. The 2015 Customs Policy Law provides for the introduction of authorised economic operators and for additional simplified customs procedures. However, these require use of the electronic signature, which is not operational on a countrywide basis. This leads to difficulties in the practical implementation of taxation and customs legislation.

The customs tariff of Bosnia and Herzegovina is harmonised with the Combined Nomenclature (CN). The system of customs valuation in Bosnia and Herzegovina is harmonised with EU customs valuation rules. Bosnia and Herzegovina implements preferential rules of origin with the EU, CEFTA, EFTA and Turkey. Furthermore, it applies diagonal cumulation with the EU and other countries subject to the EU stabilisation and association process. The status of approved exporter also exists.

The country is an observer in the Common Transit Convention and intends to join it once it has met all legal and technical requirements. Current transit procedures used in Bosnia and Herzegovina are the TIR (Transports Internationaux Routiers - International Road Transports) and ATA (Admission Temporaire/Temporary Admission) carnets, as well as a simplified transit procedure in line with the *acquis, i.e.* the Union Customs Code (UCC).

The country should also continue aligning its provisions on the protection of intellectual property rights (IPR) in the area of customs enforcement. *See also Chapter 7 intellectual property law*.

With regard to **administrative and operational capacity,** the ITA is the competent body in charge of customs policy implementation. It requires substantial strengthening of its administrative capacity 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). The risk analysis capacity is hampered by an insufficient IT system. The customs authorities perform a high percentage of physical controls.

Bosnia and Herzegovina is participating in the Customs 2020 and Fiscalis 2020 programmes. The ITA has new adequate premises for its customs laboratory.

Bosnia and Herzegovina has **some level of preparation** in the area of customs union. Customs legislation is not fully aligned with the *acquis*.

Bosnia and Herzegovina needs to further align its 2015 Law on customs with the Union Customs Code. The administrative and operational capacity of the ITA needs to be improved by continuously adapting its structure and increasing its resources, in order to enforce customs legislation and make sure that procedures and working methods are implemented effectively.

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

→ implement the 2015 Law on Customs Policy; and eliminate administrative burdens in order to ensure the interoperability of the electronic signature system on a countrywide basis;
→ reinforce the administrative and operational capacity of ITA;
→ 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.

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 in the field of humanitarian aid and development policy.

The SAA includes a core trade part which establishes a free-trade area between Bosnia and Herzegovina and the EU. It includes provisions requiring the Parties to act in accordance with the rules of the WTO or relevant international obligations. Bosnia and Herzegovina is also a member of the Central European Free Trade Agreement (CEFTA).

According to the constitutional and legal framework, the state level has exclusive competences in the areas covered by this chapter as regards the conclusion of trade and investment agreements with other countries and with international organisations. In addition to the state-level Law on policy of foreign direct investment, the two entities also have laws on foreign investments. The state-level competence for development policy and international humanitarian aid is exercised only to a very limited extent.

At state level the Ministry of Foreign Trade and Economic Relations is responsible for external trade issues and is leading the negotiations on WTO accession and other trade-related agreements. On development policy and humanitarian aid for other countries, the Ministry of

Foreign Affairs and the Ministry of Finance are in charge, but are neither particularly active nor provide any significant funding.

Upon accession to the EU, Bosnia and Herzegovina will be bound by the **common commercial policy** and will have to apply the customs union, common customs tariff and all the free trade agreements (FTAs) and autonomous (preferential and non-preferential) trade regimes that the EU grants to certain non-EU countries; this includes the Generalised Scheme of Preferences (GSP). Bosnia and Herzegovina will also have to terminate all its current preferential trade agreements with third countries and bring all other agreements, including non-preferential trade agreements, in line with the obligations imposed by EU membership. Moreover, Bosnia and Herzegovina will become a party to the European Economic Area (EEA) and will have to apply all the EU's international trade agreements.

Bosnia and Herzegovina is not a member of the World Trade Organisation (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. The Russian Federation has also raised in the multilateral discussions one outstanding issue on the need to amend the legislation on the quality of liquid petroleum fuels, a decision that needs to be approved by the Bosnia and Herzegovina's Council of Ministers. Bosnia and Herzegovina's commitments under the General Agreement on Tariffs and Trade (GATT) and under the General Agreement on Trade in Services (GATS) should in principle be aligned to the largest extent with those of the EU. Upon accession to the EU, Bosnia and Herzegovina will have to apply the Common Customs Tariff of the European Union and the *acquis* on trade in services and the EU's WTO commitments will supersede those of Bosnian and Herzegovina. Therefore, depending on the final terms of the country's accession to the WTO, Bosnia and Herzegovina's WTO commitments may have to be modified upon accession to the EU.

The average Bosnia and Herzegovina *ad valorem* tariff rate applied is 9.3% for agricultural products, 2.9% for fish and fishery products and 5.8% for industrial goods, with an overall average of 6.3%. The EU average most favoured nation (MFN) *ad valorem* tariff rate is 14.1% for agricultural products, 12.2% for fish and fishery products and 4.3% for industrial goods, with an overall average of 6.3%. A Bosnia and Herzegovina law on foreign trade policy and secondary legislation are in place and include provisions on anti-dumping, countervailing and safeguard measures.

