

# Updated Assessment of the implementation by Bosnia and Herzegovina of the roadmap for visa liberalisation

27 November 2009

**DRAFT**

*In their assessment of the implementation by Bosnia and Herzegovina of the roadmap for visa liberalisation in June 2009, the Commission services concluded that despite the important progress made, Bosnia and Herzegovina had not yet fully met all the benchmarks specified under the different blocks.*

*The Commission services have continued to monitor the implementation of the benchmarks by the country while intensifying their cooperation with the authorities of Bosnia and Herzegovina. In this context Bosnia and Herzegovina has provided updated written information on the measures taken between 1 April and 16 November 2009 in view of fulfilment of the outstanding benchmarks. Further assessment and verification through on-site missions will be soon carried out in the areas where this is deemed necessary.*

*With a view to facilitating the comparison with the previous assessments made by the Commission services in November 2008 and May 2009, the latter have been kept in the present document in open text followed by the updated November 2009 assessment presented in boxes.*

## **BLOCK 1 Document Security**

### *General assessment of block 1:*

Further progress has been made towards achievement of the block 1 benchmarks.

Bosnia and Herzegovina has anticipated the introduction of biometric passports originally foreseen for January 2010 and has begun issuing biometric passports on 15 October 2009. 15,803 biometric passports had been issued as at 13 November 2009. A new passport issuing system became operational in July 2009 allowing for electronic identity verification of passport applicants at each stage of the procedure. The issuance procedure will soon be further assessed in an on-site expert evaluation mission.

A legal basis for systematic training of all relevant institutions' public officials dealing with the issuance of passports has been put in place, targeted ad hoc training was carried out to accompany the launch of the new passport issuing system and a range of measures have been put in place to prevent risks of identity fraud and corruption in the field of passport issuance. Since September 2009, data on lost and stolen travel documents is automatically transferred to the Interpol database on lost and stolen passports. Since the introduction of the new passport issuing procedure in July 2009, municipal register book data on each passport applicant is systematically transferred to a central register. The majority of municipal register books are in electronic format and a project is ongoing to fully digitalise all municipal register books.

### *Detailed comments on block 1:*

## **Passports/travel documents, ID cards and breeder documents (benchmarks 1-5)**

### ***November 2008 Assessment:***

Bosnia and Herzegovina foresees the introduction of a new passport issuing system in July 2009, with biometric passports being issued from January 2010. As an important first step to prepare for the introduction of biometric passports, a new Law on passports has been adopted. Its further implementation is of crucial importance. A tender for the setting up of a biometric passport issuing system was finalised in February 2008 and a tender for the production of passport booklets was published in July 2008.

Only very general information is provided on the compliance of the new passports with ICAO and EC standards and on the security features of the new passports. Non-biometric passports issued until the end of 2009 are to remain in circulation until the end of their five-year validity period. It is important to ensure that passports issued before the establishment of the new passport issuing system foreseen in July 2009 will be phased out.

There are currently no training programmes in place targeting officials dealing with visas and passports. Bosnia and Herzegovina intends to specifically recruit officials for the operation of the new biometric passport issuing system. Recruitment and training of the officials is foreseen between January and June 2009.

Reporting to the Interpol database on lost and stolen passports is currently ineffective and irregular. It is foreseen that the introduction of the new biometric passport issuing system foreseen for July 2009 will entail automatic transfer of data on lost and stolen passports to Interpol.

There is currently no central oversight of civil registers and breeder documents. The Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina (IDDEEA, formerly Civil Identification Protection System (CIPS)) was designed to secure the personalisation of identity cards. Bosnia and Herzegovina intends to expand the IDDEEA's scope to serve as a basis for the introduction of biometric passports and to ensure the security of breeder documents. The IDDEEA's functioning and security is therefore an essential precondition for the introduction of the new biometric passports and the integrity of their personalisation. Sufficient human and financial resources must be allocated. Bosnia and Herzegovina's report did not provide information on the security of other breeder documents.

### ***Further information is requested on:***

- security features of new passports and their compliance with ICAO and EC standards;
- legal framework and administrative procedure for the personalisation and distribution of new passports;
- legal framework and administrative procedure for the phasing out of old passports;
- future plans to establish training programmes targeting officials dealing with visas and passports;
- plans to introduce systematic and automated reporting of lost and stolen passports to Interpol;

- procedures and facilities regarding breeder documents, storage facilities, security standards, and issuance procedures, in particular on methods in place for verifying that all personal data entered into relevant databases is authentic;
- the IDDEEA, in particular the legal framework, financial and human resources and their ability to ensure the secure and efficient functioning of the system.

***May 2009 Updated Assessment:***

Bosnia and Herzegovina has proceeded with preparations for the introduction of a new centralised passport issuing system foreseen for July 2009 and the issuance of biometric passports in a test phase from July 2009 and generalised from January 2010.

Tenders for the production of biometric passport booklets and passport issuing machines have been awarded. The security features of the new passports and their conformity with ICAO and EC standards will need to be assessed once their production has begun. Bosnia and Herzegovina already since 2003 issues biometric ID cards, whose security features are in conformity with ICAO and EC standards.

Non-biometric machine-readable passports issued until the end of 2009 are to remain in circulation until the end of their five-year validity period. It is important to ensure that passports issued before the establishment of the centralised passport issuing system in July 2009 are phased out. A legal framework and administrative procedure needs to be put in place accordingly.

A number of laws, bylaws and regulations have been adopted to prepare the introduction of the new passport issuing system. A 2008 law established the Agency for Identification Documents, Data Registers and Data Exchange of Bosnia and Herzegovina (IDDEEA), as an administrative agency of the Ministry of Civil Affairs of Bosnia and Herzegovina with exclusive competence for the electronic storage and maintenance of central registers and the personalisation of identification documents. The IDDEEA replaced the Directorate for the implementation of the CIPS project (Citizen Identification Information System). The IDDEEA, is already responsible for the personalisation and distribution of old passports.

The personalisation and distribution of passports under the new system will need to be assessed once it is operational. The same secure and reliable procedures as are currently followed for the personalisation of ID cards should also be followed for passports. The personalisation of ID cards is fully centralised within the IDDEEA's premises in Banja Luka, a secure building with recorded video surveillance. Staff work according to a shift system and have clearly designated roles, with sectionalised access authentication applicable for all employees. Blank documents are stored in a single safe and stocks are checked at the end of each shift. The distribution of ID cards is carried out by designated staff with specific training.

IDDEEA staff responsible for the personalisation of ID cards are carefully selected and trained by contractors. The number of additional shifts, or staff to be recruited, for the personalisation of passports will depend on the demand for the new biometric passports.

Training and ethical codes on anti-corruption in the area of document security are currently governed by the entities of Bosnia and Herzegovina (and at cantonal level within the Federation). The professional training of officials dealing with document security lacks a sufficiently structured and dedicated framework. Moreover, ethical codes are often symbolic

and fail to integrate concrete anti-corruption measures into the daily management. The IDDEEA, by taking over central responsibility for document security in Bosnia and Herzegovina, has also set itself the objectives of strengthening the competence of relevant officials at all levels (state, entity, cantonal and municipal), and of applying the same ethical standards across all entities. The IDDEEA's success in meeting these objectives will need to be assessed.

Reporting to the Interpol database on lost and stolen passports is currently not sufficiently developed. There are plans for reporting to be centralised via the IDDEEA and data to be automatically transmitted to Interpol by the Interpol National Central Bureau (NCB) in Sarajevo. The new system will need further assessment once implemented.

Further efforts are required to ensure the security of breeder documents. Registry books are correctly processed in line with usual standards. Breeder documents (e.g. birth certificates) are issued at numerous locations under separate legal regimes without uniform conditions, procedures or sufficient security features. Staff employed in civil registration offices are trained but insufficiently sensitised against corruption. In 2008, this gave rise to a number of identity thefts, which has become a case for investigations by the BiH Prosecutor Office in close cooperation with SIPA and the Ministries of Interior and IDDEEA. A project is currently ongoing to verify the data of all registry books and enter it into a central database to be managed by the IDDEEA.

#### ***November 2009 Updated Assessment***

The Agency for Identification Documents, Data Registers and Data Exchange (IDDEEA) began issuing biometric passports on 15 October 2009 and had issued 15,803 biometric passports as at 13 November 2009. The security features of the new biometric passport and their full compliance with ICAO and EC standards are to be confirmed in the framework of an on-site evaluation mission. While old non-biometric (albeit ICAO-compliant) passports will remain in circulation until the end of their five-year validity period, the authorities of Bosnia and Herzegovina expect the prospect of visa-free travel for holders of biometric passports to act as an incentive for the early acquisition of new biometric passports.

A new passport issuing procedure has been operational since 1 July 2009. Passport applications are received by municipalities or at consular posts abroad, while the IDDEEA is exclusively responsible for the personalisation of passports, the storage of blank documents and the maintenance of a central data register. The issuance of passports is carried out under supervision of the Ministry of the Interior of the Republika Srpska, the cantonal Ministries of Interior in the Federation of BiH, the Government of the Brcko District and the BiH Ministry of Foreign Affairs (in the case of passport applications at consulates abroad). All institutions are connected by a single electronic system to allow for electronic identity verification of passport applicants at each stage of the procedure. The integrity of the personalisation and issuance procedure is to be verified in the framework of an on-site evaluation mission.

