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# **BOSNIAN VISA BREAKTHROUGH**

## **May 2009 – September 2009**

**Detailed Scorecard of Bosnia and Herzegovina's results in meeting  
the EU Schengen White List Conditions**

*16 October 2009*

***Strict but Fair –***  
**Conditionality and the EU Roadmap Process**

***“The speed of these countries’ progress towards visa free travel is  
in the hands of their own leaders.”***

Olli Rehn, EU Enlargement Commissioner  
(15 July 2009)

***“Citizens deserve and need more positive news such as this. (...) Citizens of Bosnia and  
Herzegovina deserve the same as everyone else in the region. My office and I remain fully  
committed to the goal of facilitating the process of liberalisation of the visa regime, in  
order to ensure that Bosnia and Herzegovina is included in the Schengen White List as soon  
as possible.”***

Valentin Inzko, High Representative and EU Special Representative in Bosnia  
(30 September 2009)

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## Introduction

A few months ago, in May 2009, Bosnia and Herzegovina found itself last among five Western Balkan countries when it came to meeting a long list of difficult conditions necessary to qualify for visa-free travel to the EU.<sup>1</sup> In response to the Commission's assessment, some of Bosnia's friends abroad made the case that it was unfair to hold Bosnia to the same standards as the rest of the region. When the European Commission then decided in July 2009 not to offer visa-free travel to Bosnia, but to three other countries that met the benchmarks (Macedonia, Montenegro and Serbia), there were voices claiming that Bosnia was being discriminated against because of its Muslim population.<sup>2</sup> Some even speculated that Bosnian Serbs were blocking visa-free travel for Bosnian passport holders, counting on passports from Serbia.

In fact, Bosnian voters of all ethnic groups very much wanted Bosnia to be on the White Schengen List. So did Bosnian politicians. As Bosnian Prime Minister Nikola Spiric, an ethnic Serb, told ESI a few weeks ago:

*"The political situation in Bosnia is difficult. Everybody is only pointing at things that don't work. The assumption is that there cannot be success in BiH... We need a new optimism. Success in visa liberalisation will show that we can have success in other reforms too, including that of the constitution. Therefore my goal, the goal of the Council of Ministers, has been to be successful in visa liberalisation. All efforts in BiH have been put into that. Succeeding will mean that we can also solve all outstanding issues, fulfil reforms deriving from the SAA and the European Partnership. If we fail [in visa liberalisation], we will fail in other areas, too."<sup>3</sup>*

According to the visa roadmap that Bosnia received in June 2008, it had to achieve 42 complex benchmarks. Following the rather sobering assessment of progress in May 2009, the Commission sent Bosnia a set of 48 issues to resolve in order to meet the outstanding benchmarks:

*"a list of specific areas in which Bosnia and Herzegovina is asked to make further progress, and report on, in view of the fulfilment of the outstanding benchmarks."<sup>4</sup>*

Since May 2009, ESI and its partner think-tank in Bosnia, Popolari,<sup>5</sup> have monitored Bosnia's performance in relation to each of the outstanding requirements from the roadmap. The result shows phenomenal progress in a short period of time: by now Bosnia has almost caught up with its more successful neighbours Macedonia, Montenegro and Serbia to which the Commission has already proposed visa-free travel!<sup>6</sup>

This required a summer of hard work on the part of Bosnia's leaders – and a series of compromises between Bosnia's political parties in the sensitive area of security policy. The results are remarkable:

- In May when the Commission issued its assessments of visa progress, many important laws had not yet been adopted: on border control, control of weapons and military equipment, international legal aid in criminal matters and prevention of money laundering and financing of terrorist activities. Two of these laws had been before parliament for over a year. In June, the

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<sup>1</sup> See May 2009 assessment by the European Commission and ESI's analysis and grade reports based on it, at: <http://www.esiweb.org/index.php?lang=en&id=353>.

<sup>2</sup> For more information, see ESI Chairman Gerald's Knaus blog, "Is the EU Visa Proposal anti-Muslim?", 18 July 2009, at: <http://www.esiweb.org/rumeliobserver/2009/07/18/is-the-eu-visa-proposal-anti-muslim/>.

<sup>3</sup> ESI/Popolari interview with Nikola Spiric, Chairman of the BiH Council of Ministers, Sarajevo, 24 August 2009.

<sup>4</sup> Letter from Jean-Louis De Brouwer, Acting Deputy Director-General, Directorate-General Justice, Freedom and Security, to Samir Rizvo, Assistant Minister and coordinator of roadmap activities in BiH, BiH Ministry of Security, 15 July 2009.

<sup>5</sup> Popolari's website is at: [www.popolari.org/en](http://www.popolari.org/en).

<sup>6</sup> The ESI scorecard "Bosnian Breakthrough is at: [http://www.esiweb.org/pdf/schengen\\_white\\_list\\_project\\_bosnian%20breakthrough%20-%20visa%20scorecard%20-%2028%20September%202009.pdf](http://www.esiweb.org/pdf/schengen_white_list_project_bosnian%20breakthrough%20-%20visa%20scorecard%20-%2028%20September%202009.pdf).

Bosnian parliament adopted, in urgent procedure, all four laws. As regards two other laws, on weapons and transportation of dangerous matters, the parties agreed that no State-level laws were necessary, but that they would adopt or amend and harmonise Entity legislation. In May, the Commission wrote in its assessment that the lack of information exchange between Bosnia's law enforcement agencies at different levels (State, Entity and Cantonal) "constitutes a major obstacle to the effective fight against organised crime." Today, there is agreement among all the police bodies to exchange a wide range of information, from criminal records to investigations, ID checks and the possession of weapons.

- In May this year, Bosnia's plan was to introduce the new biometric passport in January 2010. Since then, Bosnia has accelerated the process. New machine-readable biometric passports will now be available in October 2009. Since 1 July 2009, a new secure system which meets the required standards for personalisation and distribution of passports has been used.
- In May, data on lost and stolen Bosnian passports was still being uploaded into Interpol's database *manually* and was often incomplete. Since then a new automated system has been put in place to forward this information immediately to Interpol once a theft or loss is reported.
- Before May, coordination among the various agencies stationed at Bosnia's borders lacked formal mechanisms. On 23 September 2009, nine institutions involved in the Integrated Management of Bosnia's Border, from the border police to the phyto-sanitary service, signed an Agreement on Mutual Cooperation, covering matters from data exchange to point procurement and joint operations.
- In May there was intense inter-entity disagreement on the creation of an independent anti-corruption body. On 24 September 2009, the law establishing the anti-corruption body was adopted by the government and sent to parliament.

## Regional comparison

Based on the assessments by the European Commission from 18 May 2009 and ESI's and Popolari's detailed assessment of Bosnian progress since then

	Albania (May 2009)	Bosnia (May 2009)	Bosnia (Sept. 2009)	Macedonia (May 2009)	Monte-negro (May 2009)	Serbia (May 2009)
Block 1: Document security	3	3	1	1	1	1
Block 2: Illegal migration incl. readmission	3	3	1	1	2	2
Block 3: Public order and security	3	3	2	1	2	2
Block 4: External relations & fundamental rights	3	3	1	1	2	2
<b>Average</b>	<b>3</b>	<b>3</b>	<b>1.25</b>	<b>1</b>	<b>1.75</b>	<b>1.75</b>

As a result of these reforms some 65,000 biometric passports will have been issued by the end of 2009. Bosnia has formalised cooperation with Eurojust, Europol, Frontex, and with EU member states and neighbouring countries. Bosnia's law enforcement agencies and judicial authorities are making progress in investigating and prosecuting organised crime and high-level corruption. Bosnia has also

begun to seriously deal with migration issues, monitoring migration flows, producing its migration profile and fighting illegal migration. It has modern data protection legislation and a very capable supervisory authority. These are just some of the many reforms that have taken place recently.

This record challenges the image of a dysfunctional country dominated by elites incapable of compromise. It underlines the force of EU soft power, if used in the right way. Recent months have shown that when there is a real incentive and credible conditionality, based on European standards, things can move forward surprisingly quickly. 2009 might yet see a fundamental turning point in Bosnia's history: the end of the international protectorate (and of the mandate of the Office of the High Representative) *and* the promise to overcome the visa fence that continues to isolate the country.

In May 2009 the European Commission was strict. Now that Bosnia has delivered on its commitment, will European institutions be fair? Before this recent breakthrough, the Commission was looking at mid-2010 as a possible date for a Commission proposal to lift the visa obligation for Bosnia and Herzegovina's citizens, provided that all conditions are met. Due to the lengthy EU decision-making process on visa policy, which requires an opinion by the European Parliament on the Commission proposal followed by a vote in the Council, this would mean that visa-free travel would become a reality around October/November next year – one year from now.

This is too late. Bosnia deserves that to be rewarded for its achievements earlier. European Enlargement Commissioner promised Bosnia and Albania that *“the speed of these countries’ progress towards visa-free travel is in the hands of their own leaders.”* The leaders have done their part of the deal – now it is up to the Commission to deliver on its commitment.

For more information on the *ESI Schengen White List Project*, supported by the Robert Bosch Stiftung: [www.esiweb.org/whitelistproject](http://www.esiweb.org/whitelistproject)

## Visa roadmap implementation in Bosnia & Herzegovina Comparison Bosnia May/September 2009

	May 2009	Sept 2009
<b>Block 1: Document security</b>		
<b>ESI/Populari assessment: BiH generally meets the benchmarks under block 1.</b>		
1.1 Issue biometric passports in line with ICAO and EC standards	3+	2+
1.2 Ensure integrity and security of the personalisation & distribution process	3+	1-
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	3	1-
1.4 Report lost and stolen passports to Interpol/LASP database	3+	1
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	3	2+
<b>Block 2: Illegal Migration including Readmission</b>		
<b>ESI/Populari assessment: BiH generally meets the benchmarks under block 2.</b>		
2.1.1 Adopt and implement Nat. Integrated Border Management Strategy and Action Plan	3+	1-
2.1.2 Adopt and implement legislation on movement of persons at the external borders, legislation on border authorities	2-	1
2.1.3 Take budgetary and other measures ensuring infrastructure, equipment, IT at external borders	3	2+
2.1.4 Establish anti-corruption training & ethical codes for officials (border management)	2+	1-
2.1.5 Conclude working arrangement with FRONTEX	1	1
2.2.1 Implement carrier's responsibility (in the Law on Movements and Stay of Aliens and Asylum)	1	1
2.3.1 Implement asylum legislation (in the Law on Movements and Stay of Aliens and Asylum)	2+	1
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	1-	1-
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	2-	1-
2.4.2 Adopt and implement national returnee reintegration strategy	3+	2
2.4.3 Conduct inland detection, investigations of org. facilitated illegal migration	3+	2
2.4.4 Implement the Law on Movement and Stay of Aliens and Asylum	1-	1
2.4.5 Ensure expulsion of illegally residing third-country nationals	1-	1
<b>Block 3: Public order and security</b>		
<b>ESI/Populari assessment: BiH meets the majority of benchmarks under block 3.</b>		
3.1.1 Implement 2006 strategy to fight organised crime and corruption (in particular cross-border aspects) by adopting & implementing the foreseen action plans	3+	2+
3.1.2 Adopt and implement strategy and action plan to fight trafficking in human beings	1-	1
3.1.3 Adopt and implement strategy to fight money laundering and financing of terrorism, implement legislation on confiscation of assets of criminals	3+	2+
3.1.4 Adopt and implement strategy and action plan to fight drug trafficking, info at border crossing points about drug seizures and persons involved, internat. Cooperation	3+	2+
3.1.5 Implement National Anti-Corruption Strategy and action plan, take additional measures	3+	2+
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and the fight against terrorism	3+	2+
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	2+	1
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	3+	1
3.2.3 Develop working relations with Eurojust	1	1
3.3.1 Improve law enforcement co-operation among relevant national agencies	3+	2
3.3.2 Set up coordination mechanisms for information exchange between national agencies	3+	2+
3.3.3 Improve law enforcement cooperation and info exchange regionally and with EU MS	2-	2-
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	3+	2-
3.3.5 Prepare operational cooperation agreement with Europol	3+	1-
3.4.1 Implement 2006 Law on Data Protection, set up supervisory authority	3+	1
3.4.2 Implement internat. conventions on personal data protection	Unclear	unclear
<b>Block 4: External Relations and Fundamental Rights</b>		
<b>ESI/Populari assessment: BiH generally meets the benchmarks under block 4.</b>		
4.1.1 Ensure freedom of movement for citizens without discrimination	2-	2-
4.2.1 Ensure access to travel and identity documents for all citizens	1-	1-
4.2.2 Ensure access to identity documents for IDPs and refugees	2	1-
4.3.1 Adopt and enforce legislation on anti-discrimination	3+	2-
4.3.2 Implement law on citizenship	1-	1-
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	2-	1-
4.3.4 Ensure respect for constitutional provisions on protection of minorities	2	2
4.3.5 Implement relevant policies regarding minorities, including Roma	1-	1-

The grading system is based on 3 grades, 1 (top) to 3, and uses corresponding colours.

**Background to the table:** In its 18 May 2009 assessments of progress in roadmap implementation by the five Western Balkan countries, the European Commission used six distinct phrases to describe the achievements in each of the four blocks into which the requirements had been divided. (These four blocks are document security; illegal migration; public order and security; and external relations and fundamental rights.)

For the ESI scorecard, ESI allocated a grade and colour to these phrases:

- "meets the benchmarks" and "generally meets the benchmarks" = 1 and green
- "meets a large majority of the benchmarks" and "meets a majority of benchmarks" = 2 and yellow
- "on the right track, but..." and "does not yet fully meet the benchmarks" = 3 and red

We then looked at what the Commission and EU national experts, who examined the situation on the ground in each Western Balkan country between January and March 2009, had written about progress on each individual requirement. We graded the achieved result (in a slightly more nuanced way, so the grades are 1, 1-, 2+, 2, 2-, 3+, 3, 3-) and allocated again the colours green, yellow and red.

## Background on the visa roadmap

In 2008, the European Commission formulated close to 50 requirements that it wanted the five Western Balkan countries that participated in the visa liberalisation process (Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia) to meet in order to qualify for visa-free travel. These are listed in the so-called "visa roadmaps". Serbia was the first country to receive its roadmap on 7 May 2008, and Bosnia and Herzegovina the last on 5 June 2008.

The requirements set out in the five visa roadmaps are the same, they only take into account the specific situation in each country in terms of existing legislation and practice as well as terminology. The benchmarks range from purely technical matters, such as the issuance of machine-readable passports with a gradual introduction of biometric data including fingerprints, to the adoption and implementation of a raft of laws and international conventions, to very broad matters such as concrete strategies and actions plans for the fight against organised crime, corruption and illegal migration.

Most of the requirements are part of the "JHA acquis" – the body of EU law in the field of justice and home affairs, which candidate countries have to implement before they can accede to the EU. In the roadmap, the requirements are divided in four blocks, and only the requirements under block 4 (external relations and fundamental rights) are outside the JHA acquis.

Some of the titles of the blocks – block 1: document security, block 2: illegal migration including readmission, block 3: public order and security, block 4: external relations and fundamental rights – originate in [Council Regulation 539/2001](#), which determines the countries whose nationals need a visa to enter the Schengen zone (Annex 1, the so-called "Black List"), and the countries whose nationals can travel visa-free (Annex 2, the "White List").

"The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating inter alia to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity."

(Council Regulation 539/2001, preamble, paragraph 5)

Regulation 539/2001 needs to be amended to allow the citizens of any of the five Western Balkan countries to enter the Schengen area without a visa.

There are 25 Schengen zone countries. They include all the EU member states except Cyprus, Bulgaria, Ireland, Romania and the UK; they also Iceland, Norway and Switzerland, which are not EU countries. Cyprus, Bulgaria and Romania will join once they have fully implemented the Schengen provisions. Liechtenstein is also expected to join. Ireland and the UK have decided to maintain border controls and are not part of the Schengen zone; but they participate in other Schengen activities such as judicial and police cooperation.