The export credits scheme in Bosnia and Herzegovina is operated solely by the Export Credit Agency of Bosnia and Herzegovina (IGA), which provides short-term export credit insurance. The IGA also provides short-term export credit support for exports to the EU. The OECD Arrangement on Officially Supported Export Credits is the framework that the IGA applies when assessing and classifying risks. The IGA is a member of the Prague Club of the Berne Union. In line with EU membership requirements, Bosnia and Herzegovina will have to ensure full alignment of its short-term export credit insurance system with the EU competition rules.

Concerning dual-use export controls, Bosnia and Herzegovina applies export controls on dual-use goods in accordance with its 2016 Law on the control of foreign trade of dual-use goods and the list of dual-use goods adopted in 2017. Bosnia and Herzegovina is not a member of the multilateral export control regimes (such as the Wassenaar Arrangement) that could facilitate preparations to implement the *acquis* on dual-use goods export control. Bosnia and Herzegovina is not a member of the Kimberley process and does not control trade in rough diamonds. In line with EU membership requirements, Bosnia and Herzegovina will need to apply relevant EU regulations governing this field.

As regards **bilateral agreements with third countries**, Bosnia and Herzegovina has been a member of the Central European Free Trade Agreement (CEFTA) since May 2007. It also has a free trade agreement with the European Free Trade Association (EFTA); and has concluded bilateral FTAs with Turkey and Iran.

Bosnia and Herzegovina is implementing 42 bilateral investment treaties (BITs), 20 of which are with EU Member States. Those agreements will become incompatible with the Treaty on the Functioning of the European Union (TFEU) in the event of Bosnia and Herzegovina's accession to the EU. As regards agreements with non-EU countries, from the day of its accession to the EU, Bosnia and Herzegovina will need to implement Regulation (EU) No 1219/12 establishing transitional arrangements for bilateral investment agreements between Member States and third countries. The BITs which are incompatible with the *acquis* will have to be brought in line with the *acquis* or terminated. Bosnia and Herzegovina has been implementing 29 agreements on trade and economic cooperation. The country has laws in place for anti-dumping actions and countervailing measures as to offset the injury caused by subsidised imports. Upon EU accession, Bosnia and Herzegovina will have to repeal national legislation related to its trade defence instruments and measures based on this legislation.

With regard to administrative capacity, future participation in EU decision-making mechanisms on trade and on the implementation and enforcement of the *acquis* requires Bosnia and Herzegovina both to further strengthen the administrative capacity and improve cooperation and coordination between ministries and different levels of competent authorities.

Bosnia and Herzegovina has no legislation on **development policy**.

As regards **humanitarian aid**, Bosnia and Herzegovina is a recipient of aid programmes rather than a humanitarian aid donor. To date Bosnia and Herzegovina has provided only limited support to non-EU countries on an ad-hoc basis, and participates in some United Nations programmes dealing with humanitarian work with voluntary contributions There is no particular legislation and policy on humanitarian aid and/or development cooperation. The country has no dedicated budget line for this area, if ad-hoc humanitarian aid is approved by the government it is paid out from the budgetary reserve. Dedicated administrative structures are not in place. Both legislation and administrative capacities should be established.

Bosnia and Herzegovina is encouraged to establish 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. The country is also encouraged to build dedicated administrative structures.

Bosnia and Herzegovina has **some level of preparation** in the area of external relations.

Bosnia and Herzegovina needs to ensure that its commercial policy and commitments to third countries and international organisations are aligned and coordinated with those of the EU. The country will have to incorporate the horizontal "REIO clause (Regional and International Organisation)" in all bilateral investment treaties to be signed with non-EU Member States or negotiate a more comprehensive approach in line with EU law if necessary. Also, when terminating the bilateral investment treaties (BITs) which are incompatible with EU law, Bosnia and Herzegovina will need to take into account the existence of the "interim clauses", i.e. the gradual termination clauses to be used to negotiate the removal of such clauses prior to termination.

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

→ finalise the accession to the WTO;

→ start the process that will lead to the establishment of a development and humanitarian aid policy, as Bosnia and Herzegovina will need to create resilient capacities to fulfil the obligations of EU membership in this area.

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.

Under the SAA, Bosnia and Herzegovina is to strengthen cooperation with the EU in the fight against the proliferation of weapons of mass destruction and the fight against terrorism, by taking steps to accede to relevant international instruments and to implement international obligations in these areas. Regional cooperation and the development of good neighbourly relations, cooperation in the areas covered by the EU's Common Foreign and Security Policy (CFSP) of the EU, and full cooperation with the International Criminal Tribunal for Yugoslavia constitute essential elements of the agreement.

According to the constitutional and legal framework, the competences for foreign, security and defence policy rest exclusively at the state level. At state level, the Presidency is responsible for conducting foreign policy and representing Bosnia and Herzegovina in international and European institutions and organisations, negotiating, denouncing and, with the consent of the Parliamentary Assembly, ratifying treaties. The Ministry of Foreign Affairs is in charge of implementing the foreign policy as defined by the Presidency. The Presidency exercises supreme command and control over the Armed Forces of Bosnia and Herzegovina whereas the command and control chain continues to the Minister of Defence and the Chief of Joint Staff of the Armed Forces. The Ministry of Defence is responsible for the overall strategy and policy of the defence system and for ensuring implementation of legislation in the area of defence. The Joint Staff of Bosnia and Herzegovina's Armed Forces is responsible for planning, organising and implementing the directives and orders of the Minister of Defence

Bosnia and Herzegovina's Strategy of Foreign Policy 2018-2023 outlines four pillars: security and stability, economic prosperity, the protection of the interests of Bosnia and Herzegovina's citizens abroad and international legal cooperation as well as the promotion of the country in the world. The main strategic goals and priorities are: full membership in the EU, activation of NATO Membership Action Plan, fight against terrorism, cooperation at regional level, and bilateral and multilateral cooperation. At the same time, the implementation of the country's Foreign Policy Strategy goals is affected by frequently divergent positions expressed by the three members of the Presidency.