In September 2009, the Parliament and the Council of Ministers of Bosnia and Herzegovina adopted conclusions obliging the above-mentioned institutions to develop training programmes on legal procedures for passport issuance and management of register books and to inform staff of all obligatory IDDEEA recommendations. Specifically to prepare the launch of the new passport issuing system in July 2009, the IDDEEA trained 36 executives from the above-mentioned institutions, who in turn trained a total of 735 officers to operate the system

within their respective institutions.

A number of targeted measures have been taken to address risks of fraud and identity theft. In accordance with a Regulation of the Council of Ministers of June 2009, all employees of the above-mentioned authorities who deal with the issuing of passports undergo general security screening. Every activity by each individual officer is registered within the passport issuing system, providing a basis for regular inspections. On the basis of an IDDEEA recommendation, all municipalities in charge of maintaining register books and all passport issuing authorities have also adopted anti-corruption, training and inspection programmes. On the occasion of the launch of the new passport issuing system, the Minister of Civil Affairs of Bosnia and Herzegovina and the Director of the IDDEEA personally visited all authorities competent for the issuance of identity documents and underlined the importance of the fight against corruption.

Since 15 September 2009, IDDEEA data on lost and stolen travel documents is automatically transferred to the Interpol database on lost and stolen passports.

Since the introduction of the new passport issuing procedure on 1 July 2009, all municipalities systematically transfer each passport applicant's full personal data from their register books to the central register held by IDDEEA and an electronic identity certification is provided for each issued passport. Moreover, as at November 2009, 94 out of the 141 municipalities holding register books in Bosnia and Herzegovina held their register books in electronic form. To further improve the management of municipal registers a project is currently ongoing to fully digitalise (including the use of digital signature) all register books managed by municipalities. The legal basis for full digitalisation of register books has been adopted in the Republika Srpska and the Brcko District and is in the process of adoption in the Federation of BiH. Full digitalisation and digital signing into registry books is expected to be fully operational by the end of 2011.

## **BLOCK 2 Illegal migration, including readmission**

### *General assessment of block 2:*

Further efforts have been made towards the fulfilment of the benchmarks under block 3.

In the area of border management, a new Law on border control entered into force in July 2009. Its effective implementation is now of particular importance and further efforts are needed. A National Commission on Integrated Border Management has been formed and the Border Police has strengthened cooperation with other relevant agencies. Improvements to the infrastructure of border crossing points are ongoing. The Border Police has strengthened human resources and training, including on anti-corruption. Joint border patrols with neighbouring countries have been established. The closure of uncontrolled border crossings is ongoing.

Bosnia and Herzegovina's asylum system is largely in line with international and EU standards and the authorities remain committed to further improving the system, in particular through the upgrading of reception facilities.

In the area of migration management, Bosnia and Herzegovina has developed a comprehensive migration profile, launched the Information System on Migration (ISM), adopted a specific strategy on reintegration of persons readmitted under the readmission agreement with the EU, and improved its detention centre for irregular migrants. To ensure a sustainable migration management structure, improved coordination between relevant administrative bodies at all levels continues to be of particular importance.

### *Detailed comments on block 2 by policy area:*

#### **Border management (benchmarks 6-10)**

##### ***November 2008 Assessment:***

Bosnia and Herzegovina has made some progress as regards the implementation and update of the national Integrated Border Management (IBM) strategies and the related action plans in line with EU standards.

Significant efforts have been made regarding the introduction of new laws and regulations taking into account EU standards. The new Law on the movement and stay of aliens and asylum, the Law on Border Police, the Law on supervision and control of crossing the state border and the Law on police have been adopted. The new Law on border control is in the parliamentary procedure.

The Border Police (BP), established in 2000, is an administrative organisation within the Ministry of Security. The BP performs its tasks pursuant to the Law on Border Police of 2007. In April 2008 the Head of the Border Police formed a working group in order to amend the Rulebook on internal organisation of the Border Police. This group will make a proposal for the institutional implementation of risk analysis in the BP, including the formation of a Joint Risk Analysis Centre.

Regarding human resources, a particular problem is the lack of BP staff in particular in terms of police officers. A State Commission for Integrated Border Management (IBM) has been

established comprising four working sub-groups (legal affairs, joint risk analysis, management/organisation and procedures and infrastructure). The number and categories of Border Crossing Points (BCPs) and their infrastructure have an impact on border security that needs to be clarified.

According to the report, only 12 BCPs in BiH meet EU standards regarding infrastructure. There is no agency established in BiH to manage BCPs, their building and maintenance. Functional databases have not been established yet and the key problem is currently the lack of direct database access from the BCPs to the central database. Further efforts in improving BCPs to ensure an efficient, high and uniform level of control are necessary. There is a project concept for a Border Police Central Database, an integrated system for border checks uniting all existing databases used by the BP and automated information management at all organisational levels.

In the area of interagency cooperation, improved links between the BP and the Indirect Taxation Authority can be noted. But overall, systematic information exchange and cooperation between agencies are not ensured.

The Border Police adopted an Ethical Code and all employees have been briefed on it. However, the Border Police has no specific anti-corruption training programme.

Discussions are currently ongoing between the Ministry of Security of BiH and FRONTEX for a Working Arrangement regulating mutual cooperation between FRONTEX and the competent authority of BiH.

*Further information is requested regarding:*

- the Border Police, in particular the adequacy of its powers for efficient border control and possible territorial or other restrictions of power that may diminish BP efficiency to combat illegal immigration and other border related crimes, human resources and training systems, plans to fill vacancies, risk analysis and exchange of information, and anti-corruption measures;
- integrated Border Management Strategy, in particular regarding implementation of planned activities, priorities, actors and deadlines;
- number and categories of BCPs and their facilities, technical equipment and IT system.

***May 2009 Updated Assessment:***

The draft Law on Border Control has been presented to Parliament several times but its adoption is still pending.

A new IBM Strategy and Action Plan were adopted in June 2008, and their implementation supervised by the State Commission for IBM. These strategic texts provide an adequate basis for future development of the border management system and focus in particular on strengthening internal border police coordination, as well as inter-agency and international cooperation. The signing of MoUs on cooperation in border management with relevant agencies at central, regional and local level should now be a priority.

The Border Police has a hierarchical organisational structure with a clear chain of command between the central level, the 6 regional-level field offices, the 17 Border Police Units and the BCPs. Its structure therefore in principle allows for centralised management, and flexible and targeted distribution of resources in line with strategically defined priorities.

The Border Police currently employs 2,127 persons and the staffing level is at 83%. Due to the large numbers of BCPs, human resources cannot be adequately focused on high-risk areas. The filling of vacant posts should therefore be a priority, in particular at regional level. A comprehensive human resource strategy has not yet been developed. Nevertheless, recruitment methods are thorough and adequate, and Border Police officers were found to be professional and fully aware of their duties.

The training system is centralised, and a Training Centre for the Border Police is operational. Training information on each officer is stored in a central database. The basic curriculum is adequate, although there is a need to organise more specialised trainings in accordance with a specific training strategy. There is also a need to conduct more trainings on anti-corruption issues.

Risk analysis is currently limited and at central level focuses on collecting relevant statistical data without drawing the appropriate operational conclusions. Situational awareness of the border police is also inadequate and there is a need to improve the reporting system, in particular by ensuring an efficient flow of information from central level to regional and local level. The planned Joint Risk Analysis Centre is not yet operational but has the potential to address some of these shortcomings by strengthening inter-agency information sharing and coordination on risk analysis.

Border surveillance is managed at the regional level and conducted on the basis of monthly risk analysis. There is a need to strengthen strategic planning and operational coordination by the central level in order to develop an integrated border surveillance system. It is also necessary to modernise surveillance equipment and devices for border surveillance.

There are 89 BCPs of which 34 are limited to local border traffic. A number of secondary roads also cross the border without any controls; attention should be paid to rectifying this situation. Further efforts are required to improve infrastructure at BCPs, which should be fenced off and placed under CCTV surveillance. Regarding equipment at BCPs, basic document examination devices for first-line checks are available but there is a need to purchase integrated document readers and equipment used to detect persons hiding in vehicles. BCPs continue to lack electronic access to central databases and the Border Police does not have an internal IT system for electronic transfer of data.

A Working Arrangement with FRONTEX was signed in April 2009. Cooperation with neighbouring countries functions efficiently and cooperation agreements on common patrols have been signed with Serbia, Croatia and Montenegro (the latter also covering common border checks).

***November 2009 Updated Assessment:***

Bosnia and Herzegovina has taken important steps to set priorities in the area of border management. The new Law on border control was adopted in June 2009 and entered into force on 15 July 2009. Working groups have been formed involving the relevant authorities to



draft 13 bylaws foreseen for the implementation of the Law. To date, five bylaws have been approved (determination of the area of border crossing points, procedures for border checks, including stamping of travel documents, entry/exit data and entry bans, and international airport transit) and the remaining bylaws are under preparation (including on standards and conditions for building and equipping border crossing points). It is of vital importance to finalise and adopt outstanding bylaws required to ensure the effective implementation of the Law on Border control.