## Block 1 - Document security; passports/travel documents, ID cards and breeder documents

In May 2009 Bosnia had not fulfilled any of the five benchmarks in this block. Today the situation has dramatically improved. Bosnia now generally meets the benchmarks under this block.

On 15 October, the issuance of the biometric passports has started, whose compliance with ICAO and European Commission standards has been ensured. Since 1 July 2009 (old) passports have been issued under the secure personalisation and distribution system required under the roadmap. Anti-corruption training of officials dealing with the issuance of passports and visas is underway, there are no short-comings anymore in the way in which data is now entered into Interpol's Lost and Stolen Passports Database, and under a large-scale project the information in all registry books is verified and entered into a central database.

The excerpt from Bosnia's scorecard below shows the improvement since May. It is followed by a detailed analysis of progress achieved in relation to each issue under block 1 that the Commission singled out in its letter of 15 July 2009. These are the "specific areas in which Bosnia and Herzegovina is asked to make further progress, and report on, in view of the fulfilment of the outstanding benchmarks."<sup>7</sup> As regards the other aspects of the benchmarks, they are largely fulfilled and discussed in the Commission assessment of 18 May 2009.<sup>8</sup>

	May 2009	Sept 2009
<b>Block 1: Document security</b>		
<b>ESI/Populari assessment: BiH generally meets the benchmarks under block 1.</b>		
1.1 Issue biometric passports in line with ICAO and EC standards	3+	2+
1.2 Ensure integrity and security of the personalisation & distribution process	3+	1-
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	3	1-
1.4 Report lost and stolen passports to Interpol/LASP database	3+	1
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	3	2+

- Introduction of biometric passports (please specify the number of biometric passports issued)**

As Sinisa Macan, the head of the Agency for Identification Documents, Registers and Data Exchange (IDDEEA),<sup>9</sup> explained, the system of receiving and processing applications for biometric passports is up and running. Since 1 July 2009, when the test phase of the system started, IDDEEA has issued and distributed 50,000 passports using the new process on old passports.

This procedure appears to be satisfactory and to fulfil ICAO requirements. (ICAO stands for International Civil Aviation Organisation, a UN organisation that sets standards for machine-readable travel documents and the biometric information they carry.)

The issuing of fully biometric passports will begin on 15 October 2009<sup>10</sup> when the first blank passport documents (to be personalised with biometric data) will be delivered to IDDEEA by the German Bundesdruckerei – the company that has won the tender to provide BiH with blank passport

<sup>7</sup> Letter from Jean-Louis De Brouwer, Acting Deputy Director-General, Directorate-General Justice, Freedom and Security, to Samir Rizvo, Assistant Minister and coordinator of roadmap activities in BiH, BiH Ministry of Security, 15 July 2009.

<sup>8</sup> The assessment is available at: <http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Bosnia%20and%20Herzegovina%20updated%20visa%20dialogue%20assessment%2018%20May.pdf>.

<sup>9</sup> ESI/Populari interview with Sinisa Macan, Banja Luka, 21 August 2009.

<sup>10</sup> Information provided by Mr Macan's office by email on 25 September 2009.

documents.

IDDEEA now estimates that by the end of October it will have issued approximately 15,000 new biometric passports. In November and December, it plans to issue approximately 25,000 passports each month. Thus, by the end of the year approximately 65,000 biometric passports will have been issued.

**Background:** *Machine-readable biometric passports increase security and protection against identity theft and falsification of travel documents. They are considered important elements in the fight against organised crime, terrorism and illegal immigration. In the EU, all new EU passports must be machine-readable and include, from 2006 onwards, digital photos of the holder and, from 2009, fingerprints (Council Regulation 2252/2004). The requirement that Western Balkan countries use biometric passports not only harmonises the travel documents used in the Balkans with those used in the EU, but will also make it easier to identify and send back nationals from the region found to be illegally residing in the EU.*

- **Measures taken to ensure systematic training and general anti-corruption programmes targeting public officials dealing with issuance of breeder documents, ID cards and passports**

According to Sinisa Macan, the Head of IDDEEA (Agency for Identification Documents, Registers and Data Exchange),<sup>11</sup> IDDEEA has used ICAO recommendations on anti-corruption training as guidelines to define the content of the required training for public officials dealing with issuance of breeder documents, ID cards and passports. (ICAO stands for International Civil Aviation Organisation, a UN organisation that sets standards for machine-readable travel documents and the biometric information they carry.)

Given the decentralised structure of Bosnia and Herzegovina, IDDEEA has no direct authority over the relevant bodies that are involved in the issuance of breeder documents, ID cards and passports. However, together with the Council of Ministers and the BiH Parliament it has committed the Entity, Brcko District and Cantonal police agencies as well as Bosnia's 142 municipalities, which run the municipal registry offices, to adopt and implement IDDEEA's anti-corruption programme

The goal is to use a formalised and systematic approach to the training of all public officials in BiH who deal with the issuance of passports, ID cards and breeder documents.

As of 25 September 2009, all 13 police forces (Entity, Brcko and Cantonal Police) had adopted the programme and all BiH municipalities had, or were in the process of adopting it. An estimated 50% of all concerned bodies had adopted the programme.<sup>12</sup>

Actual training activities have also begun. IDDEEA has conducted training of trainers (ToT) from all police forces (30 trainers) and from each municipality (over 140 trainers). These trainers will train police staff and municipal staff on a permanent basis.

According to IDDEEA's assessment, the system of anti-corruption training has been set up and is now functioning.

**Background:** *Breeder documents are personal documents based on which other documents are issued, e.g., birth certificates and ID cards can be breeder documents. In order to prevent forgery and identify theft, it is important that officials dealing with breeder documents, ID cards and travel documents are sensitised to corruption issues and informed of the ethical standards of their profession and the sanctions for breaching these standards. Such training is considered crucial to*

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<sup>11</sup> ESI/Populari interview with Sinisa Macan, Banja Luka, 21 August 2009.

<sup>12</sup> Information provided by Mr Macan's office by email on 25 September 2009.

prevent corruption.

- **Measures taken to ensure systematic reporting of lost and stolen travel documents by IDDEEA via Interpol NCB [National Central Bureau] Sarajevo**

Responsibility for reporting lost and stolen travel documents (LASP) has passed from the Ministry of Security to IDDEEA. At IDDEEA, an electronic system that automatically reports such documents to Interpol has been set up and is now in the testing phase.<sup>13</sup>

The guidelines for reporting LASP were published in the Official Gazette of Bosnia and Herzegovina. The procedure is as follows:

- A citizen reports a lost or stolen passport to the local police;
- The police immediately enter the information into the electronic database containing information on all travel and ID documents, which is managed by IDDEEA (police, municipalities, consulates are linked via a secure intranet system) changing the status of the document to lost/stolen;
- Once the status of a travel document has been changed to lost/stolen the data is automatically transferred to the Interpol NCB (National Central Bureau) Sarajevo and then forwarded to INTERPOL in Lyon.

The Procedure for lost or stolen *blank* documents is the same as for personalised documents.

**Background:** *Interpol maintains a database on stolen and lost travel documents (LASP), which holds records of millions of passports, identity cards and visas that were reported as stolen or lost. It enables border authorities worldwide to check instantly whether somebody is trying to enter a country using a stolen travel document and a false identity. In Bosnia, the data collected was previously not complete. It was entered manually and without using standardised forms, and it did not encompass the loss of blank passports.*

- **Progress of verification of all registry books and entry into central database managed by IDDEEA**

The project of verifying all registry books and entering them into a central database managed by IDDEEA is progressing well. All municipalities are now connected via a secure intranet system to IDDEEA's central system, and they deliver data into to the central registry when people request documents.

The following key developments have been achieved since February 2009:

- February: initial information meetings held with municipalities,
- March, April: regional training conducted for the municipalities (staff of registry offices and local police),
- April to June: secure intranet connections established connecting all municipalities,
- July: beginning of data submission by municipalities,
- As of 25 September 2009: over 50,000 verifications of individual registry data have been carried out.<sup>14</sup>

*: A central database serves as an important backup of sensitive personal information that is stored in registry books. It also improves the accuracy of data contained in certificates (e.g., birth certificates)*

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<sup>13</sup> Information provided by Mr Macan's office by email on 25 September 2009.

<sup>14</sup> Information provided by Mr Macan's office by email on 25 September 2009.

*since the certificates are electronically produced, and a central database reduces the risk of tempering with breeder document data. With the assistance of a programme financed by the US and Sweden (Governance Accountability Programme, GAP) all registry books in BiH are entered into a central database and verified by registry officials. The project is expected to be finished by the end of 2010.*

## Block 2 - Illegal migration including readmission

The visa roadmap lists 13 benchmarks under this block. By May 2009, only 5 had been addressed in a satisfactory manner. Since May, the remaining 8 have been tackled so that Bosnia's now generally meets the benchmarks under this block.

The benchmarks are a mixed bag of issues relating to border control (technical improvement of the border crossing points, purchase of modern equipment, connection to various databases, cooperation and coordination of the agencies working at the border); asylum issues ranging from legislation in line with international standards to adequate reception centres; and migration monitoring and management as well as the fight against illegal migration.

The excerpt from Bosnia's scorecard below shows the improvement since May. It is followed by a detailed analysis of progress achieved in relation to each issue under block 1 that the Commission singled out in its letter of 15 July 2009. These are the "specific areas in which Bosnia and Herzegovina is asked to make further progress, and report on, in view of the fulfilment of the outstanding benchmarks."<sup>15</sup> As regards the other aspects of the benchmarks, they are largely fulfilled and discussed in the Commission assessment of 18 May 2009.<sup>16</sup>

<b>Block 2: Illegal Migration including Readmission</b> <b>ESI/Populari assessment: BiH generally meets the benchmarks under block 2.</b>		
2.1.1 Adopt and implement Nat. Integrated Border Management Strategy and Action Plan	3+	1-
2.1.2 Adopt and implement legislation on movement of persons at the external borders, legislation on border authorities	2-	1
2.1.3 Take budgetary and other measures ensuring infrastructure, equipment, IT at external borders	3	2+
2.1.4 Establish anti-corruption training & ethical codes for officials (border management)	2+	1-
2.1.5 Conclude working arrangement with FRONTEX	1	1
2.2.1 Implement carrier's responsibility (in the Law on Movements and Stay of Aliens and Asylum)	1	1
2.3.1 Implement asylum legislation (in the Law on Movements and Stay of Aliens and Asylum)	2+	1
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	1-	1-
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	2-	1-
2.4.2 Adopt and implement national returnee reintegration strategy	3+	2
2.4.3 Conduct inland detection, investigations of org. facilitated illegal migration	3+	2
2.4.4 Implement the Law on Movement and Stay of Aliens and Asylum	1-	1
2.4.5 Ensure expulsion of illegally residing third-country nationals	1-	1

## Border management

### • Implementation of the Law on Border Control

The Law on Border Control was adopted in June 2009. Among other things, the law regulates border checks and movements across the border, the physical infrastructure at border crossing points, the

<sup>15</sup> Letter from Jean-Louis De Brouwer, Acting Deputy Director-General, Directorate-General Justice, Freedom and Security, to Samir Rizvo, Assistant Minister and coordinator of roadmap activities in BiH, BiH Ministry of Security, 15 July 2009.

<sup>16</sup> The assessment is available at: <http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Bosnia%20and%20Herzegovina%20updated%20visa%20dialogue%20assessment%2018%20May.pdf>.

enforcement of laws and regulations on border issues, international cross-border police cooperation, etc. The new law incorporates all substantial remarks of the Geneva-based Centre for the Democratic Control of Armed Forces (DCAF)<sup>17</sup> that gave its opinion on the draft law.

Implementation of the Law on Border Control is ongoing. The current implementation activities relate to the adoption of the necessary bylaws. The following bylaws need to be drafted by different BiH bodies:

- A working group within the Ministry of Security has been formed to draft 4 bylaws that need to be adopted by the Ministry of Security;
- The Border Police has established working groups including members from the Ministry of Security and taxation authorities; these working groups need to draft 6 bylaws;
- The Indirect Taxation Authority, the Ministry of Civil Affairs and the Ministry of Transport also need to adopt 1 bylaw each.

The Law on Border Control sets a one-year deadline for the adoption of these bylaws. However, Samir Rizvo, coordinator of roadmap-related activities in Bosnia,<sup>18</sup> is optimistic that the bylaws will be adopted much earlier.

According to Ermin Pesto, Head of the Sector for Border and General Security at the Ministry of Security<sup>19</sup>, since the new Law on Border Control has not introduced any fundamental changes (some of the more important changes refer to a transfer of certain decision-making powers from the Border Police to the Ministry of Security), no special training is needed to familiarise border police officials with new provisions; the changes have simply been incorporated into the basic training curriculum.<sup>20</sup>

#### • **Implementation of the Integrated Border Management (IBM) strategy and action plan, in particular,**

Under the supervision of the State Commission for Integrated Border Management (IBM), the implementation of the IBM strategy and action plan, which were adopted in June 2008, has continued in 2009. Key milestones include the establishment of the Joint Risk Assessment Centre, the adoption and implementation of the Law on Border Control; the improvement of equipment at BCPs, which is ongoing<sup>21</sup> and the signing of an agreement on mutual cooperation between institutions involved in integrated BiH border management on 24 September 2009.

The implementation of the action plan has been overseen by the Commission for IBM, which was established by a decision of BiH Council of Ministers in August 2008 from five institutions that have signed a Memorandum on Cooperation:

- Ministry of Security (Ministry of Security)
- Indirect Taxation Office (UIO)
- Service for Foreigners' Affairs (SFA)
- Phyto-sanitary Service

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<sup>17</sup> DCAF describes itself on its website as follows: The Geneva Centre for the Democratic Control of Armed Forces (DCAF) is one of the world's leading institutions in the areas of security sector reform (SSR) and security sector governance (SSG). The organisation provides in-country advisory support and practical assistance programmes, develops and promotes appropriate democratic norms at the international and national levels, advocates good practices and conducts policy-related research to make recommendations to ensure effective democratic governance of the security sector (<http://www.dcaf.ch/>).

<sup>18</sup> Interview with Samir Rizvo, coordinator of visa roadmap activities in BiH, Ministry of Security, 24 August 2009.

<sup>19</sup> ESI/Populari interview with Ermin Pesto, Sector for Border and General Security, Department for Border Security, BiH Ministry of Security, 1 August 2009.

<sup>20</sup> ESI/Populari interview with Ermin Pesto, Sector for Border and General Security, Department for Border Security, Ministry of Security, on 18 August 2009.

<sup>21</sup> ESI/Populari interview with Jovo Durica, head of the Border Police, 20 August 2009.

- Veterinary Service

The IBM Commission meets on a monthly basis, although the law requires that they meet only 4 times per year. Progress is nevertheless often slow because “every issue must be resolved in a consensual way,” according to acting Minister of Security Mijo Kresic.<sup>22</sup>

**Background:** *Integrated Border Management is a concept to integrate and optimise national and international cooperation within, and between, the various agencies and services responsible for border management. These agencies include the border police, customs administration, veterinary and phyto-sanitary inspection and sometimes other agencies. Improved intra-service, inter-agency and international cooperation is achieved through a comprehensive package of activities and tools that include measures regarding the legal and regulatory framework, organisational structures and management, procedures, human resources and training, communication, information technology, infrastructure and equipment, and budget. Bosnia adopted a new IBM strategy and action plan in June 2008.*

*The May 2009 Commission assessment noted that the IBM Strategy and Action Plan “provide an adequate basis for the 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.”*

- **Measures to strengthen inter-agency cooperation between central, regional and local authorities working at the border**

A key agreement, the Agreement on Mutual Cooperation between Institutions involved in Integrated Management of the BiH border, was signed on 23 September 2009.<sup>23</sup>

The signatories include:

- Ministry of Security,
- BiH Border Police,
- BiH Service for Foreigners’ Affairs,
- BiH Indirect Taxation Authority,
- BiH Office for Veterinary Medicine,
- BiH Authority for Herbs Protection,
- FBiH Inspection Affairs Authority,
- RS Inspection Affairs Authority, and
- Brcko District Government.