Administrative structures in the area of foreign, security and defence policy are mostly adequate but their further strengthening will be needed. This includes the need to appoint within the Ministry for Foreign Affairs the persons in charge with performing the functions of 'political director' and of 'European correspondent' as well as ensure the adequate training of the diplomatic staff. The diplomatic and consular service consists of 44 embassies, 6 missions and 6 general consulates. In the MFA, both in the headquarters and diplomatic and consular missions, there is a total of 658 workplaces with 550 persons currently being employed. Regulation and practices applied in the process of appointment of Bosnia and Herzegovina 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 established an intensive **political dialogue** with EU Member States as well as neighbouring countries and within regional initiatives. Relations between Bosnia and Herzegovina and other countries are generally good. At the same time a number of outstanding issues exist, notably when it comes to Croatia and Serbia where border matters needs to be addressed. Bosnia and Herzegovina signed agreements on cooperation in the EU accession process with Montenegro, Serbia, Croatia and North Macedonia. It plays a broadly constructive role in regional cooperation in Southeast Europe and actively participates in initiatives such as the Western Balkans Six, Brdo-Brijuni Process, CEFTA South East Europe Cooperation Process or Central European Initiative. Bosnia and Herzegovina does not recognise Kosovo as an independent state and maintains a very strict visa regime. The Ministry of Foreign Affairs issues individual short-term visas to citizens of Kosovo who have an invitation from a foreign diplomatic mission or international organisation accredited in Bosnia and Herzegovina, or for humanitarian reasons.

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. From beginning of 2008 until the end of 2018, Bosnia and Herzegovina aligned with 541 relevant EU declarations and Council decisions out of a total of 809, representing an average alignment rate of 67%. From beginning of March 2018 to end of February 2019, Bosnia and Herzegovina aligned with 60 out of 86 relevant High Representative declarations on behalf of the EU and Council decisions representing an alignment rate of around 70%.

Bosnia and Herzegovina did not align with High Representative declarations on behalf of the EU and Council Decisions related to the Russian Federation. Bosnia and Herzegovina committed to continue to gradually align its foreign policy with the CFSP and to increasingly proceed with the alignment of its positions with those of the EU on international issues as required under EU membership obligations.

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 has been required. The country initiated in January 2017 the adoption of the draft basis for accession of Bosnia and Herzegovina to the amendments to the Rome Statute of the International Criminal Court but the completion of the process is pending. These are amendments related to war crimes, specifically regarding the use of particular weapons-poison, gases, special bullets as well as concerning the inclusion of the crime of aggression. In addition, 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. The country needs to align with the EU position.

Concerning *restrictive measures,* after aligning with a related EU decision and following the approval of the Bosnia and Herzegovina's Presidency, the Ministry for Foreign Affairs submits for adoption to the country's Council of Ministers the proposal for an implementing decision. An inter-ministerial working group for monitoring the implementation of the international restrictive measures is in place. In addition, the Ministry for Foreign Trade and economic relations coordinates the delivery of the export licenses for arms and military equipment. Such licences need prior agreement of the ministries for Foreign Affairs, Security and Defence. 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. However, Bosnia and Herzegovina has not joined 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 has overall legal and institutional framework broadly in line with the EU *acquis*. However, further improvements are needed 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.

A countrywide 2016-2020 Strategy for Control of Small Arms and Light Weapons (SALW) developed on the basis of relevant international standards is in place, together with an action plan. At the same time, some issues need to be tackled in this area. The provisions of the Bosnia and Herzegovina Law on Marking of SALWs and associated ammunitions do not cover the weapons of the national security forces which were in their possession prior to the entry into force of the law. All weapons of national security forces should be marked and registered into a single registry to ensure adequate traceability of SALWs in the country. In addition, Bosnia and Herzegovina should develop post-manufacture marking requirements for seized or confiscated weapons, and weapons earmarked for deactivation.

Regarding the *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. It 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 was invited in November 2018 to submit the first annual national programme. 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 applies to classified information and materials in any form, either delivered or exchanged between the EU and Bosnia and Herzegovina. Some regular exchanges of classified information, up to the level of EU Restricted, are taking place.

Regarding the **common security and defence policy** (CSDP), an 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. Bosnia and

Herzegovina supports the EU's efforts and activities from the Headline Goal 2010, in particular the strengthening of the capacity to respond quickly to humanitarian rescue operations and peacekeeping missions. Since 2017, two members of Bosnia and Herzegovina armed forces have been involved in the EU Training Mission (EUTM) in the Central African Republic. The contingents of Bosnia and Herzegovina also participate in UN and NATO missions in Congo, Mali and Afghanistan.