To strengthen the implementation of the Integrated Border Management (IBM) Strategy, a National Commission for IBM has been formed, consisting of the Directors of the Border Police, Indirect Taxation Authority, Veterinary Office, Service for Foreigners Affairs, Plant Health Administration and representatives of the Ministry of Security. A Joint Risk Analysis Centre became operational already in March 2009. An agreement on inter-agency cooperation between the abovementioned State-level institutions and the Entity-level Administrations for Inspection Affairs of the Federation of BiH and the Republika Srpska and the Government of the Brcko District was signed on 23 September 2009. Moreover, the Border Police has improved its cooperation with other law-enforcement agencies, including the Ministries of Interior of the Federation of BiH and the Republika Srpska, the Brcko District Police, the State Investigation and Protection Agency (SIPA) and the Security Agency of Bosnia and Herzegovina (OSA).

As stated above, a bylaw under the new Law on border control on standards for building and equipping BCPs is under elaboration. Moreover, a sub-group of the National Commission for IBM is carrying out a review on missing infrastructure in order to identify future priorities. In the meantime, Bosnia and Herzegovina has continued to upgrade infrastructure at its BCPs with a particular priority placed on IT systems and biometric passport scanners. 20 (out of 89) BCPs are now connected to an integrated System of Control of State Border Crossings (CSBC), which forms part of the wider Information System on Migration (ISM). Additional equipment (thermal-vision and long-range cameras, passport scanners) has also been purchased. Bosnia and Herzegovina aims to have equipped the 36 most frequently used BCPs with biometric passport scanners by the end of 2009 and all remaining BCPs in the first half of 2010. To take account of traffic volumes, two new BCPs are being built at the border with Montenegro, due to open at the end of 2009 and in April 2010 respectively.

In terms of human resources, 99 cadets have finished their training and are currently serving their probation period. A further 120 cadets have been selected and are currently undergoing training. Moreover, additional civil servants are being recruited to strengthen the administration of the Border Police. The Border Police has adopted a human resource management strategy for the 2010-2014 period. An anti-corruption training programme has been developed and is due to include all Border Police employees by the end of 2009.

Joint border patrols with neighbouring countries have been carried out based on agreements with Croatia (2008), Serbia (2009) and Montenegro (2009). The joint patrols have led to a decrease in the number of illegal border crossings. 118 uncontrolled border crossings between Bosnia and Herzegovina and Croatia have been closed and the locations are monitored as part of daily Border Police patrols. 44 uncontrolled border crossings between Bosnia and Herzegovina and Montenegro have been identified and are due to be closed. Uncontrolled border crossings between Bosnia and Herzegovina and Serbia have yet to be identified and closed. The monitoring of these locations is therefore of particular importance.

## **Asylum (benchmarks 12- 13)**

### ***November 2008 Assessment:***

Asylum procedures in Bosnia and Herzegovina are largely in line with international standards. A new Law on movement and stay of aliens and asylum entered into force in May 2008. Its full implementation is of particular importance.

It is a positive step forward that the roles and tasks of the Ministry of Security and the Ministry for Human Rights and Refugees, both of which are responsible for dealing with asylum-seekers and refugees, have been clarified.

Regarding the provision of adequate infrastructure, in particular in the area of asylum procedures and reception of asylum seekers, Bosnia and Herzegovina still lacks an appropriate permanent asylum reception centre.

*Further information is requested on:*

- administrative and legal measures foreseen to implement the Law on movement and stay and asylum;
- plans to create a permanent asylum reception centre;
- data on types of decisions on asylum requests and the length of the procedures;
- existence of an independent judicial appeal body;
- financial support and basic socio-economic benefits provided to asylum seekers.

### ***May 2009 Updated Assessment:***

Bosnia and Herzegovina has continued with the implementation of the 2008 Law on movement and stay of aliens and asylum, whose provisions on asylum are in conformity with international and EC standards. A draft bylaw on the new asylum procedure is being finalised and is expected to be adopted and enter into force in the near future. A number of bylaws regulating the rights of recognised refugees are already in force, in particular regarding access to healthcare, education, employment and social protection. Bylaws on travel and identification documents are still under preparation.

Bosnia and Herzegovina has also made a significant financial investment in the asylum system and this is to continue in the coming years. The authorities involved in the asylum system have sufficient capacity, given the relatively limited caseload (383 applications, concerning 1015 persons, since 2004). There is however a backlog of pending cases both before the Ministry of Security (MoS)'s asylum sector (the first instance of the procedure) and the State Court of Bosnia and Herzegovina (appeal stage); these mainly concern people from Kosovo who applied for asylum after the withdrawal of their temporary protection status in 2007. A sustainable solution for this group of persons needs to be found. The deadlines introduced by the new asylum procedures should shorten the length of procedures in future and these deadlines must be respected in order to avoid further backlogs.

The MoS and the Ministry for Human Rights and Refugees (MRRR), in cooperation with UNHCR and a local NGO, have provided training for its own staff and that of other relevant authorities such as the Border Police. Two judges of the State Court of Bosnia and Herzegovina have likewise followed relevant training by UNHCR. Further training, in particular on the novelties introduced by the new asylum procedure, should be provided to all

relevant actors, including the Border Police and new staff of the MoS, MHRR and State Court.

A temporary reception centre for new asylum seekers is located in Rakovica, Ilidza (Sarajevo). Basic facilities, food, healthcare, as well as education for both children and adults, are provided there. Construction of a new permanent centre in Trnovo, with significantly better conditions, is due to begin in May 2009 and is scheduled for completion by 2011.

***November 2009 Updated Assessment:***

In order to implement the 2008 Law on movement and stay of aliens and asylum, a bylaw on international protection (asylum) was adopted and entered into force on 20 May 2009. Its full implementation is of particular importance. Bylaws on travel and identification documents for refugees entered into force in October 2009 and their issuance is expected to begin soon. A bylaw on standards of asylum centres came into force in November 2009.

Out of 48 asylum applications subject to evaluation in 2009, the Ministry of Security's Asylum Sector reached decisions on 36 applications, four applicants were resettled in cooperation with UNHCR and the other eight cases remain pending. As regards the backlog of cases from 2008 (mainly people from Kosovo who applied for asylum after the withdrawal of their temporary protection status in September 2007), 507 out of 803 applications were rejected at final instance by the Court, 148 applications were rejected at first instance and appeals are ongoing and a further 148 applications are pending at first instance. A sustainable solution for this group of persons needs to be found.

Construction of the new permanent reception centre in Trnovo has yet to begin and is scheduled for completion by the end of 2011. In the meantime, facilities at the temporary reception centre in Rakovica have been upgraded and healthcare provision has been improved in close cooperation with non-governmental organisations.

**Migration Management (benchmarks 11, 14-18)**

***November 2008 Assessment:***

The adoption of the Law on movement and stay and asylum in April 2008 represents a major step forward by Bosnia and Herzegovina in the development of a global approach to migration policy development. Its full implementation is of particular importance.

The Law on movement and stay and asylum contains provisions on carriers' responsibility, whose implementation needs further monitoring.

A national returnee reintegration strategy is developed, which covers key areas of returnee reintegration such as housing, property restitution, infrastructure, health care and employment.

Regarding the fight against illegal immigration, the relevant administrative structures have been established: the Border Police (BP), the State Investigation and Protection Agency (SIPA) and the Aliens Affairs Service of the Ministry of Security. Further information is required on the division of competences and cooperation mechanisms between these services.

A framework for cooperation between the authorities and the victims of human trafficking is established.

Bosnia and Herzegovina has developed an integrated return management policy. The aforementioned Law on movement and stay and asylum contains provisions on return including detention and the possibility to issue an entry ban. A detention facility was established near Sarajevo in May 2008 with a capacity of 40 places and its enlargement is foreseen.

Bosnia and Herzegovina is facing a slight decrease (- 15 %) of refusals of entry with 7.829 refusals in 2006 in comparison to 6.618 refusals in the year 2007. At the same time, the number of aliens apprehended increased (+ 45 %) from 565 in 2006 to 822 in the year 2007. The number of forced returns carried out also increased (+ 141 %), although overall levels of forced returns remain low on a still quite low level from 31 forced returns in 2006 to 75 in the year 2007.

Bosnia and Herzegovina has signed readmission agreements with its neighbouring countries. Further readmission agreements with some of the main countries of origin are under negotiation.

*Further information is requested on:*

- administrative and legal measures foreseen to implement Law on movement and stay and asylum, deadline within which these will be completed, and administrative and technical capacities of authorities charged with implementation;
- mechanism to monitor migration flows, in particular administrative capacity and resources, structural cooperation and communication between agencies, methods used in collecting and producing statistics, the putting into operation of the planned Information System for Migration (ISM) and plans to update migration profile;
- implementation of national returnee reintegration strategy and achieved results;
- applicability of returnee reintegration measures to persons returned under EC-Bosnia and Herzegovina readmission agreement;
- division of competences and cooperation mechanisms between BP, SPIA and Aliens Affairs Service of the Ministry of Security in fight against illegal immigration;
- authorities involved in measures assisting victims of human trafficking;
- conditions in detention facility near Sarajevo;
- statistical information concerning the relation between return decisions taken and removals carried out.