The agreement was prepared by the IBM Commission and regulates cooperation between the State and Entity institutions that have signed the document at local, regional and central levels. This includes: cooperation between services included in data exchange (Information System for Migration); joint procurement and utilisation of equipment at border crossings; joint operations; joint risk analyses; joint training and professional improvement of officials; and joint information to the public. The agreement stipulates the appointment of contact officials and joint meetings.

**Background:** *In May 2009, the Commission stated that, “The signing of MoUs on cooperation in border management with relevant agencies at central, regional and local level should now be a priority.”*

<sup>22</sup> ESI/Populari interview with Mijo Kresic, Acting Minister of Security, 19 August 2009.

<sup>23</sup> ONASA, 23 September 2009, “Competent Institutions Sign Cooperation Agreement on Integrated State Border Management”.

- **Measures taken to strengthen risk analysis, in particular establishment of the Joint Risk Analysis Centre**

The tasks of the Joint Risk Analysis Centre (RAC), which brings together all the institutions working at the border, is to collect information from all these agencies, produce risk analysis, suggest measures in response to identified risks and lead joint operations.

The RAC is located at the headquarters of the Border Police in Sarajevo and staffed by the participant organisations (Border Police, Indirect Taxation Authority, Phyto-sanitary and Veterinary Services, Service for Foreigners' Affairs).<sup>24</sup>

At present, the RAC has 11 staff including the head of the centre. (Six are from the Border Police, 2 from the Indirect Taxation Authority, and 1 each from the Service for Foreigners' Affairs and Veterinary and Phyto-Sanitary Services). Full staffing (two additional Border Police experts were still needed) is expected to be reached by end of September.

Local Risk Analysis Centres (contact points) at the "mother" institutions have also been established, but some still lack certain technical equipment (in the Phyto-Sanitary and Veterinary Services and Service for Foreigners' Affairs).

Training of RAC staff was carried out by the International Organisation for Migration (IOM) in March and June 2009.

At the time of our visit the RAC was still not fully operational, however, activities were being carried out to make it fully operational in the very near future; these included:

- Precise terms of references for all the positions,
- A rulebook setting out the rights and obligations of the staff; its adoption is expected by the end of the year,
- The integration of the electronic networks and databases of the five participant organisations.

**Background:** *The Commission wrote in its May 2009 assessment: "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."*

- **Modernisation of infrastructure, equipment and IT technology**

BiH has 55 international Border Crossing Points (BCPs) and another 34 BCPs for local border traffic. Through the [SPIN](#) and [SDH](#) networks, the 30 main international BCPs (including BiH's airports and the Neum BCP towards Croatia) are connected to electronic information systems.

The SPIN network was established on 30 June 2009. It is essential for BCPs to be able to access electronic databases (e.g. Information System for Migration, Interpol, in the future the new police registry etc.). The Border Police expects that all international BCPs (55) will be connected to the data exchange network by the end of the year.<sup>25</sup>

The plan is for all traffic lanes at all BCPs to have optical readers, which can read machine-readable passports. Some 50 optical readers will be installed at 36 border crossings in October. The remaining

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<sup>24</sup> ESI/Populari interview with RAC staff and with Jovo Durica, head of the Border Police, 20 August 2009.

<sup>25</sup> ESI/Populari interview with Jovo Durica, head of the Border Police, 20 August 2009.

19 border crossings will receive the readers before the end of the year.

All the BCPs that are linked by SPIN also now have video cameras (CCTV).

BCPs are currently being also equipped with document readers (devices that can read the chips in biometric passports); a Spanish Government donation has provided the BiH Border Police with 30 new document readers. At present the Border Police is conducting a tender for the procurement of further readers.<sup>26</sup>

All BCPs now have electricity, at least by generator, though there are still some with very bad infrastructure, e.g., without any protective shelter or with a shed at the crossing.<sup>27</sup>

***Background:*** *In its May 2009 assessment the Commission stated: "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."*

***SPIN Network:*** *a wireless communications network for BiH police structures at the State-level – SIPA (State Investigation and Protection Agency), the Border Police and the Ministry of Security. The SPIN network was financed by the International Criminal Investigative Training Assistance Program (ICITAP) – a US government agency situated in the Department of Justice's Criminal Division. There are plans for other State-level police agencies to join in the future. The SPIN network gives the participating police bodies direct access to databases run or used by police agencies. (Readiness Report, Bosnia and Herzegovina, September 2008)*

***SDH (Synchronous Digital Hierarchy) network:*** *a highly-sophisticated wireless communication system structured on the basis of a radio relay system. The network connects BiH's security and judiciary institutions as well as law enforcement agencies. The implementation of the project was supported under the EU CARDS programme with €3.1 million. The system enables fast, reliable and efficient data exchange, as well as the exchange of images, pictures and sound. The SDH network is a closed system outside of the Internet. It functions in certain spectrum of frequencies designed for that purpose. (Readiness Report, Bosnia and Herzegovina, September 2008)*

- **Measures taken to strengthen human resources, including training**

**Human resources:** In its May 2009 assessment the Commission stated that the State Border Police's staffing level was only 83% (2,127 persons).

Since then, the Border Police has undertaken significant efforts to reduce this gap. It admitted 99 new cadets in the first half of 2009. These cadets have now completed their training and entered active duty. In the second half of 2009, 122 new cadets have begun training to become officers of the Border Police.

A rulebook on the promotion of police officials has been adopted. The absence of this rulebook was one of the reasons for the staff shortage criticised by the Commission: the Border Police has to promote existing staff in order to be able to admit new cadets to the service.

**Training:** Enver Hadziahmetovic from the training centre of the Border Police told ESI/Populari that

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<sup>26</sup> ESI/Populari interview with Jovo Durica, head of the Border Police, 20 August 2009.

<sup>27</sup> ESI/Populari interview with Jovo Durica, head of the Border Police, 20 August 2009.

the Border Police has a new anti-corruption training strategy, which was adopted in April 2009.<sup>28</sup> All the Border Police departments had provided input into the programme.

In June 2009 the Border Police Training Centre began to train trainers, according to this programme. 15 participants (future trainers) were selected from different Border Police organisational units. These trainers are now carrying out anti-corruption training with all Border Police officers. By the end of the year, all Border Police officers and staff should have received such training.

With regard to specialised training of staff, advanced training was organised with support from donors including the International Criminal Investigative Training Assistance Program (ICITAP), the International Organisation for Migration (IOM), and the Austrian, Spanish and UK governments.

According to Hadziahmetovic, at present the Training Centre is planning at least three additional specialised training seminars with the involvement of international advisors, in particular: Frontex, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Austrian Development Agency (ADA).

The Judicial Training Centre for judges and prosecutors (Centar za edukaciju sudija i tuzilaca) has also carried out training for Border Police cadets.

The April 2008 police reform laws require the establishment of a new State-level training agency (Agencija za obrazovanje i profesionalni razvoj) to be located in Mostar (southern BiH). It will train all State-level law enforcement agencies (in particular SIPA (State Investigation and Protection Agency - BiH's State-level police agency) and the Border Police). When the agency becomes operational, the Training Centre of the Border Police will have only a coordinating role in training Border Police officials and staff.<sup>29</sup>

**Background:** *In its May 2009 assessment the Commission stated: "The Border Police currently employs 2,127 persons and the staffing level is at 83%. (...)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."*

*With regard to training activities the Commission stated in its first assessment from November 2008: "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." In the updated assessment of May 2009, the Commission wrote: "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."*

- **Progress to close uncontrolled border crossings, in cooperation with neighbouring countries**

Closing of uncontrolled border crossings (UBC) is within the jurisdiction of the Commission for Integrated Border Management. According to Ermin Pesto, head of Sector for Border and General Security at the Ministry of Security,<sup>30</sup> BiH has undertaken a number of steps to fulfil this requirement, in particular:

- All UBCs with Croatia have been closed.

<sup>28</sup> ESI/Populari telephone interview with Enver Hadziahmetovic, head of the Border Police training centre, 23 September 2009.

<sup>29</sup> ESI/Populari telephone interview with Enver Hadziahmetovic, head of Border Police training centre, 23 September 2009.

<sup>30</sup> ESI/Populari interview with Ermin Pesto, Sector for Border and General Security, Department for Border Security, BiH Ministry of Security, 19 August 2009.

- BiH and **Montenegro** have established working groups that have identified 44 UBCs. A study has been commissioned to suggest how to best close these UBCs. According to Samir Rizvo, roadmap coordinator in BiH, Montenegro has recently submitted its study for closing 22 UBCs. Currently the two countries are searching for funding to close the UBCs.
- Regarding the closure of UBCs with **Serbia**, the BiH Ministry of Foreign Affairs has sent a request to Serbia to sign an Agreement on Border Crossings. Following the entry into force of this Agreement, Serbia and BiH would set up working groups to identify UBCs and plan how to close them. According to Rizvo, so far Serbia has not replied to BiH's request.<sup>31</sup>

## Asylum

### • adoption and implementation of bylaws on asylum procedure and access to travel and identification documents

In 2008, the Law on Movement and Stay of Aliens and Asylum went into force. The Commission confirmed in its 18 May assessment that this law is in line with international and EU standards. However, a few bylaws were missing at the time of the report.

In the meantime these bylaws have been adopted:<sup>32</sup>

- The Bylaw on International Protection (Pravilnik o međunarodnoj zaštiti) was adopted on 14 May 2009. This is the most important bylaw for the Section for Asylum within the Ministry of Security.
- The Bylaw on the Form for Applications for Travel Documents (Pravilnik o obrascu zahtjeva za izdavanje putnih isprava) was adopted in September 2009.
- The Bylaw on Travel Documents for Foreigners (Pravilnik o putnom listu za strance) and the Bylaw on Travel Documents for Stateless Persons (Pravilnik o putnim ispravama za osobe bez državljanstva), drafted by the Ministry of Civil Affairs, have received approval in principle from the Ministry of Security, which needs to agree to them. Now they have to be signed by Minister of Civil Affairs Sredoje Novic, which, according to Baotić, head of the Sector for Asylum, Ministry of Security, is expected to happen by early October.<sup>33</sup>
- The Bylaw on Travel Document for Refugees (in line with the UN Convention on Refugees from 1951).<sup>34</sup>

According to Baotic, these new provisions do not require additional training of staff.<sup>35</sup>

### • [Implementation of] measures to ensure a sustainable solution for backlog of asylum applicants

**Background:** *In its May 2009 assessment the Commission stated: "The authorities involved in the asylum system have sufficient capacity, given the relatively limited caseload (383 applications, concerning 1,015 persons, since 2004). There is however a backlog of pending cases both before the Ministry of Security's (MoS) 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*

<sup>31</sup> ESI/Populari interview with Samir Rizvo, BiH Roadmap Coordinator, 24 September 2009.

<sup>32</sup> ESI/Populari interview with Marijan Baotic, head of Sector for Asylum, BiH Ministry of Security, 18 August 2009, and telephone interview on 25 September 2009.

<sup>33</sup> ESI/Populari telephone interview with Marjan Baotic, head of Sector for Asylum, BiH Ministry of Security 25 September 2009.

<sup>34</sup> ESI / Populari telephone interview the Service for Foreigners' Affairs on 1 October 2009.

<sup>35</sup> ESI/Populari interview with Marjan Baotic, head of Sector for Asylum, BiH Ministry of Security, 19 August 2009.

*asylum after the withdrawal of their temporary protection status in 2007. A sustainable solution for this group of persons needs to be found.”*

- Speaking to the Ministry of Security’s Sector of Asylum, which deals with asylum requests, as well as with UNHCR, ESI/Populari could not confirm the existence of any backlog of cases involving Kosovars at the first instance. The Ministry of Security said it issued all decisions in response to applications from Kosovars in 2007 and 2008. It was also not possible to confirm the existence of a backlog of cases at the State Court since no figures were available, but it cannot be excluded that cases are still pending.
- According to Marijan Baotic, the head of the Sector for Asylum at the Ministry of Security,<sup>36</sup> 149 asylum requests (for 583 persons) were submitted in 2007, the year when the temporary protections status for Kosovars expired (in September 2007).
- In 2007, the Sector for Asylum issued 123 decisions (for 478 persons) in response to these applications. All requests were rejected. The remaining cases were processed and rejected by the Sector for Asylum in 2008. According to Baotic there are no cases from 2007 pending at the first instance stage.
- Some of the 2007 cases that were rejected by the Sector for Asylum appealed the decision, turning to the State Court. Their precise number is not clear. Baotic could only give a figure for 2008 involving the above mentioned Kosovars. According to these figures there were 49 court appeals to the Sector for Asylum’s decisions, out of which 10 were resolved. Baotic said the court has so far upheld the decisions brought by the Sector for Asylum: the rulings were negative.
- Precise figures regarding the group of persons in question whose cases have not been resolved were not available at UNHCR either. According to UNHCR,<sup>37</sup> “out of a total of 130 lawsuits filed against Ministry of Security decisions by 1 July 2009 [since 1 July 2004!], the BiH Court issued decisions in 73 cases. In the last 4 decisions concerning Roma from Kosovo, the Court concurred with Ministry of Security in finding the situation in Kosovo conducive of return, contrary to the UNHCR 2006 position.”

Neither Baotic nor UNHCR could clarify what is meant with “a sustainable solution” for the Kosovars whose cases had not been resolved. UNHCR’s position is that for a limited number of Roma families conditions are not yet conducive for a return to Kosovo.

On a general note, Baotic said it takes the Sector for Asylum an average 3-4 months to issue a decision in response to an asylum application, which is within the deadlines under the law, according to him. Baotic also said the sector has spare capacities in terms of staffing so that it could process larger number of requests should more asylum requests be filed in BiH.

UNHCR provided ESI/Populari with general asylum statistics (slightly more recent than the figures that the Commission used in the May 2009 assessment). However, these figures do not match up with each other, and the UNHCR figures as regards asylum applications from Kosovars in 2007 are much lower than the Ministry of Security’s:

- According to **UNHCR Sarajevo’s quarterly report**, between 1 July 2004 and 1 July 2009 the Ministry of Security (MoS) received 393 asylum claims concerning 1,024 asylum seekers.<sup>38</sup>
- According to UNHCR, “the majority of asylum seekers (72 cases/292 persons) are persons from Kosovo who remained under temporary admission (TA) in BiH for as long as nine years.”

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<sup>36</sup> ESI/Populari interview with Marjan Baotic, head of Sector for Asylum, BiH Ministry of Security, 19 August 2009.

<sup>37</sup> ESI/Populari email communication with Liljana Kokotovic, UNHCR Sarajevo, 25 September 2009.

<sup>38</sup> ESI/Populari email communication with Liljana Kokotovic, UNHCR Sarajevo, 25 September 2009.

(However, Marijan Baotic, the head of the Sector for Asylum, Ministry of Security,<sup>39</sup> said as many as 149 asylum requests (for 583 persons) were submitted in 2007, many following the expiry of the temporary protections status for Kosovars in September 2007.)

- UNHCR: Of the total number of the applications submitted during the five-year period (1 July 2004 and 1 July 2009), 263 cases (616 asylum seekers) have been closed.
- The remaining 122 cases (398 asylum seekers) were pending at various stages of the procedure as of 1 July 2009. 154 persons are living in the two reception centers, while the others live in private accommodation.
- As regards these 122 pending cases, the Ministry of Security had issued first-instance negative decisions in 63 cases (190 asylum seekers) and suspended procedures in another 8 cases (26 asylum seekers).

#### • Progress of construction of permanent reception centre for asylum seekers in Trnovo

The construction of the Trnovo reception centre for asylum seekers is progressing according to plan. The project is expected to be finished in 2011 as scheduled. It is one of the priorities under the Strategy on Immigration and Asylum.

The EU supports the initial construction phase with 1.5 million € from IPA funds.<sup>40</sup>

The Ministry of Security has prepared and sent into procedure the necessary Bylaw on operating the Centre.

**Background:** *In its May 2009 assessment, the Commission wrote: “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.”*

## Migration management

#### • Monitoring of migration flows, in particular development of migration profile and implementation of the Information System on Migration (ISM)

**Migration profile:** This year BiH has prepared a migration profile for the first time, which was adopted by the Council of Ministers on 24 September 2009.