Regarding the Armed Forces of Bosnia and Herzegovina, a Defence Review was adopted in 2016, providing for an action plan for the modernisation of the military. The implementation of the Defence Review has been delayed by political divisions and coalition talks following the October 2018 general elections. The financing threshold for the 2019 Defence budget, as prescribed in the Budget Framework Document 2019-21, represents less than 1% of GDP.

Bosnia and Herzegovina has **some level of preparation** in the area of the foreign, security and defence policy.

Bosnia and Herzegovina has to step up its alignment with the EU foreign policy statements and restrictive measures towards third countries and entities. It will need to appoint the persons in charge with performing the functions of 'political director' and 'European correspondent'. Bosnia and Herzegovina has to join a number of international arms control regimes as well as strengthen the monitoring regime regarding weapons and military equipment. Bosnia and Herzegovina should progressively improve its capacities to be able to comply with EU membership obligations in the area of the EU Common Security and Defence Policy.

By granting US citizens exemptions from the jurisdiction of the International Criminal Court, Bosnia and Herzegovina 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 and needs to align with the EU position.

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 Bosnia and Herzegovina Law on Marking to cover these types of firearms.

Chapter 32: Financial Control

The EU promotes the reform of national governance systems to enhance 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.

Under the SAA, Bosnia and Herzegovina shall strengthen cooperation with the EU on priority areas related to the *acquis* in the field of public internal financial control (PIFC) and external audit. Such cooperation aims to develop PIFC, including financial management and control and functionally independent internal audit, and independent external audit systems in Bosnia and Herzegovina, by elaborating and adopting relevant regulation. The agreement as well stipulates the need to build capacities and training for the relevant institutions with the purpose of developing PIFC and external audit, as well as establish and strengthen central harmonisation units for financial management and control and for internal audit systems. There are no specific provisions in the SAA concerning protection of the EU's financial interests and protection of the euro against counterfeiting. At the same time, Bosnia and

Herzegovina has committed under the SAA to ensure that its existing laws and future legislation will be gradually made compatible with the EU *acquis,* and properly implemented and enforced.

According to the constitutional and legal framework the competences for PIFC and external audit rest with the state level, the two entities, and Brčko District. The state level, the two entities and Brčko District have their own legislation and relevant institutions on PIFC and external audit. Competent state authorities and the procedures for protection of the EU's financial interests need to be defined, while the Central Bank of Bosnia and Herzegovina performs technical analysis in the area of the protection of the euro against counterfeiting. While all institutions benefiting from public funds at different levels of government and in public enterprises are expected to implement PIFC, Central Harmonisation Units (CHUs) are the main institutions responsible for developing and disseminating methodological guidance and coordinating PIFC development in the public sector. Supreme Audit Institutions (SAIs) at the respective level of government perform external audit of public funds.

At the state level, the CHU of the Ministry of Finance and Treasury is in charge of policy development for PIFC of the institutions of Bosnia and Herzegovina. The SAI is responsible for external audit of the state budget. At entity level, the CHUs at the Ministries of Finance and SAIs perform a similar role for the institutions at the respective level of authority. Brčko District has a Directorate of Finance that undertakes basic CHU functions but currently lacks the legal framework to formally endorse this role and the Office for Audit of the Public Administration and Institutions of this District carries out external audit. A Coordination Board of CHUs is responsible for the harmonisation of policies and procedures related to public internal financial control. A Coordination Board for the SAIs is in charge of coordinating external audit related issues.

Public internal financial control

A comprehensive **strategic framework** for PIFC needs to be developed. Currently, none of the three levels of government has updated the previous PIFC strategies for the period beyond 2018 and Brčko District has never endorsed an action plan. Previous strategies focused narrowly on financial control rather than on a wider definition of internal control. Bosnia and Herzegovina needs to adopt a comprehensive policy approach on PIFC that defines a common vision across all levels of government on managerial accountability and internal control. This policy vision should be complemented with detailed implementation strategies at state, entity and Brčko District level. The comprehensive policy paper should outline as well the institutional responsibilities and coordination structures for effective implementation. Furthermore, the enabling conditions for implementing managerial accountability are not fully in place, as the countrywide strategic framework on public administration reform is lacking. Central Harmonization Units and institutions in charge of public administration reform and public financial management reform need to coordinate closely in order to ensure a coherent approach for the implementation of PIFC with other strategies. A coordinated monitoring and reporting framework for all these strategies needs to be put in place.

On **managerial accountability**, a clear framework for the strategic planning, the delegation of decision-making, financial and operational management responsibilities, resource allocation, and reporting on the achievement of objectives needs to be designed and embedded in the administrative culture. Although delegation of decision-making is legally regulated at state level and in the Federation entity, the practice of delegation of managerial responsibilities is rare. Both the lack of clear provisions of what constitutes the authority of lower level managers as well as a highly centralised system of decision-making hinder efficient implementation of the principle of managerial accountability.

The legal framework for the functioning of **internal control** is in place at State and entities level, except in Brčko District. However the functioning of internal control is generally weak, particularly regarding risk management. The legal framework at all levels will need to be further revised to reflect the wider definition on internal control in line with the proposed policy approach for PIFC development.