***May 2009 Updated Assessment:***

The Law on Movement of Foreigners has been in force since 2008 and is largely in line with relevant EU standards. It regulates conditions for the entry and stay of foreigners for any purpose and defines issuance procedures for granting temporary and permanent residence permits. Separate systems for issuing residence and work permits are established. The new legal framework is being implemented and seven of eight planned by-laws already entered into force.

Regarding the organisational structure for the implementation of the law, responsibility for issuing residence permits lies with the Service for Foreigners Affairs (SFA) of the Ministry of Security (MoS) while visas are issued by the Ministry for Foreign Affairs (MFA) and work permits by the relevant authorities of the three regional entities and the Brcko District. However, there is a lack of human resources and budgetary problems may hamper the full day-to-day implementation.

Provisions on carriers' responsibility have been adopted, and so far the Border Police has dealt with 37 cases related to persons arriving via aircrafts.

Significant efforts are required to improve monitoring of migration flows by all the relevant authorities. Agencies have separate databases which are rarely inter-linked and accessible to other relevant actors. Registers of foreigners currently remain paper-based and currently no biometric data is stored in these systems. However, the Information System on Migration (ISM), due to be fully functional as of the beginning of 2010, is expected to greatly improve this situation.

The gathering of data for both legal and illegal migration flows began relatively recently and its organisation is managed by the SFA. Data collection forms on visa and residence permits are unified and in line with EU standards (Regulation 862/2007).

The office for statistics of the MoS has received limited migration data from relevant authorities so far. However, thanks to the setting up of analysis units in most of the agencies, the first national Migration Profile was due to be finalised. Statistical information will also be forwarded to Eurostat.

Regarding the integration of migrants, a more proactive approach is required. Given that Bosnia and Herzegovina continues to face housing and employment problems for displaced persons, migrants do not benefit from financial and social support measures.

There are still over 100,000 displaced persons in Bosnia and Herzegovina, as a consequence of the wars in the former Yugoslavia. The Ministry of Human Rights and Refugees, in cooperation with the relevant entities at state, entity and cantonal level, as well as UNHCR and relevant NGOs, has drawn up a Revised Strategy Plan on Return, which hopes to provide sustainable and durable solutions for all displaced persons by 2013.

Regarding the applicability of returnee reintegration measures for nationals returned under the EC Readmission Agreement, there are problems regarding the respective competence between the Ministry of Human Rights and Refugees and the MoS. Priority should be given to the clarification of the division of competence between them and to the drafting and implementation of a reintegration strategy.

Regarding the fight against non-organised forms of illegal migration, the SFA is the main responsible authority and it coordinates both inland detection and concrete actions, such as expulsion of illegal migrants. Besides, the BP leads joint patrols of the borders with Croatia, Montenegro and in the near future with Serbia. Concerning organised forms of illegal migration, the Criminal Investigation Office (CIO) and the State Investigation and Protection Agency (SIPA) are the main responsible actors.

Although the organisational structure has been established, there is a lack of cooperation among the authorities involved in fighting illegal migration and a lack of a legal framework for efficient sharing of information. A Memorandum of Understanding (MoU) is in place but is not applied in practice. A clear division of competences among all the actors should be considered as a priority.

A national structure for inland detection has been set up but risk analysis is underdeveloped because of the lack of systematic and regular exchange of information between national services and law enforcement agencies.

The expulsion of illegally residing third country nationals is regulated by the Law on Movement of foreigners and is in line with EU standards. The return procedure is coordinated by the SFA. All persons who cannot be removed immediately or whose identity needs to be established are hosted in the detention facility near Sarajevo. The conditions in the centre are appropriate. Only male migrants are detained at the moment; women, minors and vulnerable groups are still hosted in IOM facilities. This situation should change once a new building in the same centre will be finished, by the end of 2009.

Regarding statistics on removals, of the 198 illegal migrants accommodated in the detention facility between July 2007 and March 2009 190 were successfully removed.

The implementation of the Readmission Agreement between the EC and BiH is continuing without problem.

***November 2009 Updated Assessment:***

To strengthen the monitoring of migration flows, Bosnia and Herzegovina has developed its first comprehensive migration profile (containing data on the issuance of visas, residence permits and work permits, refusals of entry and illegal border crossings, expulsion decisions and forced removals, return of citizens of Bosnia and Herzegovina, asylum procedures, granting of BiH citizenship and emigration by BiH citizens). It was adopted on 24 September 2009 along with a decision on its regular updating, which – given its comprehensiveness – is of particular importance.

The Information System on Migration (ISM) was launched with all four modules (visa, residence, border, asylum) on 29 September 2009. Its efficiency is to be evaluated and access to the system for all relevant agencies, where applicable also at Entity level, should be provided.

In order to strengthen the reintegration of returnees readmitted under the EC-BiH readmission agreement, a specific integration strategy for this group of persons was adopted on 24 September 2009. The strategy analyses relevant issues for the successful reintegration of returnees and sets out a series of objectives and activities to be undertaken by the authorities and the first cases of assistance were already given. While the strategy identifies a body that should monitor its implementation (coordination team to be established), the coordination of its implementation between the various relevant institutions and entities will need to be further assessed.

Inter-agency cooperation between authorities involved in fighting illegal immigration has been strengthened and a number of operations were carried out in the spring of 2009. A

coordination body strengthens cooperation between the agencies at State level. A clear obligation to cooperate among the relevant agencies (with a prominent role of the Service for Foreigners' Affairs in this respect) is laid down in the law. However, the actual information flow and day-to-day cooperation between the agencies on both State and Entity level should be further assessed.

The construction and equipment of additional facilities at the detention centre near Sarajevo, providing 80 additional places, has been finalised and the expanded facilities were opened on 23 November 2009.

## **BLOCK 3 Public order and security**

### *General assessment of block 3:*

Further efforts have been made towards the fulfilment of the benchmarks under block 3.

The general legal framework for the fight against organised crime and corruption has been enhanced. In all areas of this block, updated strategies and action plans are in place. Alignment of the domestic legal framework with European and international standards is progressing. Some successful international and increasingly domestic cooperation activities of law enforcement bodies in the fight against organised crime can be noted.

Across all areas additional efforts need to be made to create the framework for an effective fight of organised crime and corruption. Despite some good examples of ad-hoc cooperation, the limited inter-agency coordination and information exchange are still key stumbling blocks for more effective repressive activities. The implementation of a solution to enable the systematic exchange of data between different existing data bases of police and prosecution remains crucial. Implementation of the legal and policy framework needs to be further enhanced, in particular in the areas of anti-corruption and fight against financial crimes, including via the use of special investigative means. Even if the alignment of the domestic legal and policy framework with European and international standards is clearly progressing, it needs to be intensified. The harmonisation between state and entity level legislation also needs to be pursued. Further progress needs to be made in the implementation of the two 2008 police laws. International law enforcement cooperation efforts need to be stepped up. In the area of personal data protection, the establishment of the oversight body is a positive step forward, but the proper implementation of the legal framework requires further training and awareness raising efforts.

### *Detailed comments on block 3:*

#### **General/Overall policy on preventing and fighting organised crime and terrorism (benchmark 19, 24)**

##### *November 2008 Assessment:*

The strategy for combating organised crime and corruption (2006) together with the only action plan adopted as a follow-up (for prevention and combating vehicle related criminal offences, 2007) are being implemented. No additional action plans are planned for the time being. The announced revision of the strategy is currently under preparation but no further indications are provided on this matter. The reporting on the implemented results of the strategy and action plan is very partial and shows very limited achievements.

The harmonisation of the different parallel criminal law frameworks as well as the alignment of the domestic legislation with relevant UN and Council of Europe Conventions needs to be further pursued. The absence of inter-agency cooperation in the area of law enforcement constitutes a major obstacle to the effective fight against organised crime. Nevertheless, it is a



positive development that a recent successful investigation of the State Investigation and Protection Agency (SIPA) has led to dismantling certain organised crime groups in the country. The national statistical instruments measuring crime rates need to be improved.

*Further information is requested on:*

- progress with (planned) priorities regarding the revision of the strategy on organised crime;
- national implementation measures with the UN Protocol against illicit manufacturing and trafficking of firearms;
- organigrammes reflecting the institutional set-up as regards the fight against organised crime (MoI, judiciary, etc.), including for each specific policy area (trafficking, economic crime, drugs, anti-corruption) providing details also on the number of allocated and filled posts;
- curricula of training and education that have been recently introduced and "relies mainly on international assistance";
- statistics for 2004-2008 on trends in organised crime, including investigations, indictments and convictions (data provided is not in a harmonised manner - e.g. differences between the data of the Ministry of Security and of the High Judicial and Prosecutorial Council- HJPC).

***May 2009 Updated Assessment:***

The analysis on the progress with implementation of the 2006 strategy for combating organised crime and corruption has been adopted by the Council of Ministers in December 2008. The document lays down a gap analysis which confirms limited achievements. The details of the future strategy for fight against organised crime 2009-2012 should be developed within a 3 months period after the decision to form a working group, which was adopted in mid-April.

Further harmonisation of parallel criminal law frameworks within the country and alignment of the domestic legislation with international standards, including the UN Protocol against illicit manufacturing and trafficking of firearms has been drafted and is in procedure for adoption.