This complex project has been managed by the Section for Immigration within the Ministry of Security.

A sustainable mechanism for the regular monitoring and updating of the migration profile has been established. Under this mechanism, all relevant institutions (e.g. Border Police, Service for Foreigners' Affairs, etc.) are due to submit regular reports in a predefined format to the Sector for Immigration in the Ministry of Security where the information is processed and migration profile is put together.<sup>41</sup>

**Background:** *A migration profile gathers and analyses all information relevant to migration in any given country. It usually includes data on immigrants, emigrants, remittances, migrant communities,*

<sup>39</sup> ESI/Populari interview with Marjan Baotic, head of Sector for Asylum, BiH Ministry of Security, 19 August 2009.

<sup>40</sup> ESI/Populari interview with Samir Rizvo, BiH Roadmap Coordinator, 24 September 2009. The information about the IPA funding is from the EU national expert report on asylum issues in BiH.

<sup>41</sup> ESI/Populari interview with Murbeta Dzaferovic, head of the Sector for Immigration, Ministry of Security, 18 August 2009.

and irregular migration; it also provides an overview of migration policies and the legal framework in place.

**Information System on Migration (ISM):** The ISM network connects migration and asylum related databases via a secure electronic system. It has been financed under the Commission's Cards programme.

The user institutions, which also open up their databases to the partner institutions involved in the network, are:

- The Ministry of Foreign Affairs and BiH diplomatic bodies worldwide (embassies and consulates)
- The Sector for Asylum at the Ministry of Security,
- Service for Foreigners' Affairs,
- Border Police.

The electronic databases that are part of ISM include the following:

- Issued visas (responsibility of the Ministry of Foreign Affairs),
- Information on asylum requests (granted, rejected or in process); (responsibility of the Section for Asylum within the Ministry of Security),
- Entries into BiH (responsibility of the Border Police), and
- Residence permits (responsibility of the Service for Foreigners' Affairs within the Ministry of Security).

The ISM is managed by the IT department of the Ministry of Security. This department was due to become fully operational on 1 October 2009, but was already equipped with the technical infrastructure and software before the deadline, according to Amir Husic from the IT department.<sup>42</sup>

**Background:** *The Commission stated in its May 2009 assessment: "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"*

#### • Measures to strengthen the integration of returnees

The Council of Ministers adopted the Strategy for the Reintegration of Returnees (Strategija reintegracije povratka na osnovu sporazuma o readmisiji) based on the Readmission Agreement on 24 September 2009.

In its May 2009 assessment, the Commission acknowledged that the draft strategy "covers key areas of returnee reintegration such as housing, property restitution, infrastructure, health care and employment." But it asked for information about the "applicability of returnee reintegration measures to persons returned under EC-Bosnia and Herzegovina readmission agreement" as there were problems regarding unclear competences of the Ministry of Human Rights and Refugees and the Ministry of Security.

The adopted strategy, to which other competent State, Entity, Cantonal and local institutions have contributed, clarifies this point. It stipulates measures to support the integration of returnees, and also regulates return procedures as well as readmission procedures of persons who lose residence permits in host countries.

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<sup>42</sup> ESI/Popolari telephone interview with Amir Husic, head of the IT department, Ministry of Security, 25 September 2009.

**Background:** *The Commission wrote in its May 2009 assessment: “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 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.”*

• **Measures taken to strengthen inter-agency cooperation between authorities involved in fighting illegal immigration, including inland detection**

Interagency cooperation between authorities involved in fighting illegal immigration, has recently been significantly strengthened through:

- The establishment of the Joint Risk Analysis Centre,
- The Agreement on Mutual Cooperation between Institutions involved in the Integrated Management of the BiH Border (23 September 2009),
- The Information System for Migration that will become operational on 1 October 2009,
- The planned establishment of a police registry (which is now in parliamentary procedure after having been adopted by the Council of Ministers).

The agency best placed to deal with inland detection is the Service for Foreigners' Affairs (SFA) at the Ministry of Security. The SFA was established in October 2006 based on a law from August 2005 as well as the revised Law on the Movement and Stay of Aliens and Asylum of May 2008.

The SFA has a well-developed country-wide presence. The structure was fully operational by the end of 2008 with field office chiefs who are in charge to plan autonomous operations for the detection of illegally residing individuals (expired visas, persons who illegally entered BiH, or persons who entered with a tourist visa and work without a work permit).

The SFA and BiH police bodies cooperate on a daily basis regarding illegal migration. The SFA also administers the Immigration Centre for illegal immigrants.

The Border Police also has a strong enforcement mandate. In principle, it can conduct investigations throughout the territory of BiH in cases of crimes related to the border, including illegal migration and human trafficking.

Recently the Border Police has conducted a number of successful investigations. One such example is the Tara 2 operation in July 2009 against a criminal network smuggling illegal migrants through Serbia, BiH and Croatia to Slovenia. The operation was the result of extensive regional and international cooperation, including the support of the Bucharest-based SECI Centre. The actual police action took place on BiH territory, in Bijeljina, Šamac, Gradačac and Domaljevac.

However, the activities of these two key bodies – SFA and Border Police - in combating illegal migration do not yet appear to be well coordinated. While informal cooperation appears to be very good between the Border Police and *other law enforcement agencies* (at the State, Entity and Cantonal levels), a Memorandum of Understanding between the Border Police and the SFA was until recently *not* well-known, and consequently not implemented. Enes Gacanin, the Head of Central Investigations Office at the Border Police<sup>43</sup>, told ESI/Populari that there are overlaps in responsibilities and non-harmonised laws in the area of human trafficking and illegal migration. There is awareness of this problem and willingness to resolve it. This is supported at the strategic level (ministries), and BiH has also pro-actively sought technical assistance in the immigration and asylum sector under IPA 2008. A twinning project will start in early 2010 to further develop the

<sup>43</sup> ESI/Populari telephone interview with Enes Gacanin, head of the Central Investigations Office, Border Police, 24 September 2009.

sector in line with the acquis.<sup>44</sup>

**Background:** The Commission stated in its May 2009 assessment: *“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 – BiH’s state-level police agency) 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.”*

- **Progress of construction of additional facilities at detention centre for illegal immigrants**

The construction of additional facilities at the Immigration Centre is ongoing. It is funded under the IPA 2007 National Programme; BiH covers 20% and EC 80% of necessary funds.

In addition, BiH has taken administrative and legal measures related to the Immigration Centre:

The Council of Ministers has adopted a Decision on releasing additional funds for hiring security guards at the Immigration Centre.

On 14 September 2009, the Council of Ministers adopted the Bylaw on the Internal Organization of the Immigration Centre.

At the end of September, vacancy notices for new staff were published.<sup>45</sup>

**Background:** *Since July 2008, BiH has had a reception centre for 40 illegal immigrants (all male; women, children and vulnerable group are being accommodated by IOM) in Lukavica near Sarajevo; a second building for another 80 immigrants was under construction when the Commission issued its 18 May assessment.*

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<sup>44</sup> ESI/Populari telephone interview with Enes Gacanin, head of the Central Investigations Office, Border Police, 24 September 2009, and email exchange with an EU official working in Bosnia who insisted on anonymity, 28 September 2009.

<sup>45</sup> ESI/Populari interview with Samir Rizvo, BiH Roadmap Coordinator on 24 September 2009.

## Block 3 - Public order and security

Under the roadmap, block 3 comprises 16 benchmarks. This block is the most complex and in many respects the most challenging since it requires clear strategies and action plans to fight all forms of organised crime and corruption. For a decentralised state like Bosnia and Herzegovina, it meant that it had to bring many different actors around a table, ensure better cooperation and coordination and negotiate agreements that everybody could accept.

Nevertheless, Bosnia and Herzegovina has achieved remarkable results in relation to all requirements under this block. The country has adopted viable strategies to fight all forms of organised and serious crime such as high-level corruption, money-laundering and human trafficking. Its law enforcement agencies at State, Entity and Cantonal levels have agreed to exchange information via an exchange server; the lack of information exchange constituted a major obstacle to the effective fight against organised crime, according to the Commission. The last few months have also seen impressive developments in the fight against high-level corruption – probably one of the most challenging issues. International cooperation has also improved significantly, notably with Eurojust and Europol and in the field of judicial cooperation in criminal matters. Lastly, the data protection agency is now fully operational and has begun its work – a precondition for more intensive cooperation with Europol.

The excerpt from Bosnia’s scorecard below shows the improvement since May. It is followed by a detailed analysis of progress achieved in relation to each issue under block 1 that the Commission singled out in its letter of 15 July 2009. These are the “specific areas in which Bosnia and Herzegovina is asked to make further progress, and report on, in view of the fulfilment of the outstanding benchmarks.”<sup>46</sup> As regards the other aspects of the benchmarks, they are largely fulfilled and discussed in the Commission assessment of 18 May 2009.<sup>47</sup>

<b>Block 3: Public order and security</b>		
<b>ESI/Popolari assessment: BiH meets the majority of benchmarks under block 3.</b>		
3.1.1 Implement 2006 strategy to fight organised crime and corruption (in particular cross-border aspects) by adopting & implementing the foreseen action plans	3+	2+
3.1.2 Adopt and implement strategy and action plan to fight trafficking in human beings	1-	1
3.1.3 Adopt and implement strategy to fight money laundering and financing of terrorism, implement legislation on confiscation of assets of criminals	3+	2+
3.1.4 Adopt and implement strategy and action plan to fight drug trafficking, info at border crossing points about drug seizures and persons involved, internat. Cooperation	3+	2+
3.1.5 Implement National Anti-Corruption Strategy and action plan, take additional measures	3+	2+
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and the fight against terrorism	3+	2+
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	2+	1
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	3+	1
3.2.3 Develop working relations with Eurojust	1	1
3.3.1 Improve law enforcement co-operation among relevant national agencies	3+	2
3.3.2 Set up coordination mechanisms for information exchange between national agencies	3+	2+
3.3.3 Improve law enforcement cooperation and info exchange regionally and with EU MS	2-	2-
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	3+	2-
3.3.5 Prepare operational cooperation agreement with Europol	3+	1-

<sup>46</sup> Letter from Jean-Louis De Brouwer, Acting Deputy Director-General, Directorate-General Justice, Freedom and Security, to Samir Rizvo, Assistant Minister and coordinator of roadmap activities in BiH, BiH Ministry of Security, 15 July 2009.

<sup>47</sup> The assessment is available at: <http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Bosnia%20and%20Herzegovina%20updated%20visa%20dialogue%20assessment%2018%20May.pdf>.

3.4.1 Implement 2006 Law on Data Protection, set up supervisory authority	3+	1
3.4.2 Implement internat. conventions on personal data protection	Unclear	unclear

## General/Overall policy on preventing and fighting organised crime and terrorism

### • Adoption of a revised strategy and action plan for fight against organised crime

The new Strategy for the Fight against Organised Crime from 2009 to 2012 was adopted by the Council of Ministers on 24 September 2009. It follows on and improves an earlier strategy, setting out the goals that Bosnia wants to reach as regards organised crime in the coming period. Among other things, the goals include the harmonisation and constant modernisation of the legal framework in BiH in line with international standards, an improvement of the institutional capacities and strengthening of the capacities, full inter-agency coordination and information exchange, cooperation with international actors, effective prosecution of organised crime, the development of success indicators, and awareness-raising.<sup>48</sup>

The strategy had been prepared by a working group headed by Sead Lisak, then Deputy Director of SIPA (State Investigation and Protection Agency - BiH's State-level police agency).<sup>49</sup>

Now, following adoption by the Council of Ministers, a new working group will be appointed to finalise within 90 days a related action plan for the fight against organised crime.

**Background:** *The Commission wrote in its May 2009 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."*

### • Measures taken for harmonisation of the domestic legal and policy framework between state and entity levels

The new Strategy for the Fight against Organised Crime adopted on 24 September 2009 carries a set of detailed recommendations regarding the harmonisation of the legal and policy framework at the State and Entity levels. Following the adoption of a related action plan for the Fight against Organised Crime (due before the end of 2009), harmonisation activities are expected to begin.<sup>50</sup> However, there have already been achievements:

Regarding the harmonisation of the policy framework, the Council of Ministers has adopted a series of other important strategies in September: the Strategy and Action Plan for Prevention of Money Laundering and Financing of Terrorist Activities (30 September), the Strategy and Action Plan for the Fight against Corruption during 2009 to 2014 (24 September), the Law on the Establishment of an Anti-corruption Body (24 September) and the national Action Plan 2009-2013 for Drug Control, Suppression and Prevention (24 September).

Regarding legal harmonisation, the pending adoption of amendments of the BiH Criminal Code will bring BiH legislation in line with relevant Council of Europe and UN Conventions. The amendments –

<sup>48</sup> BiH Council of Ministers, Bosnia and Herzegovina Strategy for Combating Organised Crime (for the period 2009 – 2012), September 2009.

<sup>49</sup> ESI/Populari interview with Sead Lisak, Deputy Director of SIPA, 20 August 2009.

<sup>50</sup> ESI/Populari interview with Sead Lisak, Deputy Director of SIPA, 20 August 2009.

changes to around 100 articles of the Criminal Code, which are important for several roadmap requirements - have been prepared by a working group that also received contributions from international organisations such as the Council of Europe, the OSCE, the Office of the High Representative (OHR) and EUPM (European Union Police Mission in BiH). The amendments give the Entities and Brcko District a 30-days deadline to harmonise their legislation with the state laws. Somewhat unexpectedly, the amendments were rejected by the House of Peoples, the Parliament's upper house, on 1 October. Under the procedure to be followed, they were returned to the Ministry of Justice, which is trying to find a solution in order to ensure that the amendments relevant for the roadmap adopted as soon as possible.

**Background:** In its May 2009 assessment, the Commission asked in relation to the fight against organised crime for "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". It also mentioned that the need for the inclusion of international standards in the areas of anti-corruption and confiscation of assets (see requirements further below).

- **Adoption and implementation of an adequate model of information exchange from police records throughout the country**

In its May 2009 assessment, the Commission identified the lack of inter-agency coordination and information exchange in the field of law enforcement "as the main obstacle to effective repressive activities" against organised crime. The resolution of this issue required long negotiations, but it was resolved in the end.

An agreement was reached in early August 2009 by the 15 police agencies as well as prosecutor offices at State, Entity and Cantonal levels to open up their records and to exchange certain types of information in real time. The data to be exchanged includes:

- Criminal records,
- Records of reports on criminal acts,
- Records of investigations and arrest warrants,
- Records of identity checks,
- Records of persons whose identity has been determined,
- Registers of weapons,
- Records of DNA profiles,
- Records of the automatic system for the identification of fingerprints and palm prints,
- Records prescribed under the Law on the Movement and Stay of Foreigners.

BiH's police agencies and prosecutor offices agreed that each police agency would continue to manage its own database and that the agreed data would be exchanged via an exchange server.

The next step was to agree on the location of the exchange server. This became a problem since the RS representatives wanted to locate it with IDDEEA (Agency for Identification Documents, Registers and Data Exchange) in Banja Luka, while Bosniak parties insisted on locating it with the Ministry of Security in Sarajevo.

In the end the issue was resolved: agreement in principle was reached on 24 September 2009 at a meeting of acting Minister of Security and the Entity Interior Ministers in Banja Luka, which Nikola Spiric, the Chairman of the Council of Ministers, had called for.<sup>51</sup> The ministers agreed to locate the exchange server at the Directorate for the Coordination of Police Bodies (*Direkcija za koordinaciju policijskih tijela BiH*) in Sarajevo – a new police body to be established under the police reform laws

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<sup>51</sup> ONASA, *BiH CoM Adopts Line of Acts Needed for Liberalisation of Visa Regime*, 24 September 2009.

of April 2008 (see requirement “Measures taken to implement the two police laws of 2008, in particular appointment of pending directors”). A few days later, on 30 September, all the police agencies and prosecutor offices that will participate in the information exchange signed a memorandum confirming the location for the exchange server. On the same day the Council of Ministers adopted the Agreement on Cooperation and Exchange of Information from Police and Prosecutorial Records.