Internal audit is regulated at State and entity levels, except in Brčko District. The criteria for establishing internal audit units exist at these two levels of government in line with international audit standards. However, even though the legal requirements are in place, senior management needs to accept and actively support internal audit. The effectiveness of **internal audit practice** is further limited because internal auditors are often required to perform financial inspection rather than internal audit in line with the standards. There is no systematic, comprehensive programme in place for certification and continuous professional development of audit staff.

Central harmonisation units (CHUs) have been established at state and entity levels. In Brčko District, the Directorate of Finance takes on a basic function, but no legal requirements for the establishment of a CHU have been adopted at this level of government. CHU staffing is not sufficient to effectively provide methodological guidance, promote and monitor reforms. The three CHUs prepare yearly-consolidated reports to their respective governments on PIFC implementation. These reports do not assess progress in implementing the planned activities but assess more generally progress in developing internal audit, focusing on its organisation rather than on quality. The government at state and entity level should adopt an effective mechanism to ensure adequate follow-up to annual reports' recommendations. In Brčko District, the Directorate of Finance, acting as CHU, needs to elaborate and address the report to the government. The CHUs should develop an effective approach and start to implement quality reviews on internal control and internal audit implementation.

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). In practice, instances of executive interference in the budget setting of SAIs have been observed.

Institutional capacity of SAIs needs to be strengthened across government levels. The Federation entity faces a particular challenge in ensuring external audit coverage of its cantonal level. Professional development of auditors is based on auditor education plans adopted by each audit institution and based on guidelines issued by the Coordination Board of SAIs. All SAIs, except the SAI of the Brčko District, are implementing their respective strategic development plans.

As regards the **quality of audit work**, the various SAIs have a mandate, which covers financial, compliance and performance audit. Audit manuals have been adopted broadly in line with the International Standards of Supreme Audit Institutions (ISSAI). As part of their audits, the SAIs assess the state of the internal control systems to detect systemic weaknesses. However, the proportion of the number of performance audits carried out on the total number of audits performed is low. All SAIs have adopted codes of ethics based on the code of ethics of INTOSAI. While SAIs have developed quality control procedures, quality assurance is not systematically implemented.

The **impact of the audit work** of all SAIs is limited. The rate of implementation of audit recommendations needs to be improved. SAIs have limited capacities to analyse the reasons for non-implementation of their recommendations or to carry out follow-up audits. While parliaments have procedures in place for examining audit reports, the level of parliamentary scrutiny to these reports varies across government levels. SAIs can also, based on their own assessment and decision, perform special audit requested by the parliament. Audit reports are published on SAI websites, but a more proactive communication with the media and the wider public to explain audit results, has not been established. The SAIs cooperate with CHUs through joint meetings to raise awareness on PIFC. However, Brčko District is only an observer in the Coordination Board.

Protection of the EU's financial interests

Bosnia and Herzegovina's legislation on state, entity and Brčko District levels ensure some degree of ***acquis* alignment**. The legislation cover many elements of the 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. However, 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 will also need to be ensured.

An **anti-fraud coordination service** (AFCOS) to facilitate effective cooperation with the Commission is not 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 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 ***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.

The Central Bank of Bosnia and Herzegovina ensures **technical analysis** and classifies counterfeit money in national currency, but there are no special procedures for the transmission of examples of counterfeit euro banknotes and coins and of other currencies and related data. Procedures for collecting and indexing statistical data related to counterfeiting banknotes and coins need to be established. No formal **cooperation agreements** exist with the European Commission and the European Central Bank.

Bosnia and Herzegovina is at **an early stage** in the area of financial control. In the medium-term, Bosnia and Herzegovina should adopt and implement a comprehensive public internal financial control policy in line with a countrywide public administration reform strategic

framework. The constitutional anchorage of independence of supreme audit institutions needs to be ensured. Functioning of the coordination board of the Supreme Audit Institutions should be improved and participation of the SAI of Brčko District in this board ensured. Further efforts are needed to address managerial accountability and to strengthen functioning of internal control and internal audit for the whole public sector and public enterprises at all levels of government. Ensuring high-level political support is instrumental for implementing PIFC reforms. Bosnia and Herzegovina needs to allocate appropriate resources to internal audit function across the public sector.

In the coming year, Bosnia and Herzegovina should:

→ start preparing a new medium-term strategic policy paper for public internal financial control with a specific focus on definition and implementation of managerial accountability that spells out the common vision and coordination structure for implementation of countrywide PIFC policy approach;
→ set-up a formal Central Harmonization Unit in Brčko District and ensure adequate staffing of Central Harmonisation Units;
→ ensure more timely and systematic implementation of external audit recommendations at state, entity and Brčko District levels.

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. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

There are no specific rules in the SAA concerning financial and budgetary provisions. At the same time, Bosnia and Herzegovina has committed under the SAA to ensure that its existing laws and future legislation will be gradually made compatible with the EU *acquis*, and properly implemented and enforced.

According to the constitutional and legal framework the competences for the areas covered by this chapter rest predominantly with the state level, which has powers for the areas of customs and VAT, that are essential elements of the EU's own resources. The entities send to the state level the data necessary to count gross national income; such data is equally relevant for the calculation of the future contribution to the EU budget. Law enforcement agencies at all levels play a role in fighting tax and customs fraud.