There are country-wide plans and ongoing projects aiming at overcoming the absence of inter-agency cooperation in the area of law enforcement but no efficient system is in place yet. A decision to form a working group mandated to propose an adequate model for the exchange of information among different existing police registries was adopted in the end of February. The lack of prompt information exchange between agencies constitutes a major obstacle to the effective fight against organised crime.

A wide-range of training activities has been provided to the key players in preventing and fighting organised crime. As of today the number of qualified national trainers is still low. The nationally managed trainings need to be significantly improved and better coordinated across entity and national levels.

Harmonised statistics on trends in organised crime are not available. Statistics provided point to a limited number of convictions for organised crime.

***November 2009 Updated Assessment:***

A revised strategy for combating organised crime was adopted in September 2009. The adoption of a related Action Plan should follow within three months from the adoption of the strategy. The plans for the further harmonisation of the domestic legal and policy framework between state and entity levels were laid out in a number of strategies and action plans in the area of fighting organised crime and corruption.

The harmonisation of the criminal law framework needs to be pursued via an adoption of the law on amendments to the state-level criminal code of BiH and subsequently within 90 days corresponding amendments to entity and Brcko district codes.

The conclusion of an agreement on the electronic exchange of data from the registries of police and prosecutorial bodies throughout the country in September 2009 was an important step. As the agreed solution for placing the exchange server requires the prior establishment of the directorate for coordination of police bodies, the swift implementation of an interim solution will be important to demonstrate tangible progress. To be effective against criminal groups operating across the country, this interim solution should involve all relevant actors at State and entity levels.

Activities were undertaken to coordinate across state and entity levels trainings on preventing and fighting organised crime. A number of trainings were held on state level for judges, prosecutors and police from across the country. Police training institutions across the country cooperate. The High Judicial and Prosecutorial Council collaborates with training centres for judges and prosecutors in entities and the Brcko district.

Regarding investigations, indictments and convictions against organised crime, the year 2009 has shown a number of important verdicts against organised crime groups. It is now crucial to ensure effective investigation, prosecution and judicial follow-up in other ongoing cases as well.

**Policy on preventing and fighting trafficking in human beings**  
**(benchmarks 20, 24)**

***November 2008 Assessment:***

The action plan to combat trafficking in human beings for 2008-2012 was adopted and the Council of Europe Convention against trafficking entered into force, both in May 2008. The country achieved some results in implementing the preceding action plan for 2005-2007. It is a positive trend that after the putting in place of basic legislation and administrative structures for preventing and fighting human trafficking, the new action plan has victim identification and victim assistance at its centre. In this way, previous efforts to protect victims of trafficking are continued and improved by tackling also their protection as witnesses. It is positive that the plan also foresees the further development of the repressive measures of the phenomena.

Bosnia and Herzegovina seems to rely - to a large extent - on donor contributions for the implementation of the action plan. It is not clear if sufficient human and financial resources for the implementation of the plan are secured. The repressive measures against trafficking in human beings do not seem to increase: the numbers of indictments and convictions have decreased in 2007.

*Further information is requested on:*

- timing for planned preparation and adoption and details on substance for implementing measures of the recently ratified Council of Europe Convention against trafficking in human beings;
- details on training for governmental and non-governmental actors with responsibility in anti-trafficking;
- outline the division of responsibilities between the respective bodies in anti-trafficking.

***May 2009 Updated Assessment:***

The implementation of the Action Plan on preventing and fighting trafficking in human beings has started, but effective results and allocation of sufficient resources remain to be demonstrated. The state coordinator for fighting trafficking in human beings coordinates activities of responsible governmental actors.

The findings of the gap-analysis for harmonising domestic legislation with the Council of Europe Convention against trafficking in human beings need to be implemented. One of the key issues to be addressed is that the policy and legislative framework at entity and Brcko district level remain non-harmonised as regards the criminal offence of trafficking in human beings

Available examples point to a good level of cooperation among domestic law enforcement agencies, prosecutors and NGOs active in the field. Capacities for protecting victims of trafficking, like shelters, are adequate across the country. Witness protection equipment in the court and prosecution office of Bosnia and Herzegovina is of a good standard.

The decreasing number of indictments and convictions for trafficking in human beings could be explained by the falling trend of human trafficking of victims of foreign origin. On the other hand, the number of domestic trafficked victims is on the rise and adequate actions have been taken to cope with this new phenomenon.

***November 2009 Updated Assessment:***

The implementation of the Action Plan on preventing and fighting trafficking in human beings was pursued under all 5 components of the plan (support systems, prevention, protection of victims and witnesses, prosecution and international cooperation).

Effective follow-up needs to be given to investigations relating to suspected cases of trafficking in human beings.

The expected amendment of the criminal code of Bosnia and Herzegovina is required to bring

the legal framework fully in line with the Council of Europe Convention on Action against Trafficking in Human Beings. The legislative frameworks at state, entity and Brcko district level remain to be harmonised as regards the criminal offence of trafficking in human beings.

### **Policy on preventing and fighting financial crimes (money-laundering, terrorist financing, confiscation of assets) (benchmarks 21, 24)**

#### ***November 2008 Assessment:***

A working group for analysing existing legislation and drafting the national strategy for the prevention of money-laundering and terrorist financing was set up in July 2008. However, in the absence of an agreement between the state and entity level on harmonising laws on the confiscation of illegally acquired property, the non-harmonised application of state and entities' criminal procedure codes is an obstacle to an effective fight – among other crimes - of this phenomenon. The state-level strategy for preventing and fighting money laundering and financing of terrorism remains to be drafted. The timing for a number of planned activities, such as amendments to the criminal code and the law on prevention for money laundering, reinforced regional law enforcement cooperation and increases in open and completed cases, is unclear.

Legislative measures on money laundering and confiscation of assets of criminals, including on storing and managing temporarily seized assets as well as disposal of confiscated assets would need to be adopted. Legislative practice should make more use of the instrument of confiscation of illegally acquired material gain. Confiscations of criminal proceedings from organised crimes during 2007 are low.

Only limited improvements in the operational activities and cooperation of the different law enforcement authorities can be noted. This is partly due to the fact that the law enforcement authorities in charge dispose of insufficient human resources and also mechanisms for cooperation need to be stepped up. The Financial Intelligence Unit in the State Investigation and Protection Agency needs to be significantly reinforced both in terms of personnel and expertise in order to be able to carry out its responsibilities at national level and participate efficiently in international cooperation with its partners.

#### ***Further information is requested on:***

- the outcome of the analysis of existing legislation and announced drafting of a national strategy on money-laundering and terrorist financing and the changes in legislation;
- implementation of the standards foreseen in the recommendations of the Financial Action Task Force (FATF) and relevant Council of European Conventions in the area of money-laundering and terrorist financing;
- plans to reinforce the administrative capacity for the fight against money-laundering (staff increase, budget, training, awareness raising etc.);
- the work of the recent multi-agency Working Group for prevention of money-laundering and funding of terrorist activities;
- plans to improve capacity for enforcement of legislation (training on special investigative techniques, technological equipments, databases etc.);
- the division of responsibilities among the relevant bodies

***May 2009 Updated Assessment:***

The national strategy for prevention of money laundering and prevention of terrorism remains to be finalised. Important international standards in anti-money laundering (FATF standards and MONEYVAL recommendations) have not yet been incorporated into the law on prevention of money laundering. In order to address these shortcomings, a new draft law on money laundering has been prepared. The draft law has been sent to the Council of Ministers for adoption.

The Financial Intelligence Department (FID) in the State Investigation and Protection Agency (SIPA) receives electronically reporting from banks on suspicious transactions. Other entities obliged to report to the FID are not yet connected to the system. The very low number of suspicious transactions received indicates a low level of awareness towards money laundering in reporting entities. No final convictions on money-laundering have been reported. During 2008 the FID temporarily applied only once the instrument of temporary suspension of a transaction on a suspicion of money laundering or funding of terrorist activities. No case was filed on financing of terrorism (in 2008). Cooperation with relevant law enforcement agencies at entity level is insufficient.

International operational cooperation in the area takes place via the EGMONT's secure internet system.

Regarding legislation on confiscation of assets, the adoption of dedicated legislation and the modification of the Criminal Code and Criminal Procedure Code in line with international standards has not yet advanced. Furthermore, laws at state and entity level are not harmonised with each other. The management of confiscated assets is not applied in a unified manner across the country. There is no authority created for managing confiscated assets. The level of training and expertise on confiscation of assets across judiciary, prosecution and police is low.

***November 2009 Updated Assessment:***

A national strategy and action plan on the prevention and fighting of money laundering and financing of terrorist activities were adopted in September 2009. The documents seem to capture well the needs, and responsibilities and timing are clearly laid out.

International standards in anti-money laundering were incorporated into a new law on the prevention of money laundering and financing of terrorism, adopted in July 2009. Provisions on confiscation of material gains by courts and reversing the burden of proof in the amended Criminal Code which is pending adoption will enhance the legal framework on confiscation of assets.

Only banks report electronically to the Financial Intelligence Department (FID) in the State Investigation and Protection Agency (SIPA) on suspicious transactions. Other entities obliged to report to the FID are not yet connected to the system. A rulebook implementing the new money laundering law in particular regarding risk assessment was adopted in November 2009.