**Background:** *The Commission noted in its May 2009 assessment: “There are country-wide plans and ongoing projects aiming at overcoming the absence of interagency 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.”*

#### • **Measures taken to improve and better coordinate across state and entity levels trainings on preventing and fighting organised crime**

According to Samir Rizvo, the coordinator of roadmap activities in Bosnia,<sup>52</sup> the two police academies, in Sarajevo and Banja Luka, as well as the newly established Agency for Police Education at the State level cooperate closely with each other and all the curricula are harmonised and standardised. Some of seminars are open to all police agencies in BiH. In all the training programmes, there is a focus on the fight against different types of organised crime.

An international official familiar with police training activities in BiH, who spoke with ESI/Populari on condition of anonymity,<sup>53</sup> confirmed this, adding that there is no lack of training how to fight different crime activities, including organised crime and financial and economic crime. The official also said the seminars are inevitably harmonised since the trainers are often the same (e.g. many seminars are held under ICITAP, the US-run International Criminal Investigative Training Assistance Programme) and because the Entity-level Criminal Procedure Codes are harmonised with the State-level Criminal Procedure Code, thus prescribing similar investigation methods.

At the State-level, a project aimed at improving the capabilities of law enforcement agencies to fight money laundering, drugs, organised crime, terrorism and corruption will be launched in January 2010. Its official title is “Joint training of the SIPA Financial Intelligence Unit (FIU) and the Crime Investigation Unit (CIU), Prosecutors, financial regulatory agencies and institutions”. The project is worth 400,000 EUR and financed under IPA 2007.

On 8/9 May 2009, a training seminar for three SIPA units (CIU, Operational Support Unit and Special Support Unit) and officials from the State Prosecutor’s Office was held. The topics were special investigative measures, crime scene investigations, defence, the development of theories and search methods. According to Rizvo, EUPM assessed the training as very professional.

There are also training activities targeting judges and prosecutors, supervised by the High Judicial and Prosecutorial Council (HJPC), a State-level body. The training is conducted through two training centres for judges and prosecutors, one in the Federation<sup>54</sup> and the other in the RS<sup>55</sup>. From April 2008 to June 2009, HJPC conducted a project called “Establishment of Enhanced Mechanisms of Coordination between the Police and the Prosecutors”. More than 70 officials including ministers, prosecutors and directors of police agencies participated.

The two training centres provide training for people who are studying to become judges or

<sup>52</sup> ESI/Populari interview with Samir Rizvo, BiH roadmap coordinator, 24 September 2009.

<sup>53</sup> ESI telephone interview and email exchange with this official, 6 October 2009.

<sup>54</sup> The website of the Federation training centre is at: <http://www.fbih.cest.gov.ba/>.

<sup>55</sup> The website of the RS training centre is at: <http://www.rs.cest.gov.ba/>.

prosecutors, training for judges and prosecutors at the beginning of their careers as well as specialised training. The HJPC monitors the activities and the professional development of judges and prosecutors, setting standards for their training and approving the annual programmes of the two training centres as well as their final reports.

**Background:** *In the May 2009 assessment, the Commission criticised: “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.”*

### • Effective investigations, indictments and convictions against organised crime

In recent months, BiH’s police agencies have achieved significant successes in operations against organised crime. EUPM has been monitoring a large number of investigations by various domestic agencies and told ESI/Populari that BiH law enforcement agencies are effectively tackling the problem of organised crime. In fact, Head of EUPM Stefan Feller noted a “track record of achievements” against regional and pan-European actors of organised crime.<sup>56</sup> Here are three examples:

**Operation “Banka”:** On 10 May 2009, following a several-month long investigation, SIPA units (SIPA is BiH’s State-level policy agency, the State Investigation and Protection Agency) carried out an undercover operation in Sarajevo, arresting three persons from Serbia suspected of being involved in the transportation and dissemination of counterfeited Euros. Officers seized forged Euro notes with a nominal value of 81,200 EUR. Police believe that the fake Euros originated in Serbia. The suspects were charged with involvement in organised crime, counterfeiting of money, illegal possession of weapons and ammunition, and obstruction of justice.<sup>57</sup>

**Gasi Case:** On 23 June 2009, the Sarajevo Cantonal Court rendered a first-instance verdict in the case against Muhamed Ali Gasi, a well-known criminal and suspected leader of one of the most notorious criminal gangs in BiH, and six of his accomplices. The Court found all the accused guilty. Gasi was sentenced to 20 years of imprisonment, while his associates received prison sentences between 1 and 6 years. Federation police officers had arrested Gasi on 14 January 2008. During the operation, which started on 8 January 2008, they also succeeded in arresting five of Gasi’s alleged associates, while a sixth one was arrested in May 2009.<sup>58</sup>

**Djordje Zdrale and Darko Elez case:** Recent developments in the investigation of an internationally operating organised crime network suspected of a series of murders (including murders of police commanders) may lead to its dismantlement. Earlier this year, one of the gang leaders, Djordje Zdrale, was arrested in the EU and extradited to Bosnia for one of the murders. The other leader, Darko Elez, was arrested in Serbia in September 2009. As a result of a covert operation involving Serbian and BiH prosecutor offices, a number of officials and suspected gang members have also been arrested in both BiH and Serbia. The case represents a major success for the BiH law enforcement and justice system.

## Policy on preventing and fighting trafficking in human beings

<sup>56</sup> ESI/Populari interview with Stefan Feller, head of EUPM, 19 August 2009. Other international officials dealing with organised crime in Bosnia, but who wanted to remain anonymous, confirmed this assessment.

<sup>57</sup> EUPM Monthly Report # 05/09, May 2009, Reporting Period: 1–31 May 2009.

<sup>58</sup> EUPM Monthly Report # 05/09, May 2009, Reporting Period: 1–31 May 2009, and EUPM Monthly Report # 06/09, June 2009, Reporting Period: 1–30 June 2009.

## • Implementation of the action plan to combat trafficking in human beings

According to Samir Rizvo, the Action Plan for the Prevention of Trafficking in Human Beings for the period 2008-2012 (adopted in May 2008) is being implemented,<sup>59</sup> and cooperation and information exchange between relevant (police and government) bodies is generally described as very good.<sup>60</sup>

The action plan lists activities in order to achieve improvements in the following areas: support systems, prevention, protection and assistance to victims and witnesses, prosecution and international cooperation. Among the achievements are:<sup>61</sup>

- In May 2009, the Office of the State Coordinator for Combating Trafficking in Human Beings and Illegal Migration at the Ministry of Security has been upgraded to a Department for Combating Trafficking in Human Beings, which means that funding has been secured on a permanent basis.
- The Ministry of Security, the Ministry of Human Rights and Refugees and foreign donors fund shelters and NGOs working on the prevention of THB and the reintegration of victims. They also provide funding to cover all needs of the victims (housing, food, clothes, legal advice, medical and psychological support etc.).
- The Entity Centres for the Training of Judges and Prosecutors conducted training on THB based on a manual developed together with the State Coordinator and IOM (International Organisation for Migration) in 2008.
- There are manuals on how to identify and deal with victims of THB for police, social workers, medical staff, teachers and other professionals.
- There are two databases, one containing information about victims of THB and the support they received (at the BiH Ministry of Human Rights and Refugees) and the other one carrying information about perpetrators and the actions taken against them (located at SIPA, BiH's State-level police agency). In 2009, the relevant staff was trained in collecting and submitting the information. The databases are a result of a project conducted with the International Centre for Migration Policy Development (ICMPD).
- Monitoring mechanisms are being introduced to ensure minimum standards of protection.
- Schools will raise the awareness of students about THB. Manuals and educational material have been prepared and teacher training is ongoing.
- There are public information campaigns. Between October and December 2009, information to prevent THB will be provided via chat rooms on the Internet.
- The capacity of police agencies and prosecutor's offices to investigate and prosecute THB crimes is steadily increasing.
- As a result of a project by ICMPD (International Centre for Migration Policy Development), BiH and other countries of Southeastern Europe adopted translational referral mechanisms for THB victims, which facilitate the return of the victims to their home countries. BiH has so far returned five victims using this mechanism.

**Background:** *In its May 2009 assessment the Commission was fairly positive about the fight against human trafficking in BiH: "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." However, it demanded: "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*

<sup>59</sup> ESI/Populari interview with Samir Rizvo, BiH Roadmap Coordinator, 24 September 2009.

<sup>60</sup> ESI/Populari interview with Jovo Durica, head of Border Police, on 20 August 2009.

<sup>61</sup> The examples are from Bosnia's Second Readiness Report, 1 October 2009.

demonstrated.”

- **Measures taken for harmonisation of the legislative framework at State, entity and Brcko district level regarding the criminal offence of trafficking in human beings**

In the field of human trafficking, one of the important goals for 2009 is the harmonisation of domestic legislation with the Council of Europe Convention against Trafficking in Human Beings (THB). According to Samir Rizvo<sup>62</sup> the changes to the BiH Criminal Code will remedy this gap and thus fulfil this requirement. The amendments were drafted based on the results of an analysis of the compliance of BiH’s legal and institutional framework, which was conducted by the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

The THB-related amendments of the BiH Criminal Code form part of more than 100 amendments that also relate to other roadmap requirements as well as completely different issues. According to Jusuf Halilagic, Secretary at the Ministry of Justice, they have been developed over a period of three years and will bring the legislation up to international standards.<sup>63</sup>

Somewhat unexpectedly, the amendments were rejected by the House of Peoples, the Parliament’s upper house, on 1 October. Under the procedure to be followed, they were returned to the Ministry of Justice, which is trying to find a solution in order to ensure that the amendments relevant for the roadmap adopted as soon as possible.

**Background:** *In its May 2009 assessment, the Commission stated: “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.”*

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

- **Adoption of a national strategy and action plan on the prevention and fighting of money-laundering and financing of terrorist activities**

The Strategy and Action Plan on the Prevention and Fighting of Money-Laundering and Financing of Terrorist Activities were adopted by the Council of Ministers in 30 September 2009.

The strategy and action plan, drafted by a working group with members from 17 different institutions, are based on a risk assessment carried out in line with a model established by the Financial Action Task Force (FATF). The aim of the risk assessment was to determine the threat level as well as weaknesses in the systems in place to prevent money laundering and financing of terrorism. The strategy mentions that the threat level is high and it lists a number of weaknesses, based on which it postulates the following objectives:

1. “Develop the reporting mechanism and public and the private sector cooperation in order to combat money laundering and the financing of terrorism;
2. Enhance exchange of information among authorities in Bosnia and Herzegovina;

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<sup>62</sup> ESI/Populari interview with Samir Rizvo, BiH Roadmap Coordinator, 24 September 2009.

<sup>63</sup> ESI/Populari interview with Jusuf Halilagic, Secretary at the Ministry of Justice, Sarajevo, 23 September 2009.

3. Ensure comprehensive investigation, prosecution and court proceedings of money laundering, predicate offences and financing of terrorist activities;
4. Develop and apply a proactive approach to international cooperation in the prevention of money laundering and the financing of terrorism;
5. Develop and harmonise the legal framework in Bosnia and Herzegovina concerning money laundering and the financing of terrorism to comply with international standards;
6. Enhance public awareness and develop a joint training programme for the public and private sectors.”<sup>64</sup>

The overall aim of the strategy is for BiH to have, by 2013, “an efficient and coordinated system for the prevention of money laundering and financing of terrorism based on inter-institution[al] cooperation and international standards.”<sup>65</sup>

The action plan lists 31 actions necessary to reach each of the individual goals, allocating responsibility for each action and specifying details, deadlines, monitoring mechanisms as well as whether the action has budgetary implications and/or requires legislative changes.<sup>66</sup>

***Background:*** *As one of the actions necessary to enable BiH to prevent and fight money laundering and the financing of terrorist activities, the European Commission requested in its May 2009 assessments: “The national strategy for prevention of money laundering and prevention of terrorism remains to be finalised.”*

***FATF:*** *“The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. The FATF is therefore a ‘policy-making body’ created in 1989 that works to generate the necessary political will to bring about legislative and regulatory reforms in these areas. The FATF has published 40 + 9 Recommendations in order to meet this objective.”<sup>67</sup>*

- **Effective measures taken against (suspected) money laundering, including temporary suspension of suspicious transactions, investigation, prosecution and convictions**

On 30 September 2009, the Council of Ministers adopted the National Strategy and Action Plan for the Prevention of Money Laundering and Financing of Terrorist Activities. One of the strategy’s objectives is to “ensure comprehensive investigation, prosecution and court proceedings of money laundering, predicate offences and financing of terrorist activities”. The action plan lists six specific activities to be carried out by the relevant law enforcement agencies, prosecutor’s offices and other bodies to reach this goal. These are:

- (1) the establishment of standardised procedures for the investigations related to the amount, type of proceeds and their tracing (by 30 June 2010);
- (2) the establishment of standardised procedures for the selection of targets of serious crimes (by 30 June 2010);
- (3) the establishment of standardised procedures for setting up multi-agency investigation teams (by 30 June 2010);
- (4) the establishment of standards for the management of seized and confiscated property (by 30

<sup>64</sup> The objectives are taken literally from the strategy. Strategy on the Prevention and Fighting of Money-Laundering and Financing of Terrorist Activities.

<sup>65</sup> Strategy on the Prevention and Fighting of Money-Laundering and Financing of Terrorist Activities, Introduction.

<sup>66</sup> ESI/Populari interview with Mijo Golub, head of SIPA’s Financial Intelligence Department (FID: Finansijsko-obavještajni odjel) and also head of the anti-money-laundering working group, 22 September 2009.

<sup>67</sup> FATF website at [http://www.fatf-gafi.org/pages/0,2987,en\\_32250379\\_32235720\\_1\\_1\\_1\\_1\\_1,00.html](http://www.fatf-gafi.org/pages/0,2987,en_32250379_32235720_1_1_1_1_1,00.html).

June 2010);

(5) the establishment of an agency for the management of seized and confiscated property and the adoption of the necessary legal framework (by 31 December 2011);

(6) the integration of these tasks as official duties in the annual plans of the responsible ministries and institutions so that the necessary human and financial resources are made available (by 31 December 2009).

In addition, on 15 July 2009 the new BiH Law on Preventing Money-Laundering and the Financing of Terrorist Activities entered into force.<sup>68</sup> This law clearly defines the obligations of SIPA's Financial Intelligence Department (FID), which represents BiH's Financial Intelligence Unit (FIU), as well as the obligations of the reporting entities and other government bodies dealing with discovering, preventing and investigating money laundering and the financing of terrorist activities. It also clarifies FID's role when it comes to international cooperation. For example, it gives FID the power to request FIUs in other countries to suspend suspicious transactions in their countries, and vice versa. At present it is too early to evaluate the implementation of the new law, but it is expected to improve the effectiveness of the fight against money laundering.<sup>69</sup>

According to information provided by Samir Rizvo, the coordinator of visa roadmap activities, the reporting entities reported 119 cases of suspicious transactions totalling 34.5 million *Konvertibilne marke* (KM – around 17.7 €) to the FID between January and September 2009. Following investigations, the FID put forward to the Prosecutor's Office cases involving transactions of 12 million KM (6.2 million €).

***Background:*** *The European Commission wrote in its May 2009 assessment: "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."*

*Reporting entities include banks, post offices, investment funds, any company or individual dealing with financial instruments, insurance companies, currency exchange offices, betting offices, etc.*

***FATF:*** *"The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. The FATF is therefore a 'policy-making body' created in 1989 that works to generate the necessary political will to bring about legislative and regulatory reforms in these areas. The FATF has published 40 + 9 Recommendations in order to meet this objective."*<sup>70</sup>

***MONEYVAL:*** *Moneyval is the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism. The aim of MONEYVAL is to ensure that its member states have in place effective systems to counter money laundering and terrorist financing and comply with the relevant international standards in these fields (which are included in the FATF recommendations). The Moneyval reports provide highly detailed recommendations.*<sup>71</sup>

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<sup>68</sup> The law is available in Bosnian at <http://www.sipa.gov.ba/bs/pdfbs/zspn53-09.pdf>.