The main actors at state level are: the Indirect Taxation Authority, which is in charge of customs and VAT (*see chapters 16 and 29)*, the Ministry of Finance and Treasury, the Agency for Statistics (*see Chapter 18)* and the Central Bank. At entity level, the two statistical institutes produce and provide relevant statistics to their counterpart at state level agency so that countrywide statistics can be compiled.

A coordination institution will need to be appointed that is in charge with the forecasting, calculation and reporting the level of the country's contribution to the own resources of the EU or the collection and transfer of the resources to the EU budget and the organisational and procedural links between the institutions involved in the own resources system will need to be established.

Bosnia and Herzegovina has in place all basic principles for the underlying policy areas affecting the own resources system. A single VAT system is in operation, while customs duties are levied on imports, and national accounts are partly harmonised with ESA 2010 standards.

The country's Indirect Taxation Authority (ITA) is responsible for levying indirect taxes, i.e. customs duties, VAT, excise duties and road toll. Other duties charged at the border on the occasion of imports include administrative fees regulated at state level, as well as inspection-related fees and charges imposed by the respective entity/district inspection authority.

ITA has an operational customs division in place for levying **customs duties** but its administrative capacities and procedures need to be strengthened, in particular as regards risk-based post-release controls, simplified procedures and the interconnectivity between national and EU IT systems. All payments of indirect taxes are paid into a single account of ITA and there are no separate accounts to distinguish recovered debts and outstanding debts. ITA maintains special registers for paid taxes and unpaid taxes but these are not adapted to EU traditional own resources accounting.

The VAT division of ITA is in charge of levying **VAT revenues** generated through a single-rate VAT of 17% with a rather limited number of exemptions or items that are taxed at zero rate. In 2015, gross VAT revenues amounted to EUR 2.2 billion, 60% of the total being levied on imports. VAT refunds amounted to roughly one quarter of the total.

In terms of **Gross National Income (GNI) resource**, definitions and accounting rules of ESA 2010 are used for compilation of the GNI at sector level of the general government. National accounts are adjusted for the value of the non-observed economy, following the production approach. The adjustment amounts to some 7.6% of GDP, on average, for the period 2005-2015, and the calculation is made in line with the OECD – Eurostat manual. A master plan for the development of national accounts needs to be adopted as common and coordinated work to develop an appropriate national accounts system. Fiscal notifications in line with ESA 2010 and fiscal accounts need to be compiled and shared with the European Commission. Bosnia and Herzegovina authorities should continue to build up national accounts according to ESA 2010.

As regards the required administrative infrastructure, the human and administrative resources are insufficient to ensure full and correct application of EU rules concerning payments into the EU budget upon membership of the EU. Sufficient coordination among administrative structures is needed to ensure correct forecasting, calculation, accounting, collection, payment and control of own resources. In view of the decentralised administrative set-up of Bosnia and Herzegovina a coordination structure on own resources will need to be set up. The Fiscal Council, a body established to coordinate the country's fiscal policies is often impeded in its work by political disputes and should be strengthened. Capacities for forecasting revenues are weak.

Impact

Given the country's GDP level, the impact of Bosnia and Herzegovina's accession on the EU budget is expected to be very limited. This applies to both the receipts under various EU expenditure programmes and to its expected contribution to the EU budget based on application of the own-resources rules.

Bosnia and Herzegovina is at an early stage **of preparation** in the area of financial and budgetary provisions.
Bosnia and Herzegovina needs to build up well-coordinated analytical and forecasting capacities that will be necessary for correct calculation, collection, payment and control of own resources. Therefore, it will need to build up a system of national accounts and strengthen the alignment of its national policies with the VAT and customs *acquis*.
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 ITA capacity to increase post-release controls based on risk analysis;
→ adopt a Master Plan for production of National Accounts for Bosnia and Herzegovina.

ANNEX I – STATISTICAL ANNEX
STATISTICAL DATA (as of 29.04.2019)
Bosnia and Herzegovina

Basic data	Note	2006	2013	2014	2015	2016	2017
Population (thousand)		3 842.7	3 835.6p	3 830.9p	3 825.3	3 516	3 509.7
Total area of the country (km²)	1)	51 209	51 209	51 209	51 209	51 209	51 209

National accounts	Note	2006	2013	2014	2015	2016	2017
Gross domestic product (GDP) (million national currency)		:	26 779	27 359	28 586	29 901	:
Gross domestic product (GDP) (million euro)		:	13 692	13 988	14 616	15 288	:
GDP (euro per capita)		:	3 600	3 700	4 000	4 400	4 700
GDP per capita (in purchasing power standards (PPS))		:	7 500	7 700	8 400	9 000	9 500
GDP per capita (in PPS), relative to the EU average (EU-28 = 100)		:	28	28	29	31	32
Real GDP growth rate: change on previous year of GDP volume (%)		:	2.3	1.1	3.1	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-28 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		:	8.0	7.0	7.3	7.5	:
Industry (%)		:	21.6	21.3	21.9	22.6	:
Construction (%)		:	4.5	4.7	4.6	4.6	:
Services (%)		:	65.9	67.0	66.2	65.3	:
Final consumption expenditure, as a share of GDP (%)		:	108.2	107.1	103.8	100.9	:
Gross fixed capital formation, as a share of GDP (%)		:	18	19.5	17.8	17.4	:
Changes in inventories, as a share of GDP (%)		:	0.2	-0.4	0.8	2.3	:
Exports of goods and services, relative to GDP (%)		:	33.7	34.0	34.6	35.4	:

Imports of goods and services, relative to GDP (%)		:	54.1	56.6	53.2	52.3	:
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2006	2013	2014	2015	2016	2017
Industrial production volume index (2010 = 100)		86.8	104.1	104.3	107.4	112	115.5
Number of active enterprises (number)	2)	:	23 869	64 963b	65 800	67 168p	68 760
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) (%)	2)	:	66.0	71.4b	71.5	72.0	69.6
Value added by SMEs (in the non-financial business economy) (EUR million)	2)	:	3 513	4 406b	4 701	5 043	4 974
Total value added (in the non-financial business economy) (EUR million)	2)	:	5 847	6 738b	7 168	7 594	7 803

Inflation rate and house prices	Note	2006	2013	2014	2015	2016	2017
Consumer price index (CPI), change relative to the previous year (%)		6.1	-0.1s	-0.9	-1.0	-1.1	1.2
**Annual change in the deflated house price index (2010 = 100)		:	:	:	:	:	:

Balance of payments	Note	2006	2013	2014	2015	2016	2017
Balance of payments: current account total (million euro)		:	-728	-1 025	-774	-711	-754
Balance of payments current account: trade balance (million euro)		:	-3 630	-4 026	-3 677	-3 610	-3 775
Balance of payments current account: net services (million euro)		:	830	857	979	1 064	1 154
Balance of payments current account: net balance for primary income (million euro)		:	182	114	99	42	-71
Balance of payments current account: net balance for secondary income (million euro)		:	1 889	2 029	1 825	1 793	1 938
Net balance for primary and secondary income: of which government transfers (million euro)		:	84	121	86	44	37
**3 year backward moving average of the current account balance relative to GDP (%)		:	-7.8	-7.1	-6.0	-5.8	:

**Five year change in share of world exports of goods and services (%)		:	0.9	1.0	1.0	1.2	1.2
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		438.8	174.6	400.8	260.1	256.8	330.1
Foreign direct investment (FDI) abroad (million euro)		3.2	64.4	7.4	85.2	-0.7	83.3
of which FDI of the reporting economy in the EU-28 countries (million euro)		:	:	13.1	55.7	35.4	58.7
Foreign direct investment (FDI) in the reporting economy (million euro)		442.0	239.1	408.3	345.3	256.1	413.4
of which FDI of the EU-28 countries in the reporting economy (million euro)		367.1	122.9	225.6	225.6	250.3	275.7
**Net international investment position, relative to GDP (%)		:	-56.7	-56.8	-54.9	-52.1	-47.9
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		:	3.8	6.4	2.9	2.5	8.5

Public finance	Note	2006	2013	2014	2015	2016	2017
***General government deficit / surplus, relative to GDP (%)		2.7	-2.2	-2.0	0.7	1.2	2.6
***General government gross debt relative to GDP (%)		20.6	37.7	41.6	41.9	40.5	36.1
Total government revenues, as a percentage of GDP (%)		42.8	42.7	43.8	43.2	42.7	43.0
Total government expenditure, as a percentage of GDP (%)		40.1	44.8	45.8	42.6	41.5	40.4

Financial indicators	Note	2006	2013	2014	2015	2016	2017
Gross external debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:
Gross external debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	3) 4)	2 423	3 423	3 738	4 183	4 756	5 406
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	3) 5)	5 063	8 229	8 829	9 534	10 327	11 308
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	3)	4 506	8 194	8 423	8 624	8 795	9 419
**Annual change in financial sector liabilities (%)	6)	45.3	4.8	5.2	4.6	5.5	8.3
**Private credit flow, consolidated, relative to GDP (%)	6)	8.8	0.4	2.0	-2.2	1.2	3.2
**Private debt, consolidated, relative to GDP (%)	6) 7)	43.5	93.3b	93.3	87.1	84.5	83.3
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	8)	8.01	7.23	6.32	5.74	4.97	3.88
Deposit interest rate (one year), per annum (%)	9)	0.51	0.12	0.09	0.09	0.09	0.06

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)	10)	95	100	101	100	101	102
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100)	10)	:	2.4	3.2	1.5	1.6	1.0
Value of reserve assets (including gold) (million euro)		:	3 614	4 001	4 400	4 873	5 398

External trade in goods	Note	2006	2013	2014	2015	2016	2017
Value of imports: all goods, all partners (million euro)		:	7 756	8 283	8 105	8 263	9 298
Value of exports: all goods, all partners (million euro)		:	4 285	4 439	4 595	4 815	5 653
Trade balance: all goods, all partners (million euro)		:	-3 472	-3 844	-3 510	-3 448	-3 646
Terms of trade (export price index / import price index * 100) (number)		:	98	100	103	104	104
Share of exports to EU-28 countries in value of total exports (%)		:	73.5	72.1	71.6	71.3	71.2
Share of imports from EU-28 countries in value of total imports (%)		:	60.0	58.9	60.8	61.9	60.9

Demography	Note	2006	2013	2014	2015	2016	2017
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		0.2	-1.3p	-1.5p	:	-1.8p	-2.0
Infant mortality rate deaths of children under one year of age (per thousand live births)		7.5	:	:	:	:	:
Life expectancy at birth: male (years)		:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:

Labour market	Note	2006	2013	2014	2015	2016	2017
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		55.9	58.7	59.2	59.2	58.8	58.4
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		38.8	42.8	43.2	43.2	44.2	46.6
Male employment rate for persons aged 20–64 (%)		51.4	53.3	54.6	53.9	56.4	58.1
Female employment rate for persons aged 20–64 (%)		26.6	32.2	31.9	32.4	32.0	35.1
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		23.5	27.7	28.5	28.2	29.7	32.5
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	18.9	17.1	17.9	18.0	18.9
Industry (%)		:	22.2	22.1	22.0	22.7	22.2

Construction (%)		:	7.7	7.9	7.5	8.6	7.3
Services (%)		:	51.3	52.9	52.6	50.8	51.6
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	11)	18.6	20.4b	19.9	20.0	17.8	18.4
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	11)	81.4	79.6b	80.1	80.0	82.2	81.6
Unemployment rate: proportion of the labour force that is unemployed (%)		31.2	27.6	27.6	27.9	25.5	20.7
Male unemployment rate (%)		29.0	26.7	25.3	25.9	22.6	19.0
Female unemployment rate (%)		35.0	29.1	31.2	30.9	30.2	23.3
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		62.3	59.1	62.7	62.3	54.3	45.8
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		26.8	22.9	23.4	22.8	21.7	17.0
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		31.2	28.0	31.6	27.7	26.2	19.5
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		11.4	15.7	17.2	16.4	18.9	14.6

Social cohesion	Note	2006	2013	2014	2015	2016	2017
Average nominal monthly wages and salaries (national currency)	12)	586	827	830	830	838	851
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100)	12)	103.6e	101.3e	102.4e	102.1e	103.1e	101.4
GINI coefficient	13)	:	:	:	31	:	:
Poverty gap		:	:	:	:	:	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		13.9	6.7	5.8	5.2	4.9	5.1

Standard of living	Note	2006	2013	2014	2015	2016	2017
Number of passenger cars relative to population size (number per thousand population)		162.6	202.3p	209.1p	216.7	245.0p	252.0
Number of mobile phone subscriptions relative to population size (number per thousand population)		491.3e	910.4e	920.7	887	981.1	974.3

Mobile broadband penetration (per 100 inhabitants)		:	:	30	36	40	43
Fixed broadband penetration (per 100 inhabitants)		:	:	15	18	19	19

Infrastructure	Note	2006	2013	2014	2015	2016	2017
Density of railway network (lines in operation per thousand km²)		20.2	20.1	20.1	20.1	20.0	20.0
Length of motorways (kilometres)		20	50	128	128	163	172

Innovation and research	Note	2006	2013	2014	2015	2016	2017
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	0.32	0.24	0.22	0.24	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	0.05	0.05	0.04	0.40p
Percentage of households who have internet access at home (%)		:	:	:	:	61.5	66.0

Environment	Note	2006	2013	2014	2015	2016	2017
*Index of greenhouse gas emissions, CO_2 equivalent (1990 = 100)		54.7	70.2	76.1	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)		:	:	446.5	446.2	473.5	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		:	52.6	44.5	41.1	40.4	27.5
Road share of inland freight transport (based on tonne-km) (%)		:	:	:	:	76.6	78.9

Energy	Note	2006	2013	2014	2015	2016	2017
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	2006	2013	2014	2015	2016	2017

Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)	14)	1 743e	1 726e	1 711e	1 7323e	1 781e	1 762e
Livestock numbers: live bovine animals (thousand heads, end of period)		515	447	444	455e	455e	445e
Livestock numbers: live swine (thousand heads, end of period)		712	530	533	564e	545e	548e
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	1 089e	1 099e	1 093e	1 091e	1 090e
Raw milk available on farms (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)	15)	1 342e	1 223e	1 082e	1 138e	1 658e	1 163e
Harvested crop production: sugar beet (thousand tonnes)		0	0	0	0	0	0
Harvested crop production: vegetables (thousand tonnes)	16)	280e	304e	229e	280e	361e	292e

: = 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) 2013: excluding natural persons (entrepreneurs).
3) Based on IMF monetary and financial statistics manual, 2000.
4) M1 money supply comprises cash outside banks and transferable deposit in domestic currency of all domestic sectors (except central government deposits).
5) 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).
6) Data for monetary financial institutions.
7) 2006: private sector debt excludes external debt of private sector.

8) Short-term lending rates in national currency to non-financial corporations (weighted average).
9) Demand deposit rates in national currency of households (weighted average).
10) Calculation of effective exchange rate indices is against a group of 21 most important trading partners. 2015 = 100.
11) 2006: the public sector includes NACE Rev. 1.1 Sections L, M and N while the private sector includes other NACE Sections. 2013-2017: the public sector includes NACE Rev. 2 Sections O, P and Q while the private sector includes other NACE Sections.
12) Net earnings.
13) Total household consumption expenditure is used for the calculation, instead of Income.
14) The utilised agricultural area consists of arable land, kitchen garden, permanent crops and permanent grassland as cadastral data (not as UAA).
15) 2006: excluding triticale and buckwheat.
16) 2006: including dried pulses.