Guidelines to inform reporting entities remain to be adopted. Trainings for reporting entities need to be pursued. The number of suspicious transaction reports received is still very low. According to the reporting received, authorities did not apply the instrument of temporary

suspension of a transaction on a suspicion of money laundering or funding of terrorist activities.

Regarding confiscation of assets, the harmonisation with international standards requires a modification of the Criminal Code and harmonisation of laws at state and entity level. No improvements were reported regarding the management of confiscated assets. Training for judges, prosecutors and police took place in the area of fight against financial crime. These trainings efforts need to be pursued and intensified to ensure effective application of the changing legal framework.

## **Anti-drug policy (benchmark 22)**

### ***November 2008 Assessment:***

A draft national drug strategy has been prepared by the Commission on narcotic drugs, a body that was established in November 2007. The priorities for the announced strategy are adequate but determined implementation is missing at this stage. The need for alignment with the EMCDDA information collection standards were assessed and remain to be achieved.

Further efforts are needed in order to achieve compliance with relevant UN conventions to which Bosnia is party and EU standards in the legal framework of the anti-drug policy.

Efforts to create the institutional framework can be noted but the general framework for the oversight of drug-related issues remains to be completed. The lack of personnel and of specialised equipment and training in the counternarcotics units of the different law enforcement bodies need to be addressed. It is an important step forward that the Ministry of Civil Affairs was designated as national drug information system focal point for European and international affairs. Regional and international cooperation however have to be strengthened. The drugs information system needs to be improved and available information needs to be made accessible at border crossing points.

*Further information is requested on:*

- development of the national strategy and action plan;
- plans to reinforcing capacity dealing with drugs trafficking (staff, budget, training, awareness raising, purchase of technical equipments, etc.);
- co-operation mechanisms among law enforcement authorities (databases available, access to information, exchange of information, joint action etc.);
- details on planned measures in order to meet the requirements of the EMCDDA;
- details on successful cases of joint international operations.

### ***May 2009 Updated Assessment:***

The national drugs strategy was adopted in the end of March 2009. The related action plan yet remains to be adopted.

The specialised law enforcement structures at entity and national levels require reinforced training and equipment. Exchange of information and cooperation between domestic agencies

are inadequate in the fight against drugs trafficking. Some successful examples of international law enforcement operations against drug trafficking with the participation of agencies from Bosnia and Herzegovina are however noticeable. Despite the high importance of Bosnia and Herzegovina as a transit country for illicit drugs, the quantity of drugs seized at the borders is low.

Implementation of EU standards for sharing drugs-related information with the European Monitoring Centre for Drugs and Drug Addiction has started but needs to be completed across the country. Similarly, no improvements can be noted as regards the availability of drug-related information at border crossing points.

***November 2009 Updated Assessment:***

A national Action Plan for drug control, suppression and prevention was adopted in September 2009. The timing and milestones of envisaged actions would require further clarification.

A number of dedicated trainings were carried out for specialised law enforcement structures at entity and national levels. Exchange of information and cooperation between domestic agencies involved in the fight against drugs trafficking requires a more systematic approach. Also the availability of drug-related information at border crossing points needs to be enhanced. The implementation of an (interim) solution for the data exchange between police and prosecution offices will contribute in these regards.

Implementation of EU standards for sharing drugs-related information with the European Monitoring Centre for Drugs and Drug Addiction has started via country overviews and information maps, but needs to be pursued towards a structured national drug information system.

**Policy on preventing and fighting corruption (benchmark 23-24)**

***November 2008 Assessment:***

In relation to the 2006 strategy against organised crime and corruption and the associated action plan, some results are reported, in particular regarding the promotion of codes of conduct and training.

The country has made some changes to the legal framework to align it with the UN Convention against Corruption but legislation needs to be further adapted to international legal instruments. The signature of the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption is pending. The implementation of GRECO recommendations is partial. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business is not yet ratified.

Formal inter-institutional cooperation arrangements are missing across the country which seriously undermines the fight against corruption. Neither an independent anti-corruption agency has been established. The lack of appropriate legal framework and of cooperation at national level also hamper efficient international co-operation.

The current framework fails to address difficulties in collecting and recognising evidence in anti-corruption cases. There is a low number of verdicts compared to the high number of acquittals.

*Further information is requested on:*

- timing for and substance of implementing measures of the UN Convention on corruption, the Council of Europe Civil Law and Criminal Law Conventions, pending GRECO recommendations and plans for signature of the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption;
- plans to address the administrative weaknesses of the anti-corruption policy (e.g. establishment of specialised body; creation of specialised units in law enforcement; training of staff);
- breakdown of statistics on prosecution of corruption for 2004-2008 and examples of successful high level corruption investigations.

***May 2009 Updated Assessment:***

Implementation of the corruption-related aspects of the 2006-2009 Strategy for the fight against organised crime and corruption is insufficient in many areas. The new strategy for the fight against corruption 2009-2012 remains to be adopted. A Decision to create a working group in charge of proposing a strategy to fight against corruption and the related action plan and of preparing a proposal of the Law on the Establishment of an anti-corruption body was adopted by the Council of Ministers in March 2009.

There is no effective investigation, prosecution and conviction on suspects of high-level cases of corruption. Coordination of anti-corruption efforts at the state level is lacking. No overall survey and analysis of statistics on anti-corruption cases is available.

Progress has been made by adapting legislation to widen the application of special investigative means to corruption cases. Nevertheless, the existing available special investigative means - such as interception of communications - are not effectively used in the fight against corruption. Cooperation between police and prosecutors needs to be strengthened. The judicial follow-up of cases of corruption is slow. Lack of convictions is in some cases attributed to the quality of evidence presented before the court. Enhanced trainings on financial investigations, economic crimes and prosecutor-police cooperation are required.

Alignment with international standards (including GRECO recommendations) is only very partial. No plans were reported on the signature of the additional protocol to the Council of Europe Criminal Law Convention on Corruption. An amended law on conflict of interest is awaiting adoption and it should address shortcomings in the current law, such as lack of sanctions in case of missing or incorrect data submitted by public officials.

Different codes of ethics and conduct are in place and enforced across all law enforcement bodies.



***November 2009 Updated Assessment:***

A revised strategy and action plan for the fight against corruption was adopted in September 2009, allowing for the monitoring of progress via allocated responsibilities and milestones. A Law on the establishment of an anti-corruption body is pending final adoption. In its absence, no significant progress was achieved regarding coordination and harmonisation of anti-corruption activities at state level.

Limited results regarding investigation (including via the use of special investigative techniques), prosecution and conviction on suspects of corruption are reported. A few high-level cases are under investigation. These activities need to be pursued.

Further, partial steps were taken to implement GRECO recommendations. The additional Protocol to the Council of Europe Criminal Law Convention on Corruption entered into force in September 2009.

An amended law on conflict of interest is awaiting adoption. It remains to be ensured that a new draft addresses the shortcomings in the current legal framework on the basis of European and international standards.

**Judicial co-operation in criminal matters (benchmarks 25-27)**

***November 2008 Assessment:***

The main European and international Conventions in the field of extradition, mutual legal assistance and other forms of legal and judicial cooperation have been ratified. A Team for monitoring of criminal legislation of Bosnia and Herzegovina was established, aimed at continuous monitoring of the national law to align it to accepted international standards and to ensure implementation.

The country is party to the 2<sup>nd</sup> Additional Protocol to the European Convention on mutual legal assistance in criminal matters. In this respect, a special law on international legal assistance in criminal matters is under preparation to fully comply with the standards required. The country faces capacity problems related to dealing with new means of international cooperation, such as video-conferencing.

The Department for international legal assistance and cooperation of the Ministry of Justice needs to reinforce its human resources in order to cope with international cooperation requests in an efficient way.

Training of judicial authorities is carried out by the Entities judicial and prosecutorial training centers, monitored by the High Judicial and Prosecutorial Council. The country identifies the establishment of a domestic network for training as a priority. Specific training in international legal cooperation needs to be planned and implemented, and actions on developing direct contacts between judicial authorities should be foreseen. A contact person with Eurojust has been appointed, and the country is planning to open negotiations for a specific agreement on cooperation.

*Further information is requested on:*

- details of the work of the Team for Monitoring the criminal legislation of Bosnia-Herzegovina in view of improving coordination between competent authorities;
- planned adoption of the special law on international legal assistance in criminal matters, timing of its adoption, problems under discussion and planned content;
- overview of responsibilities and human resources of authorities dealing with judicial cooperation;
- statistics on extradition and mutual legal assistance (including on period of compliance with requests) and information on legal bases used for these cases.

***May 2009 Updated Assessment:***

The draft law on international legal assistance in criminal matters which is in Parliament for adoption takes on board relevant international and European standards. The provisions foreseen by this specific law bring significant changes in the present system in mutual legal assistance

The Team for Monitoring the criminal legislation of Bosnia-Herzegovina proposed amendments to the Criminal Procedural Code that mainly focus on the implementation of international obligations that Bosnia has committed to by signing Conventions since 2003 (e.g. UNTOC, UNCAC, 2<sup>nd</sup> Protocol on mutual legal assistance in criminal matters). Some of the proposed amendments were adopted in the end of January 2009, others remain to be adopted.