<sup>69</sup> ESI/Populari interview with Mijo Golub, head of SIPA's Financial Intelligence Department (FID: Finansijsko-obavještajni odjel) and also head of the anti-money-laundering working group, 22 September 2009.

<sup>70</sup> FATF website at: [http://www.fatf-gafi.org/pages/0,2987,en\\_32250379\\_32235720\\_1\\_1\\_1\\_1\\_1,00.html](http://www.fatf-gafi.org/pages/0,2987,en_32250379_32235720_1_1_1_1_1,00.html).

<sup>71</sup> Website at: <http://www.coe.int/t/dghl/monitoring/moneyval/>.

- **Measures taken to raise the awareness of the reporting entities of their obligations**

Like for the preceding requirement, the National Strategy and Action Plan for the Prevention of Money Laundering and Financing of Terrorist Activities (adopted on 30 September by the Council of Ministers) and the BiH Law on Preventing Money-Laundering and the Financing of Terrorist Activities (entry into force on 15 July 2009) list new measures to raise the awareness of the reporting entities of their obligations.

One of the strategic objectives is to “develop the reporting mechanism and public and the private sector cooperation in order to combat money laundering and the financing of terrorist activities”. The action plan lists five specific activities to reach this objective, including:

1. the establishment at SIPA’s Financial Intelligence Department (FID), which represents BiH’s Financial Intelligence Unit (FIU), an electronic reporting system for the reporting entities (by 31 Dec. 2010);
2. the establishment of a link (online, electronic or other) between FID and the crime report databases of other law enforcement agencies and institutions to allow for cross-checks (by 31 Dec. 2010);
3. the establishment of links (online, electronic or other) between FID and population registers, company registers, registers of non-for-profit organisations and associations, vehicle registers and cadastral registers to allow for cross-checks (by 31 Dec. 2010);
4. the establishment of a standardised process to give the reporting entities feedback (by 31 Dec. 2009);
5. the establishment of an efficient supervision mechanism for FID to supervise all the reporting entities and to ensure their compliance with the relevant anti-money-laundering regulations in the field of money laundering and financing of terrorist activities (by 31 Dec. 2010).

The Law on Preventing Money-Laundering and the Financing of Terrorist Activities<sup>72</sup> clearly defines the obligations of the reporting entities and also deals with the issue of raising their awareness of their obligations. Among other things, each head of a reporting entity is obliged to train their staff in detecting suspicious transactions and fighting money-laundering. In addition, the law envisages fines from 30 KM (15.40 €) up to 200,000 KM (102,500 €) for different violations of the reporting obligations.

According to Mijo Golub, FID’s head,<sup>73</sup> FID is preparing a rulebook for reporting entities on how to detect suspicious transactions and fulfil their other obligations under the law, as well as guidelines how to fill out the required forms and conduct electronic reporting. The rulebook and guidelines will be submitted for signature (= adoption) to the Minister of Security in October 2009. FID is also planning to conduct train seminars for the reporting entities before the end of 2009.

***Background:*** In its May 2009 assessment, the European Commission specifically stressed: “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.”

- **Measures taken to adapt the legislative framework to international standards in the area of confiscation of assets and to harmonise it between state and entity levels.**

<sup>72</sup> The law is available in Bosnian at <http://www.sipa.gov.ba/bs/pdfbs/zspn53-09.pdf>.

<sup>73</sup> ESI/Populari interview with Mijo Golub, head of SIPA’s Financial Intelligence Department (FID: Finansijsko-obavještajni odjel) and also head of the anti-money-laundering working group, 22 September 2009.

The planned amendments of the BiH Criminal Code will adapt the legislative framework to international standards – in particular UN and Council of Europe Conventions - in the area of confiscation of assets, empowering the court to confiscate assets if there are justified reasons to believe that they have been obtained through the commission of a criminal offence. These amendments have been prepared by the Ministry of Justice with the support of international experts including OHR and OSCE experts.

As regards harmonisation, the amended legislation will give the Entities and Brcko District a 90-day deadline to harmonise their legislation with the state law.

The amendments of the BiH Criminal Code form part of more than 100 amendments that also relate to other roadmap requirements and different issues. Somewhat unexpectedly, the amendments were rejected by the House of Peoples, the Parliament's upper house, on 1 October. Under the procedure to be followed, they were returned to the Ministry of Justice, which is trying to find a solution in order to ensure that the amendments relevant for the roadmap adopted as soon as possible.

***Background:*** *The Commission wrote in its May 2009 assessment: "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."*

- **Trainings to enhance expertise on confiscation of assets, financial investigations, economic crimes and prosecutor-police cooperation**

As mentioned under the requirement "Measures taken to improve and better coordinate across state and entity levels trainings on preventing and fighting organised crime", international officials have confirmed to ESI/Populari that there is no lack of training how to fight different crime activities, including organised crime and financial and economic crime.<sup>74</sup> Many seminars also target police-prosecutor cooperation.

**Police-prosecutor cooperation:** At the State-level, the previously mentioned project called "Joint training of the SIPA Financial Intelligence Unit (FIU) and the Crime Investigation Unit (CIU), Prosecutors, financial regulatory agencies and institutions" will result in better police-prosecutor cooperation. The project is aimed at improving the capabilities of law enforcement agencies to fight money laundering, drugs, organised crime, terrorism and corruption. It is scheduled to be launched in January 2010, and it is worth 400,000 EUR (financed under IPA 2007).

Also, the training seminar for three SIPA units (CIU, Operational Support Unit and Special Support Unit) and officials from the State Prosecutor's Office on 8/9 May 2009 has improved police-prosecutor cooperation. The topics were special investigative measures, crime scene investigations, defence, the development of theories and search methods. And, also as previously mentioned, from April 2008 to June 2009, the High Judicial and Prosecutorial Council (HJPC) conducted a project called "Establishment of Enhanced Mechanisms of Coordination between the Police and the Prosecutors". More than 70 officials including ministers, prosecutors and directors of police agencies participated. In October, ICITAP (the US-run International Criminal Investigative Training Assistance Program) will hold a five-day training session on financial investigations for SIPA's Financial Investigation Department (FID).<sup>75</sup>

There are also many activities at the Entity level where the two Centres for the Education of Judges and Prosecutors, supervised by the HJPC, play the decisive role. They cooperate very well with each

<sup>74</sup> ESI/Populari interview with an international official familiar with police issues, speaking on condition of anonymity, in Sarajevo on 24 August and on telephone and email on 6 October 2009.

<sup>75</sup> ESI/Populari interview telephone interview with Mijo Golub, head of the Financial Intelligence Department (FID), SIPA and Head of the anti-money-laundering working group, 22 September 2009.

other.<sup>76</sup> This year for the first-time the two centres conducted a series of seminars together.<sup>77</sup> This was a UK-funded project aimed at improving cooperation between courts and prosecutors. The project comprised six two-day seminars in each centre – three to train trainers (from Entity and Cantonal prosecutors' offices and from the two police academies) and three for police officers and prosecutors.

Between 2003 and 2009, the Federation centre alone organised six seminars on money-laundering, special investigative actions and management of confiscated property, with 159 judges and prosecutors attending them. Within the framework of professional development in 2009, the Centre also organised a seminar on the management of confiscated property in February 2009, which was attended by 30 judges, prosecutors and other judicial staff from courts across BiH.<sup>78</sup> In November 2009, the centre will organise a seminar on the legal framework for the confiscation of assets acquired through criminal activities.

The RS Centre for the Education of Judges and Prosecutors provided technical support for a conference on financial investigation organised by ICITAP (the US-run International Criminal Investigative Training Assistance Programme) on 20-24 July 2009. It is also planning a seminar on crimes against the economy and financial exchange, in particular tax evasion and money-laundering before the end of the year. In mid-October 2009, ICITAP is organising a five-day seminar on financial investigation in Brcko, which will be also attended by prosecutors from the RS.

As regards economic and financial crimes, the two training centres carried out similar programmes. The RS centre organised two one-day training for judges and prosecutors in March and September 2009, and the Federation centre did the same in May and June 2009.

Both centres plan specific training seminars on the new BiH Law on Preventing Money-Laundering and the Financing of Terrorist Activities (entry into force on 15 July 2009) as well as the new provisions concerning confiscation of assets once the amendments of the BiH Criminal Code are adopted. According to Sanja Guzina, head of the department for professional development at the RS centre, the two centres follow legal developments and organise training following the entry into force of new provisions.<sup>79</sup>

The Entity Interior Ministries of have also organised training in the investigation and confiscation of assets acquired through criminal activities. The RS Interior Ministry conducted one seminar, supported under the European Commission's TAIX program (Technical Assistance and Information Exchange Instrument), for police agencies and prosecutors' offices from across Bosnia in February 2009 and is planning another one in November.

## Anti-drug policy

- **Adoption of a national action plan 2009-2013 for drug control, suppression and prevention**

On 24 September 2009 the Council of Ministers adopted the national Action Plan for Drug Control, Suppression and Prevention 2009-2013. The action plan is based on the strategy of the same name, which was adopted in March 2009. The Commission considered the strategy's priorities adequate.

<sup>76</sup> ESI/Populari interview with Sanja Guzina, head of the department for professional development at the RS Centre for the Education of Judges and Prosecutors, Banja Luka, 21 August 2009.

<sup>77</sup> ESI/Populari interview with Sanja Guzina, head of the department for professional development at the RS Centre for the Education of Judges and Prosecutors, Banja Luka, 21 August 2009.

<sup>78</sup> Report of the Centre for the Education of Judges and Prosecutors, Federation of BiH, 2009.

<sup>79</sup> ESI/Populari interview with Sanja Guzina, head of the department for professional development at the RS Centre for the Education of Judges and Prosecutors, Banja Luka, 21 August 2009.

These are:

- To suppress and prevent the use of narcotic drugs
- To reduce the demand for narcotics drugs, in particular of young people
- To raise awareness in order to foster healthy life styles and the preservation of mental health
- To prevent addiction, death and health problems as a result of drug abuse through different treatment and rehabilitation programmes
- To reduce damage to the whole community due to the use of narcotic drugs
- To reduce the supply of narcotic drugs
- To advance the legislative framework and its application
- To strengthen institutional capacities and include society in the fight against drug abuse
- To establish a State-level multi-sectoral office to suppress drug abuse

The action plan sets specific objectives for each of these goals, defining priorities and activities, setting deadlines, determining the responsible bodies and identifying indicators to measure success. It also examines the financial implications, coming to the conclusion that the implementation of the action plan will cost 42.5 million KM (21.3 million €) during the five-year period 2009 to 2013.

**Background:** *In its first assessment of Bosnia's progress in visa roadmap implementation from November 2008, the Commission declared the priorities of the national drugs' strategy, which was at a draft's stage at that time, "adequate". The strategy was adopted in March 2009. In its second assessment in May 2009, the Commission simply stated: "The related action plan yet remains to be adopted."*

#### • Measures taken to enhance training and equipment of specialised law enforcement structures at state and entity levels

As mentioned previously (see requirements "Measures taken to improve and better coordinate across state and entity levels trainings on preventing and fighting organised crime" and "Trainings to enhance expertise on confiscation of assets, financial investigations, economic crimes and prosecutor-police cooperation"), there are sufficient training opportunities for police and prosecutors in BiH.

The Federation and RS Training Centres for Judges and Prosecutors have carried out a number of training activities with the aim of enhancing the capabilities of specialised law enforcement structures, including four seminars for police and prosecutors on the policies to fight drugs smuggling as well as three seminars for police and prosecutor titled "Drugs – the challenge of modern society" and "Cooperation between prosecutors and law enforcement agencies".<sup>80</sup>

On 8/9 May 2009, as previously mentioned, a training seminar for three SIPA units (CIU, Operational Support Unit and Special Support Unit) and officials from the State Prosecutor's Office was held. The topics were special investigative measures, crime scene investigations, defence, the development of theories and search methods. According to Samir Rizvo, the coordinator of roadmap activities in Bosnia, EUPM assessed the training as very professional.<sup>81</sup>

A twinning project between Bosnia's Border Police and the Hungarian State Police (as well as other partners including Poland's Border Service, Finland's customs administration, the British Interior

<sup>80</sup> BiH's Second Readiness Report, 1 October 2009, p. 42.

<sup>81</sup> ESI/Populari interview with Samir Rizvo, BiH roadmap coordinator, 24 September 2009.

Ministry and Europol) from June 2008 to August 2009 was aimed at enhancing the capabilities of the BiH Border Police to fight organised cross-border crime including drugs trafficking. Under this project, 12 training seminars and workshops were held for 150 participants, among other things on specialised analytical and investigative methods and the application of analytical software.<sup>82</sup>

At the Border Police, equipment for the interception of telecommunication was installed, and police officers received the corresponding training. The Border Police also obtained equipment for the forensic examination of telephones that may have been used during crimes, and a special interview room has been technically equipped.<sup>83</sup>

One important training project to enhance the capabilities of law enforcement agencies to fight drugs will also be the previously mentioned project “Joint training of the SIPA Financial Intelligence Unit (FIU) and the Crime Investigation Unit (CIU), Prosecutors, financial regulatory agencies and institutions”, which is scheduled to start in January 2010. The project is worth 400,000 EUR and financed under IPA 2007. Other topics it will tackle include money laundering, organised crime, terrorism and corruption.

The RS Ministry of the Interior regularly sends its officers from the drug department to training seminars. In 2009, the Brcko District Police participated in three specialised seminars on the fight against drug abuse.

**Background:** *In its May 2009 assessment the Commission stated: “The specialised law enforcement structures at entity and national levels require reinforced training and equipment.” The report of the EU national expert states: “When it comes to logistics, technical equipment has to be further purchased and properly used by the trained and qualified personnel.”<sup>84</sup>*

- **Implementation of EU standards for sharing drugs-related information with the European Monitoring Centre for Drugs and Drug Addiction.**

Bosnia and Herzegovina is included in EMCDDA's technical assistance project for five Western Balkan countries (EMCDDA is the European Monitoring Centre on Drugs and Drug Abuse). The project is financed under the EU CARDS programme with € 550,000 and is assessing the capacity of these countries to establish an EMCDDA-compatible drug information system.

This system requires countries to produce country overviews in a standardised form, reporting on 13 different issues (such as drugs prevalence, prevention, harm reduction, drug laws etc.). The standardised report contains a summary, a data sheet with standardised statistical information and a country barometer (a quick visual reference to the drug use prevalence position of each country). The report is prepared by the EMCDDA national focal point.<sup>85</sup>

Between March and May 2009, EMCDDA assessment missions visited Bosnia and the other four Western Balkan countries participating in the project. The aim of these activities was the preparation of individual country “information maps” by identifying available data-collection sources in each country. With the support of UNDP, the health department at the BiH Ministry of Civil Affairs has also set up a database carrying all available information on drug use in BiH.

As part of this project, the health department has submitted two reports to EMCDDA, the information map and later a country overview.<sup>86</sup> The country overview was sent in May 2009 and

<sup>82</sup> BiH's Second Readiness Report, 1 October 2009, p. 42/43.

<sup>83</sup> BiH's Second Readiness Report, 1 October 2009, p. 42/43.

<sup>84</sup> Member State Expert's Report, Block 3 – Policy on Preventing and Fighting Organised Crime, in particular Trafficking in Human Beings and Drugs, mission 2-6 March 2009.

<sup>85</sup> More information is available on the EMCDDA website at: <http://www.emcdda.europa.eu/publications/country-overviews/notes>.

<sup>86</sup> ESI/Populari interview on with Sabina Šahman Salibegović, Ministry of Civil Affairs, Sector of Health, 24 September 2009.

received green light EMCDDA. The country overview will be updated each year.

**Background:** *The Commission stated in its May 2009 assessment: “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.”*

**European Monitoring Centre for Drugs and Drug Addiction (EMCDDA):** *EMCDDA was founded in 1993. One of its key functions is to improve the comparability of drug information in the EU. To achieve this, EMCDDA coordinates and relies on a network of some 30 national monitoring centres (Reitox network) to gather and analyse country data according to common data-collection standards and tools. The results of this national monitoring process are ultimately released in the annual report on the state of the drugs problem in Europe.*

- **Measures taken to ensure availability of information on drugs seizures and persons involved at border crossing points.**

Drug-related information is part of the information from police records that will be exchanged as agreed on 24 and 30 September 2009 (see requirement “Adoption and implementation of an adequate model of information exchange from police records throughout the country”). The establishment of this information exchange is thus expected to provide adequate information on drugs seizures and the persons involved in the drug trafficking at border crossings.