Training needs to be provided by the High Judicial and Prosecutorial Council to judges and prosecutors on the foreseen new legislations. Also, steps needs to be taken in order to reinforce the qualified human capacity dealing with growing number of mutual legal assistance requests.

***November 2009 Updated Assessment:***

The law on international legal assistance in criminal matters which entered into force in July 2009 is being implemented. Trainings for authorities concerned by its implementation are planned.

State-level human resources in charge of implementing international legal assistance have been reinforced to a satisfactory level. Regular contacts between Bosnia and Herzegovina and Eurojust are progressing, with the medium-term objective of a cooperation agreement.

**Law enforcement co-operation (benchmarks 28-32)**

***November 2008 Assessment:***

The two police laws adopted in April 2008 (Law on independent supervisory bodies of police structure of Bosnia and Herzegovina and Law on the Directorate for Coordination of police bodies and agencies) have the potential of strengthening police cooperation in the medium term. This is highly needed in order to overcome the fragmentation of the police.

At the same time, as acknowledged by the authorities, primarily informal and ad hoc cooperation and information exchange among law enforcement agencies and serious legal and bureaucratic obstacles to the effective prosecution of criminals remain a weak point. At present, the new police reforms laws do not address issues related to operational policing, such as the fragmentation of telecommunications systems, databases, computer-based investigation or criminal analyses systems. The preparation of the "Analyses of needs, institutional and legal background and long-term solution for the establishment of national registries and exchange of data for police bodies in Bosnia and Herzegovina" and other plans for legal and institutional changes to enhance cooperation and information exchange show the commitment to handle the issue as a priority. Such actions are however only likely to have an impact in the medium term. The planned timing and concrete implementation of the proposed solutions need to be developed further.

The country has started the implementation of the strategic agreement with Europol and is working on the conclusion of an operational agreement. Gradually bilateral law enforcement ties with neighbouring states are being developed; some regional police cooperation agreements are in place and others are planned. A limited number of data exchanges with EU Member States' authorities take place.

As regards special investigative capacities, their development is under way, in particular at the level of SIPA and the State border police but it has to be widened in order to cover the level of local law enforcement. Some regional police operations with the use of special investigative means are reported. To enable further progress, necessary bylaws, rules and training for use of special investigative techniques need to be in place.

*Further information is requested on:*

- the follow-up to the "Analyses..." document and on its implementation (e.g. responsible bodies for individual steps, timetable, budget);
- details on successful international operational co-operation with BiH law enforcement authorities;
- progress with creation of the 7 police structures at state level as announced in the recently adopted police laws, including the Department for international police cooperation in Directorate for the coordination of police bodies;
- concrete plans and timing for strengthening the operational capacity of all law enforcement agencies.

***May 2009 Updated Assessment:***

The implementation of the two police laws of 2008 has started though so far only some Directors were appointed. It is crucial to implement the police reform without any delay. The foreseen bodies need to have sufficient trained staff at their disposal.

Further improvements of the function of the police system are required in order to address operational deficiencies, such as cooperation and information exchange among the different law enforcement authorities and better internal cooperation within a given agency. An existing communication network linking competent authorities and a national criminal intelligence database are not used. The systematic exchange of information between law enforcement agencies needs to be sufficiently legally regulated.

Positive examples of international law enforcement cooperation were noted in the fight against drugs trafficking, involving the SECI Centre and Interpol.

The strategic cooperation agreement with Europol (in force since January 2007) is not yet effectively implemented by Bosnia and Herzegovina. The future Directorate on international police cooperation - as part of the ongoing police reform – should have the structure to ensure smooth international cooperation of all types.

Special investigative means (e.g. surveillance and interception of communication) have been used more widely in 2008. The national system for intercepting communication hosted by SIPA is not used by all law enforcement agencies. The draft law on changes to the use of special investigative measures needs to be adopted as a prerequisite for effective intelligence-gathering.

The ongoing project on the "Establishment of enhanced cooperation mechanism between the police and the public prosecutor's office in Bosnia and Herzegovina" managed by the High Judicial and Prosecutorial Council needs to address several issues that can lead to more efficient cooperation among the different law enforcement authorities.

***November 2009 Updated Assessment:***

The implementation of the two police laws of 2008 needs to be pursued vigorously. A rulebook of procedures of the Independent Board was adopted in November 2009. Subsequently, the open posts for directors and deputies need to be swiftly filled and the police directorate for coordination should become operational. Systematic domestic cooperation between police agencies remained limited, but regular meetings at senior level were introduced.

Positive examples of law enforcement operations carried out in cooperation between police agencies across the country are noticeable. Still, cooperation and information exchange among the different law enforcement authorities need to be strengthened.

Amendments to the criminal procedure codes across state, entity and Brcko district levels were adopted to widen the scope of application of special investigative means by police.

International law enforcement cooperation was pursued, including via a number of effective regional police operations. Cooperation with Europol, Interpol and SECI Centre was pursued. Bilateral cooperation with countries in the region, based on agreements, as well as the signature of protocols to the South-East European Police Cooperation Convention was ongoing.

The project on the "Establishment of enhanced cooperation mechanism between the police and the public prosecutor's office in Bosnia and Herzegovina" managed by the High Judicial and Prosecutorial Council resulted in the integration of joint trainings of prosecutors and police into training curricula and uniform instructions for prosecutors and police regarding obtaining evidence.

**Protection of personal data (benchmarks 33 - 34)**

***November 2008 Assessment:***

No fully operational independent Data Protection Agency of Bosnia and Herzegovina has been put in place yet, even though the Director of the future Agency was appointed in June 2008. The by-laws required for establishing the Agency need to be adopted. Implementation of the law on the protection of personal data in all relevant areas is not yet ensured.

*Further information is requested on:*

- details on the applicable legal provisions for the protection of personal data for the activities of the Intelligence and Security Agency of BiH, and its supervision by the Data Protection Agency;
- details on progress made in setting up the supervisory authority and on measures taken to make it fully operational (human and financial resources, training);
- details on how the law on the protection of personal data in all relevant areas is implemented in the areas of the readiness report (including border controls, issuance of travel and breeder documents, exchange of person-related data for law enforcement purposes).

***May 2009 Updated Assessment:***

Despite some progress, the legal and administrative framework for establishing a fully independent Data Protection Agency of Bosnia and Herzegovina needs to be completed, including adequate staffing. The supervisory agency needs to become fully independent and fully operational, and proper implementation of the rules for protection of personal data needs to be ensured in all sectors.

***November 2009 Updated Assessment:***

The supervisory agency is fully operational, however its full independence remains still to be ensured. The agency has started activities to raise awareness and ensure the proper implementation of the rules for protection of personal data by public authorities. Proper training of civil servants across the country to ensure the full respect of personal data protection obligations needs to be pursued.

## **BLOCK 4 External relations and fundamental rights**

### *General assessment of block 4:*

Bosnia and Herzegovina has made further progress towards meeting the benchmarks set under block 4. A general anti-discrimination law was adopted in July 2009 and came into force in August 2009. Following the adoption of the general anti-discrimination law, a formal system for collection of information related to ethnically motivated incidents has been introduced.

The assessment of the needs of Roma, which is important in particular as it will address the issue of registration of the Roma, was launched on 23 November 2009 and is foreseen to be completed by the end of 2009.

Further steps have been taken towards full operationality of the Ombudsman Office of Bosnia and Herzegovina. Normative acts have been adopted and further albeit rather slow progress has been made in increasing the staffing. The Action strategy with concrete plan of activities for the period 2010-13 has been drafted and the consultation process is ongoing. The number of complaints received and recommendations issued by the Ombudsman Office of Bosnia and Herzegovina over the period of 1 January 2009 to 11 November 2009 represents a significant increase compared to previous years. The Ombudsman Institution has been active also in areas directly related to the roadmap requirements. However, no further progress has been made in phasing out the Entity Ombudsman Offices, which has had a negative impact in a number of areas.

### *Detailed Comments on block 4:*

#### **Freedom of movement and identity documents (benchmarks 35 – 37)**

##### ***November 2008 Assessment:***

The freedom of movement is guaranteed by provisions in the Constitution of Bosnia and Herzegovina. Unfair discrimination is prohibited in the Constitution. The legal framework foresees special provisions targeting the impediment of return of refugees and displaced persons. Citizens are required to report their place of abode and/or residence. As regards mechanisms for handling complaints, depending on the area (safety/freedom of movement, settlement/return to original place of abode, financial support for return/resolved property return cases) different first instance institutions are presented. In case of non-satisfactory treatment of a complaint, a second level of institutions is available.

The country reports on cases of complaints falling into four categories related to obstacles to freedom of movement to minorities during 2007. However, an overview of follow-up given to these cases is not provided. Information exchange between public institutions is not considered adequate in response to these complaints.

In the area of access to travel and identity documents, it is reported that difficulties exist for refugees, displaced persons, returnees, disabled persons and members of minorities. Measures

to ensure easier access to the most vulnerable groups are being undertaken or planned, targeting Roma (via more general registration of children), disabled persons (mobile teams delivering IDs), refugees, returnees and displaced persons (written recommendations to issuing institutions). The announced analysis of obstacles and development of improved issuing procedures for all citizens whilst ensuring a secure process should be pursued.

Displaced persons and refugees are obliged to possess an identification document, ID or passport. Relevant laws require displaced persons and refugees to register in order to receive their respective status and related rights. Obtaining these documents can be cumbersome for them (e.g. destroyed documents creating need for retroactive or secondary registration, security risks, need to obtain original documents issued at place of birth with limited validity). No facilitated procedures for displaced persons and refugees seem to be in place (e.g. issuance of identification documents at a location different from the issuing authority).

*Further information is requested on:*

- number of cases of complaints and follow-up given to cases/difficulties with special groups;
- concrete results of the listed positive actions (reinforced registration of Roma, mobile teams for disabled people, support to refugees, returnees and disabled persons);
- plans to facilitate undisturbed access to identity documents for disabled, displaced persons or refugees;
- statistics on access to documents for refugees ( applications/documents issue);
- work to regulate access to identity documents for refugees from other countries.

***May 2009 Updated Assessment:***

A very low number of cases related to difficulties with issuance of documents to vulnerable groups have been recorded (2 cases in 2008). These cases were linked to inefficiency of competent services and incorrect data and were solved after the reaction of the BiH Ministry of Human Rights and Refugees. In all municipalities mobile teams exist so that each individual can ask for assistance and service at home address. Mobile teams provide service in particular to persons with disabilities or undergoing therapy. No statistics on access to documents for refugees have been provided.

A Roma census covering 66 municipalities in BiH is under preparation. The framework plan is foreseen to be finalised by end of May 2009 and the census is to be carried still in the course of 2009. Registration in civil registers is a pre-condition for obtaining ID cards and economic and social rights.

***November 2009 updated assessment***

The assessment of the needs of the Roma was launched on 23 November 2009. It will be carried out in 66 municipalities by representatives of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina as well as of Roma associations. The assessment is important in particular as it will address the issue of the registration in the country of the Roma population. It is foreseen to be completed by the end of 2009.

## **Citizens' rights including protection of minorities (benchmarks 38 -42)**

### ***November 2008 Assessment:***

Anti-discrimination is currently prevented by the Constitution and provisions in criminal law (sanctioning unequal treatment between men and women). An anti-discrimination law has not yet been adopted. The country reports on few complaints on discrimination linked to the issuance of identity documents and criminal offences linked to ethnic tensions in the context of the issuing process. Most cases of discrimination recorded (270) relate to other areas like right to work or judicial protection. No information is provided on follow-up given to these cases.

In the area of citizenship, a law from 1997 is in place. The procedures in place are not further described, e.g. regarding obtaining and losing citizenship. References to dual citizenship agreements are provided, but no explanations on how problems related to former Yugoslav citizenship are tackled.

Regarding investigation of ethnically motivated incidents, the applicable procedures in the police administration are well described. Three related cases are reported to have occurred during 2007. Available reports by the ombudsperson/NGOs are presented. No indications are provided regarding the follow-up given by authorities to such reports.

The protection of minorities is beyond the Constitution ensured via a law on the protection of national minorities, at state level and in both entities. Rights granted to national minorities and related policy measures include the right for members of national minorities to councils of national minorities. A council of national minorities is operational at state level and in Republika Srpska, but has not yet been established in the Federation. Members of national minorities also dispose of a right to be represented in local authorities. This right does not exist at state level. A Roma strategy and action plan on the educational needs of Roma and members of other national minorities are in place. Limited results in implementing the Roma strategy are reported, in particular regarding registration and schooling. Detailed results are not provided. Financing of related actions would need to be secured.

### ***Further information is requested on:***

- follow up given to listed cases of discrimination;
- progress with adopting the anti-discrimination law;
- description of procedures for obtaining and losing citizenship;
- measures taken to tackle problems related to former Yugoslav citizenship;
- follow-up given to ombudsman/NGO reports on ethnically motivated incidents by law enforcement officers in the area of freedom of movement;
- results of the implementation of the Roma strategy;
- results in securing financing of actions to implement the Roma strategy.

### ***May 2009 Updated Assessment:***

A draft new comprehensive anti-discrimination law has been adopted by the BiH Council of Ministers and sent to parliamentary procedure. The scope and definitions of discrimination are



adequate and the role of the Ombudsman for Human Rights adequately reflects the requirement for establishment of an "equality body" required under Directive 2000/43/EC. However, several aspects of the law remain unclear or not in line with the relevant EC directives, in particular as regards the broad scope of exceptions to discrimination.

A low number of cases of discrimination have been recorded. The Ombudsman and the BiH Ministry of Human Rights and Refugees have the competence to deal with such cases. The immediate follow up by the Ministry appears to be adequate. Information on further follow up to these cases, as regards police investigations, prosecution and court action, has not been provided. The problems in phasing out of the Entity Ombudsmen offices have been delaying the effective merger and full operationality of the single Ombudsman Office.

A State-level Law on BiH citizenship was introduced by the High Representative in 1997. In accordance with this law, the Entities adopted their laws on citizenship. Citizenship is primarily acquired through descent from at least one parent with BiH/entity citizenship (*ius sanguinis*). Naturalisation is possible, but strict conditions are in place. Simplified rules apply to persons married to a BiH citizen and to persons from the former Yugoslavia, who took up permanent residence in BiH between 6 April 1992 and 31 December 1998. Amendments to the BiH Law on Citizenship, which will facilitate naturalisation, are expected to be soon adopted.

An electronic data system that contains data of registry books is under development and is expected to allow exchange of data throughout the country. Once it is operational, it should enable to reduce the risk of double entries to compare and exchange data on dual citizenship with the countries signatories of bilateral agreements on dual citizenship, as well as with other countries.

The citizenship of BiH is lost by the voluntary acquisition of another citizenship unless a bilateral agreement is in place (provision frozen by the High Representative until 1 January 2013). A bilateral agreement on dual citizenship is in place with Serbia and Sweden. An agreement with Croatia has been ratified by Croatia but the ratification by BiH is pending. The procedure for conclusion of an agreement with Montenegro is underway.

A constituting meeting of the National minority council in FBiH took place on 15 December 2008. There have been delays in the appointment of the members of the Council, which is still ongoing. The funding of the Council has not been ensured yet either.

The financial resources for the implementation of the Roma Strategy were significantly increased. A large portion of the funds has been earmarked for the implementation of the Action plan on Roma housing, health and employment. In the field of education, the relevant Action plan is under revision.

As regards ethnically motivated incidents, a large number of incidents were registered in 2008. However, it is difficult to categorise these incidents as there were other motives involved (such as stealing etc). No information on the follow up to these incidents has been provided. No further information has been provided on the follow up given by authorities to ombudsman/NGOs reports on ethnically motivated incidents by law enforcement officers in the area of freedom of movement.

***November 2009 updated assessment***

A general anti-discrimination law was adopted in July 2009 and came into force in August 2009. Following the adoption of the general anti-discrimination law, a formal system for collection of information related to the ethnically motivated incidents has been introduced: The Ministry of Human Right and Refugees of Bosnia and Herzegovina has been tasked to produce a methodology with the aim to follow and register all cases of discrimination, and annually report on ethnically motivated incidents to the Council of Ministers of Bosnia and Herzegovina. The first report is expected to be produced in the first quarter of 2010.

Further steps have been taken towards full operationality of the Ombudsman Office of Bosnia and Herzegovina. Normative acts have been adopted, such as Working Rules, Rules of Procedure and Decision-making of Ombudsman, Wage payment plan, Rules of Office Management, Rules of Internal Organisation and Systematisation of Posts, Rules on Disciplinary Accountability. The Croat member, Ms Jukic, was appointed in October 2009. Further albeit rather slow progress has been made in increasing the staffing: as of mid-November 2009 35 persons were employed in the State level office, out of the 86 systematised positions. Selection procedure for 6 additional staff is ongoing and there will be also 8 interns. Draft budget for 2010 foresees 56 staff members. The Action strategy with concrete plan of activities for the period 2010-13 has been drafted and the consultation process is ongoing.

In the period of 1 January 2009 to 11 November 2009, the Ombudsman Office of Bosnia and Herzegovina received 1126 official complaints. It issued 119 recommendations and 3 special reports, which represents a significant increase compared to previous years. The Ombudsman Institution has been active also in areas directly related to the roadmap requirements, in particular as regards handling complaints linked to granting documents to minors not registered at the time of birth, residence and travel rights of foreigners legally living in BiH, or freedom of movement outside BiH borders. Following the entry into force of the Law on Prohibition of Discrimination, the State-level Ombudsman Office has exclusive competence to deal with complaints in the area of fight against discrimination. An informal mechanism has been agreed between the Ombudsman Office of Bosnia and Herzegovina and the Entities' Offices to transfer complaints in this area lodged with the Entity Offices to the State-level Office.

However, there has been no progress in phasing out the Entity Ombudsman Offices. The delays in phasing out the Entity Ombudsman Offices have had a negative impact in a number of areas, in particular as regards delays in recruitment of staff for the State level office and the continuing overlap of competences between the State and Entity Ombudsman Offices. Quick completion of the phasing out of the Entity Ombudsman Offices is important in order to further increase the effectiveness and efficiency of the Ombudsman Institution.