Through the SPIN and SDH networks, the technical infrastructure is in place to make this information technically accessible at border crossing points.

Previously, there was a “paper-based” attempt to provide information on drugs seizures and the persons involved at border crossings. It was spearheaded by Ministry of Security which, in 2008, sent requests to all police forces to submit information on drug seizures and persons involved. Subsequently the information was passed on to the Border Police. This system was, however, inefficient and slow.

**Background:** *In its May 2009 assessment the Commission stated: “The drugs information system needs to be improved and available information needs to be made accessible at border crossing points”.*

**SPIN Network:** *a wireless communications network for BiH police structures at the State-level – SIPA (State Investigation and Protection Agency), the Border Police and the Ministry of Security. The SPIN network was financed by the International Criminal Investigative Training Assistance Program (ICITAP) – a US government agency situated in the Department of Justice's Criminal Division. There are plans for other State-level police agencies to join in the future. The SPIN network gives the participating police bodies direct access to databases run or used by police agencies. (Readiness Report, Bosnia and Herzegovina, September 2008)*

**SDH (Synchronous Digital Hierarchy) network:** *a highly-sophisticated wireless communication system structured on the basis of a radio relay system. The network connects BiH's security and judiciary institutions as well as law enforcement agencies. The implementation of the project was supported under the EU CARDS programme with €3.1 million. The system enables fast, reliable and efficient data exchange, as well as the exchange of images, pictures and sound. The SDH network is a closed system outside of the Internet. It functions in certain spectrum of frequencies designed for that purpose. (Readiness Report, Bosnia and Herzegovina, September 2008)*

## Policy on preventing and fighting corruption

## • Adoption of a revised strategy and action plan for the fight against corruption

On 24 September 2009, the Council of Ministers adopted a National Anti-Corruption Strategy and Action Plan 2009 - 2014. The strategy has four key objectives:

1. To put in place an effective system for coordinating the anti-corruption efforts of the BiH authorities, thus ensuring the consistency and sustainability of the actions taken under the strategy;
2. To implement anti-corruption systems within the structures of Bosnia's public administrations, thereby minimising opportunities for corruption;
3. To strengthen the capacities of BiH anti-corruption bodies at all levels of governance with regard to effectively managing corruption prevention programmes; educating BiH society on the risks of corruption; coordinating the fight against corruption; and detecting, investigating and prosecuting identified cases of corruption.
4. To raise the awareness of the whole BiH society and of the particular professional groups and associations of the risks and dangers of corruption and to engage civil society in the fight against corruption.

An anti-corruption body recommended by GRECO, the law for which is currently before the BiH Parliament, will play the central coordinating role and have authority for the implementation of the anti-corruption strategy.

The strategy also identifies short-comings of the previous strategy against corruption and its implementation, and specifies individual actions to be taken in the short, medium and long terms for the strategy's objectives to be reached. The related action plan elaborates the individual actions further, identifies the responsible authorities, sets deadlines and establishes indicators of success. However, the budgetary implications have not yet been examined.

**Background:** *In its May 2009 assessment the Commission stated: "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."*

**GRECO:** *GRECO (Group of States against Corruption) is an anti-corruption monitoring body of the Council of Europe. It has more member states than the Council of Europe (e.g. the US). All five Western Balkan countries participating in the visa liberalisation process are members of the Council of Europe and GRECO. The organisation's task is to identify deficiencies in member states' anti-corruption policies, particularly with regard to Council of Europe anti-corruption standards, and to suggest legislative, institutional and practical reforms. The visa roadmaps require the Western Balkan countries to implement all GRECO recommendations.*

## • Adoption of law on anti-corruption body

The Law on the Establishment of an Anti-corruption Body (*Zakon o uspostavljanju agencije za prevenciju i koordinaciju aktivnosti u borbi protiv korupcije*) was adopted by the Council of Ministers on 24 September 2009 and is now before the BiH Parliament. On 14 October, it was adopted by the House of Representatives and must now pass the upper chamber, the House of Peoples.

The new anti-corruption body will be an independent institution reporting to the BiH Parliament. It will have no investigative powers, but will be crucial in coordinating anti-corruption activities in BiH

and monitoring the implementation of the anti-corruption strategy and the related action plan. Further key functions of the body will be to analyse the corruption situation in Bosnia, and raising the awareness of public institutions as well as the public regarding corruption.<sup>87</sup>

**Background:** *The establishment of the anti-corruption body is a key GRECO requirement. The tasks of this body, as recommended by the GRECO, will be to “ensure a systematic assessment and evaluation of the effectiveness of the Anti-Corruption Strategy and its Action Plan through the setting up of an independent anti-corruption body with sufficient resources.”<sup>88</sup> The Commission has requested Bosnia to implement all GRECO recommendations.*

**GRECO:** *see previous requirement.*

## • Results in effectively tackling suspected cases of high-level corruption

Especially recent months have seen significant progress in the fight against high-level corruption. Three examples involving senior politicians:

**Indictments of former Federation Prime Minister Edhem Bicakcic and former Federation Minister of Finance Dragan Covic:** In April 2009, Bosnia’s State Prosecutor indicted former Federation Prime Minister Edhem Bicakcic and his then-deputy and Federation Minister of Finance, Dragan Covic, for forging government decisions that damaged the treasury. They are accused of approving the expenditure of 7.8 million KM (4 million €) for purchasing or renovating 64 homes for Federation officials. Any such decision would have had to be adopted by the Federation government to be legal, which was, however, not the case.<sup>89</sup>

**Indictment of former Federation Prime Minister Nedžad Brankovic:** Another former Prime Minister of the Federation, Nedžad Brankovic, was indicted in April 2009 for having benefited from such an illegal decision signed by Bicakcic. The case against Brankovic is currently before the Cantonal Court of Sarajevo. The allegations against Brankovic go back to the year 2000 when he was the director of the state-owned company “Energoinvest Sarajevo” and illegally purchased an apartment owned by Energoinvest in an elite neighbourhood of Sarajevo for just 920 KM (472 €), thanks to a voucher privatisation scheme that was supposed to help citizens buy apartments to which they held tenancy rights. Bicakcic enabled him to do so. Brankovic is accused of having caused damage to Energoinvest over 150,000 KM (77,000 €), and to the Federation budget over 114,000 KM (58,500 €) since the apartment was worth much more than 472 €.<sup>90</sup>

**First-instance sentencing of Mladen Ivanic, former BiH Foreign Minister and former RS Prime Minister:** On 24 June 2008, BiH’s State Court sentenced Mladen Ivanic, former BiH Foreign Minister and former RS Prime Minister, to a prison sentence of 18 months due to “negligent behaviour” during his time in office as the RS Prime Minister with regard to allegations of corruption in the forestry sector in the RS. Reportedly, individuals pocketed substantial money from timber production, political party boxes were filled, and wood was illegally exported. In his capacity as the head of the government, Mladic was convicted for having illegally enabled a company to cut wood outside its normal operations. The case is currently at the appeals stage.<sup>91</sup>

<sup>87</sup> Draft Law on the Agency for Prevention and Coordination in the Fight against Corruption.

<sup>88</sup> GRECO, Compliance Report on Bosnia and Herzegovina, Second Evaluation Round, adopted by Greco at its 41<sup>st</sup> Plenary Meeting 16-19 February 2009, at <http://www.coe.ba/web/dokumenti/Greco.doc>.

<sup>89</sup> See indictment by the BiH State Court, case KT-396/05 of 17 April 2009, at: [http://www.sudbih.gov.ba/files/docs/optuznice/2009/Edhem\\_Bicakcic\\_i\\_dr\\_-\\_INDICTMENT\\_-\\_redigovana.pdf](http://www.sudbih.gov.ba/files/docs/optuznice/2009/Edhem_Bicakcic_i_dr_-_INDICTMENT_-_redigovana.pdf).

<sup>90</sup> Southeast European Times, *Apartment Scandal shakes FBiH*, 25 May 2009, at: [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2009/05/25/feature-02](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2009/05/25/feature-02).

<sup>91</sup> Balkan Insight, *Ex-Bosnian Serb PM Gets 18 Month Jail Term*, 25 June 2009, at <http://www.balkaninsight.com/en/main/news/11304>, and website of the State Court of BiH at <http://www.sudbih.gov.ba/?opcija=predmeti&id=64&jezik=e>.

**Background:** In its May 2009 assessment, the Commission criticised that, “There is no effective investigation, prosecution and conviction on suspects of high-level cases of corruption.”

#### • Results in effective application of special investigative means to corruption cases

The application of special investigative means has improved remarkably in recent years, according to an international official fully familiar with the issue who asked not to be named.<sup>92</sup> In general terms, wiretapping and intercepting communications, as well as the necessary knowledge how to use and analyse the obtained information, can be considered to be satisfactory at the level of SIPA, Bosnia’s state-level police agency, as well as the Federation and RS police forces. These three agencies are sufficiently equipped and have a sufficient number of trained personnel, though, according to the source, there are occasional problems with regard to the timely analysis of the obtained wiretaps.

As regards surveillance, the skills of the relevant police bodies have also improved significantly, though more cars might be needed for complex surveillance operations. There is also a need for more training in handling informants.

Both the expert that ESI/Populari spoke to and Uros Pena, the head of the RS Police,<sup>93</sup> confirmed that special investigative measures are now regularly used during investigations into corruption cases. Mr. Pena added, however, that it was still too early to conclusively evaluate the results of their use in such investigations.

**Background:** In its May 2009 assessment, the Commission stated: “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.”

#### • Legal and administrative measures taken to implement international standards including outstanding GRECO recommendations and signature of the additional Protocol to the Council of Europe Criminal Law Convention on Corruption

As the result of the second GRECO evaluation round, at the end of 2006 BiH received 16 recommendations for implementation.<sup>94</sup> In February 2009, GRECO found that 4 recommendations had been implemented satisfactorily, 3 had not been implemented, and 9 had been partly implemented.<sup>95</sup>

According to Samir Rizvo, the BiH Roadmap Coordinator, the implementation of the recommendations involves some 26 BiH institutions, implementation therefore takes time.<sup>96</sup> By September 2009, he said, 1 of the previously 3 non-implemented recommendations has been fully implemented, and the other two partly. There has also been further progress with regard to three partly implemented recommendations.

So, according to Rizvo’s assessment, BiH’s record looks now as follows:

<sup>92</sup> ESI/Populari interview with an international official who spoke on condition of anonymity, Sarajevo, 24 August 2009.

<sup>93</sup> ESI/Populari interview with Uros Pena, head of RS Police, 21 August 2009.

<sup>94</sup> ESI/Populari interview on 24 August 2009 with Samir Rizvo, Assistant of the Minister of Security and Head of the Working Group for Visa Liberalisation.

<sup>95</sup> GRECO, Compliance Report on Bosnia and Herzegovina, Second Evaluation Round, adopted by Greco at its 41<sup>st</sup> Plenary Meeting 16-19 February 2009, at <http://www.coe.ba/web/dokumenti/Greco.doc>.

<sup>96</sup> ESI/Populari interview on 24 August 2009 with Samir Rizvo, Assistant of the Minister of Security and Head of the Working Group for Visa Liberalisation.

	February 2009 (GRECO)	September 2009 (Assessment Samir Rizvo)
Implemented satisfactorily	4	5
Partly implemented	9	11
Not implemented	3	0

The establishment of the anti-corruption body (see requirement “Adoption of the law on the anti-corruption body”) is expected to speed up the implementation of the remaining GRECO recommendations since this institution will coordinate the implementation efforts. At present no single institution is responsible for the implementation of the recommendations.

As regards the additional Protocol to the Council of Europe Criminal Law Convention on Corruption, the BiH Presidency adopted the ratification decision on 27 July 2009.

**Background:** *“The Commission found in its May 2009 assessment: “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.”*

**GRECO:** *GRECO (Group of States against Corruption) is an anti-corruption monitoring body of the Council of Europe. It has more member states than the Council of Europe (e.g. the US). All five Western Balkan countries participating in the visa liberalisation process are members of the Council of Europe and GRECO. The organisation's task is to identify deficiencies in member states' anti-corruption policies, particularly with regard to Council of Europe anti-corruption standards, and to suggest legislative, institutional and practical reforms. The visa roadmaps require the Western Balkan countries to implement all GRECO recommendations.*

## Judicial co-operation in criminal matters

### • Implementation of the law on international legal assistance in criminal matters

The Law on International Legal Assistance in Criminal Matters (Zakon o međunarodnoj pravnoj pomoći u krivičnim stvarima) was adopted in June 2009 and entered into force on 15 July 2009. It enables judicial authorities in Bosnia and abroad to mutually assist each other in criminal issues such as extraditions, investigations, prosecutions, the execution of verdicts, exchange of information, etc.

At the BiH Ministry of Justice, there is Unit for Judicial Cooperation in Criminal Matters within the Department of International Cooperation that deals with international requests for assistance. According to Jusuf Halilagic, Secretary at the Ministry of Justice, BiH has received 9,100 requests since 1 January 2009.<sup>97</sup> However, he said that only a very small number of the requests - just above 200 - are complex issues, such as extradition requests. Most requests can be processed and closed within a matter of days and there is no backlog, he said.

**Background:** *In its May 2009 assessment the Commission stated: “The draft law on international legal assistance in criminal matters is in Parliament for adoption. It takes on board relevant*

<sup>97</sup> ESI/Populari interview with Jusuf Halilagic, Secretary at the Ministry of Justice, 23 September 2009.

*international and European standards. The provisions foreseen by this specific law bring significant changes in the present system in mutual legal assistance. [...] Also, steps need to be taken in order to reinforce the qualified human capacity dealing with growing number of mutual legal assistance requests.”*

#### • Training of judges and prosecutors on the new legislation

Training of judges and prosecutors, both during their professional education, but also during their careers, is the responsibility of the two Entity training centres for judges and prosecutors, which are supervised by the High Judicial and Prosecutorial Council. Officials from both centres told ESI/Populari that they regularly offer seminars on international judicial cooperation in criminal matters.<sup>98</sup> For example, the Federation centre carried out two two-day training courses in February 2009 on the new legislation. A total of 42 judges and prosecutors participated in the two training courses. The two centres also plan to hold specific seminars on implementing the new Law on International Legal Assistance in Criminal Matters, which entered into force in July 2009.

In addition, the Department for International Judicial Cooperation at the BiH Ministry of Justice also conducts training of judges and prosecutors throughout Bosnia and Herzegovina, including on topics such as judicial cooperation in criminal matters.

***Background:*** *In its May 2009 assessment the Commission stated: “Training needs to be provided by the High Judicial and Prosecutorial Council to judges and prosecutors on the foreseen new legislations [on judicial cooperation in criminal matters].”*

#### • Measures taken to reinforce qualified staff dealing with mutual legal assistance requests

At the end of September 2009, the Unit for Judicial Cooperation in Criminal Matters, which deals with international requests for assistance, had 7 staff - 2 less than envisaged<sup>99</sup>. However, the department at the Ministry of Security to which it belonged (the Department for International Cooperation) was in the process of hiring 7 new staff, including two experts for judicial cooperation who were to be allocated to the Unit for Judicial Cooperation in Criminal Matters so that the unit would reach full staffing levels.<sup>100</sup> Jusuf Halilagic, Secretary at the Ministry, told ESI/Populari that the unit was already responding to all international requests for legal assistance in a timely fashion, even without the two additional employees.

***Background:*** *In its May 2009 assessment the Commission stated: “Also, steps needs to be taken in order to reinforce the qualified human capacity dealing with growing number of mutual legal assistance requests.”*

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<sup>98</sup> ESI/Populari interviews with the head of the Federation training centre, Sahbaz Dzihanovic, 24 August 2009, and with Sanja Guzina, head of the department for professional development at the RS Centre for the Education of Judges and Prosecutors, Banja Luka, 21 August 2009.

<sup>99</sup> The Rulebook on the Internal Organisation and Systematisation of Positions at the Ministry of Justice prescribes the staffing levels and TORs of all positions.

<sup>100</sup> ESI/Populari interviews with Jusuf Halilagic, Secretary at the Ministry of Justice, and with Zlatan Silic, Human Resources, Ministry of Justice, 23 September 2009.

## • Progress in cooperation with Eurojust

One of the roadmap conditions has been for Bosnia and Herzegovina to develop working relations with Eurojust. In the meantime, BiH has two representatives at Eurojust. According to Jusuf Halilagic, Secretary at the Ministry of Justice,<sup>101</sup> BiH has fulfilled all the conditions set by Eurojust to become an associate member and it applied for associated membership in August 2009. Irrespective of the agreement, he said, BiH already processes all requests from Eurojust as if it were associated.

**Background:** *In its May 2009 assessment the Commission stated: “A contact person with Eurojust has been appointed, and the country is planning to open negotiations for a specific agreement on cooperation.”*

**Eurojust:** *Eurojust is a permanent network of judicial authorities in EU member states that are tasked to help with investigations and prosecutions of serious cross-border crimes and organised crime in the EU. Eurojust has 27 national members, one from each EU member state (usually a senior prosecutor, judge or police officer), who have access to the judicial authorities and case files within their country. There are also 31 Eurojust contact points in non-EU countries (2007), including all Western Balkan countries. Eurojust works with them on cases involving the countries they represent. Eurojust is an EU body established in 2002 and based in The Hague.*

## Law enforcement co-operation

### • Measures taken to introduce systematic cooperation between the different authorities involved in the fight against organised crime (including law enforcement bodies, judiciary, prosecution, but also other relevant structures)

Cooperation between the various bodies involved in the fight against organised crime is steadily improving. In all interviews with ESI/Populari,<sup>102</sup> representatives from law enforcement agencies emphasised good and ever advancing cooperation between their agencies and other relevant bodies, such as prosecutors and the judiciary. This is partly the result of efforts of international organisations, particularly EUPM, but also the result of a growing awareness of the need for better coordination. EUPM has confirmed that cooperation between all these bodies is getting better, but deplored the lack of cooperation at the highest, ministerial, level.<sup>103</sup>

While it may not yet be possible to characterise the cooperation as an integral part of the system, cooperation between the authorities involved in the fight against organised crime has progressed far from ad hoc and is now supported by a number of institutionalised bodies providing strategic and increasingly also operational coordination.

- The previously mentioned agreement between law enforcement agencies and prosecutor’s offices to **exchange information via an exchange server** thus establishing a network of databases (see requirement “Adoption and implementation of an adequate model of information exchange from police records throughout the country”) will play a very important role in improving

<sup>101</sup> ESI/Populari interviews with Jusuf Halilagic, Secretary at the Ministry of Justice, and Zlatan Silic, Human Resources, Ministry of Justice, 23 September 2009.

<sup>102</sup> Interviews with Jovo Durica, head of the Border Police, 20 August 2009; Uros Pena, head of the RS Police, 21 August 2009; Stefan Feller, head of EUPM, 18 August 2009; Mirko Lujic, head of SIPA, and Sead Lisak, former Deputy Head of SIPA, 19 August 2009; Himzo Selimovic, head of Canton Sarajevo Police, 25 August 2009.

<sup>103</sup> ESI/Populari interview with Stefan Feller, head of EUPM, 18 August 2009.

cooperation.

- In 2008, EUPM re-established a **Police Steering Board**, which had been founded by EUPM in 2004, but had remained relatively inactive. The board brings together directors of law enforcement bodies and the prosecution including police directors from State and Entity level bodies (SIPA, Border Police, Service for Foreigners' Affairs, and Federation and RS police), a representative of Cantonal police services, of the Brcko District and the chief state prosecutor. A representative of the Ministry of Security is currently participating in the meetings on an ad-hoc basis, but may become a permanent member. The directors meet regularly and, according to EUPM, their meetings are very productive. The directors have also formed sub-committees dealing with specific issues, which have begun to meet.
- Law enforcement agencies are using the "**National Intelligence Model (NIM)**" – a concept to conduct policing based on risk assessment (see background further down). The member organisations of NIM are: the State Prosecutor's Office, SIPA (BiH's State-level police agency), Border Police, appropriate representatives from other BiH police bodies and EUPM. They had agreed on NIM in 2006, but it took a while until the system became operational. With regard to systematic cooperation in the fight against organised crime, NIM's State-level criminal intelligence (so-called Level 4) meetings are particularly relevant. They take place every six weeks and are fully attended. Information exchange based on NIM principles is still limited, partly due to a lack of infrastructure, but the agreement on establishing a joint network of databases is likely going to improve the situation.
- In the Federation, the **monthly meeting of the ten police commissioners** (one from each Canton) **and the head of the Federation Police** offers a forum for the coordination of police work. There are also regular meetings convened by the Federation Minister of Interior with the Cantonal Ministers of Interior.
- The **2006 Anti-Organised Crime Action Plan** (a new Action Plan is currently being drafted – see requirement "Adoption of a revised strategy and action plan for fight against organised crime") mandated the establishment of various cooperation structures and systems within and across Entities. In particular, it has established cooperation mechanisms between SIPA and other State-level law enforcement agencies. The new strategy against organised crime adopted in September 2009 and the related action plan, which is currently being drafted, will further improve inter-agency coordination and cooperation.
- Based on the **2002 Law on Legal Assistance and Official Co-operation in Criminal Matters between the Federation, Republika Srpska and the District of Brcko**, several sets of interagency memoranda of understanding have been signed, and mechanisms established, to improve cooperation between authorities involved in the fight against organised crime.
- The Entities, Cantons and Brcko District are in the process of **harmonising their laws on internal affairs**, strengthening existing regulations that enhance the framework for operation police cooperation.
- There are also **less formalised fora** improving cooperation and trust among law enforcement bodies and prosecution, e.g. the "*post mortem* dinners" organised by the organised crime section of the BiH Prosecution following the closure of a case. These events bring together all prosecutors and police investigators who were involved in the case, evaluating their performance.
- With regard, to **lower-level operational cooperation**, recently good progress was achieved in improving links between the Indirect Taxation Authority and customs and law enforcement agencies with which it needs to coordinate its activities with. As part of project, agreement was reached to link the Indirect Taxation Authority to the CIDA intelligence IT system.
- Many **training seminars are aimed at improving cooperation between police and prosecution.**

For example, from April 2008 to June 2009 the High Judicial and Prosecutorial Council (HJPC) conducted a project called "Establishment of Enhanced Mechanisms of Coordination between the Police and the Prosecutors". More than 70 officials including ministers, prosecutors and directors of police agencies participated. On 8/9 May 2009, a training seminar for three SIPA units (Crime Investigation Unit, Operational Support Unit and Special Support Unit) and officials from the State Prosecutor's Office was held. The topics were special investigative measures, crime scene investigations, defence, the development of theories and search methods. A large-scale project aimed at improving the capabilities of law enforcement agencies to fight money laundering, drugs, organised crime, terrorism and corruption will be launched in January 2010. Its official title is "Joint training of the SIPA Financial Intelligence Unit (FIU) and the Crime Investigation Unit (CIU), Prosecutors, financial regulatory agencies and institutions". The project is worth 400,000 EUR and financed under IPA 2007.

- The High Judicial and Prosecutorial Council (HJPC) has carried out a comprehensive analysis of problems in police-prosecutor cooperation. Advised by EUPM, HJPC is currently preparing an action plan to implement the resulting recommendations.
- Supported by EUPM, HJPC has initiated a process of streamlining the BiH, Entity and Brcko Criminal Codes with regard to definitions of organised crime and organised criminal groups used as well as procedures for seizing illegally gained assets and sentencing the related actions.

***Background:*** *The European Commission wrote in its May 2009 assessment: "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."*

***National Intelligence Model (NIM):*** *Central to NIM is the notion to conduct policing based on risk assessment and risk management. In other words, intelligence on crime structures and patterns should determine how the police allocate their resources and which investigative activities they focus on. The guiding principle of NIM is thus opposed to previous practices of policing, which were mainly reactive. For NIM to be successful it necessitates extensive gathering and sharing of criminal intelligence and subsequent sophisticated analysis of the intelligence data. NIM was first introduced in the United Kingdom; similar models have been developed in the US.*

#### • Measures taken to improve international cooperation, including with Europol

In January 2007, BiH signed a Strategic Cooperation Agreement with Europol that is being implemented. The aim of this agreement is to enhance cooperation in fighting serious forms of international crime including drug trafficking, money laundering and illegal immigration.

The agreement provides for the exchange of strategic and technical information (strategic information includes e.g. information on enforcement actions, routes and methods used by smugglers, threat assessments and crime situation reports; technical information refers to issues of police methodology, administrative measures undertaken by police forces, etc.); training including training how to cooperate with Europol; a gap analysis helping to identify problems regarding the "cooperation infrastructure" between the two parties; and the possibility to exchange liaison officers.

The next step is for Bosnia to sign an Operational Cooperation Agreement with Europol. Operational cooperation goes further than strategic cooperation, including, among other things, the exchange of specific data on criminals, illegal migrants, etc. This, however, requires that Western Balkan states

implement adequate measures of personal data protection. In March 2009, Europol handed over a questionnaire concerning data protection measures in Bosnia. (Also see section “Protection of Personal Data.”)

As part of its efforts to enter into an Operational Cooperation Agreement with Europol, BiH has carried out a data security analysis and is about to finish establishing a secure network with Europol. Based on the gap analysis that has been carried out (filled questionnaire was delivered to Europol in June 2009), a roadmap for further action is now being prepared. The contact point for Europol is temporarily located at Interpol in Sarajevo until the Police Coordination Agency stipulated under the new police laws is established.

International cooperation is also improving in other areas, such as Interpol. Interpol’s National Central Bureau (NCB) is becoming ever more active. It provides BiH law enforcement agencies with access to various databases (stolen vehicles, wanted people, stolen documents), which has resulted in a significant increase in the discovery of stolen vehicles when they are registered. The NCB needs to hire more staff in order to cope with the increased volume of work. The NCB Sarajevo will be integrated in the Directorate for Police Coordination when it is established (see next requirement).

Bosnia also actively cooperates within SECI (Southeast European Cooperative Initiative – Regional Centre for Combating Trans-border Crime). Bosnia has participated in SECI-coordinated police operations and trainings, and has a permanent liaison officer at the SECI Centre in Bucharest. Bosnia, through its Ministry of Security, also participated in the drafting of the new Convention of the Southeast European Law Enforcement Centre (SELEC) as a member of the SELEC Expert Working Group. The SELEC Expert Working Group finished its work in July 2009, and the Joint Committee approved the text on 10 September 2009.

BiH also actively contributes to the implementation of the Convention on Police Cooperation in Southeast Europe, which was concluded in May 2006 under the auspices of the Stability Pact for Southeast Europe, Europol, Austria and Germany. (Signatories: Albania, Bosnia, Bulgaria, Macedonia, Moldova, Montenegro, Romania and Serbia.) Several related agreements and protocols regulate joint control of the border separating two countries.

Furthermore, Bosnia also implements bilateral police cooperation agreements (with Austria, Bulgaria, Greece, Hungary, Italy, Romania, Slovakia, Slovenia and Romania. Agreements to be concluded with Poland and Spain).

All these activities have made several operations possible that have led to the arrest of traffickers of drugs or human beings, and the confiscation of drugs.

**Background:** *The Commission stated in its May 2009 assessment: “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.” This followed the earlier assessment of Nov. 2008:” 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.*

- **Measures taken to implement the two police laws of 2008, in particular appointment of pending directors**

In April 2008, the Bosnian Parliament adopted two police reform laws that primarily aim to improve cooperation between State-level police agencies by creating seven new bodies. The new bodies will have no authority over police forces at Entity, Brcko and Cantonal levels. However, the hope is that a

new positive momentum will be created that will trickle down to lower levels, and that the new institutions will become a platform for streamlining the overall police structure in the coming years. In this context, transitional provisions in the laws determine that future steps will be considered after the constitutional reform.

The adoption of these two laws, which kick-started police reform in BiH, was the last condition that Bosnia had to meet in order to qualify for a Stabilisation and Association Agreement with the EU, which was then signed in June 2008. EUPM supports the reforms envisaged.

The two laws – the Law on the Directorate for the Coordination of Police Bodies and Agencies supporting the Police Structure in BiH; and the Law on Independent and Supervisory Bodies of the Police Structure in BiH – envisage the creation of the following seven bodies:

- Directorate for the Coordination of Police Bodies of BiH,
- Agency for Forensic Examinations and Expertise,
- Agency for Education and Advanced Training of Police Personnel,
- Police Support Agency,
- Independent Board,
- Board for Complaints of Police Officials,
- Public Complaints Board.

In February 2009, the Council of Ministers appointed the Directors and Deputy Directors of the Agency for Forensic Examinations and Expertise and the Agency for Police Support, as well as the Deputy Director of the Agency for Education and Advanced Training of Personnel. The selection of the *Director* of the Agency for Education and Advanced Training had to be repeated, which was done.<sup>104</sup>

In March 2009, the Parliament failed to establish the Independent Board and the Public Complaints Board, due to SNSD and SDS opposition to their composition, so the appointment procedure for the members had to be repeated. The Independent Board is particularly important because it is due to appoint the Director and Deputy Director of the Directorate for the Coordination of Police Bodies, the most important new institution.

By 23 July 2009, the Parliament had agreed to a new list of candidates for the Independent Board and the Public Complaints Board, completing the necessary appointment procedure. The Independent Board held its first session on 11 September 2009,<sup>105</sup> and is due to appoint the remaining Directors and Deputy Directors in the coming weeks.

The Directorate for Police Coordination is expected to be in place by the end of the year, though full operationality might last longer.

As of end-September 2009, there has also been progress with harmonising existing legislation with the police reform laws. The amendments to the Law on Police Officials of BiH and to the Law on Ministries and other Administration Bodies of BiH have been adopted, while other amendments were still at different stages of the parliamentary procedure.

***Background:*** *In its May 2009 assessment, the Commission stated: “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.[...] 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*

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<sup>104</sup> 35th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations, Reporting period 1 Nov. 2008 to 30 April 2009, 21 May 2009, at: [http://www.ohr.int/other-doc/hr-reports/default.asp?content\\_id=43537](http://www.ohr.int/other-doc/hr-reports/default.asp?content_id=43537).

<sup>105</sup> SveVijesti.ba, Konstituisan Nezavisni Odbor Parlamentarne skupštine, 11 Sept. 2009, at <http://www.svevijesti.ba/content/view/41002/225/>.

any delay. The foreseen bodies need to have sufficient trained staff at their disposal.”

#### • Adoption of the draft law on changes to the use of special investigative measures

The use of special investigative measures is regulated by the Criminal Procedure Code. Amendments satisfying the requirement mentioned above were adopted by the BiH Parliament in July 2008. In the meantime, the Entity and Brcko District Criminal Codes have been harmonised with the State-level law, with Brcko District being the last administrative level to adopt the required amendments in June 2009. Now work on various bylaws is taking place.

The 2008 amendments to the Criminal Procedures Codes extend the application of special investigative measures to a wide range of criminal acts. In this way, the amendments also fulfil the GRECO recommendation to “extend the application of the provisions on the use of special investigative techniques to cover a wider range of corruption offences in accordance with Article 23 of the Criminal Law Convention on Corruption.” (For more, see also requirement “Results in effective application of special investigative means to corruption cases”.)

**Background:** *The European Commission remarked in its May 2009 assessment. “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.”*

## Protection of personal data

#### • Measures to make the Data Protection Agency fully operational

BiH’s Data Protection Agency ([www.azlp.gov.ba](http://www.azlp.gov.ba)) has become operational and begun its work.

Its key tasks are to supervise the implementation of the Law on Personal Data Protection; to investigate complaints by the public about possible breaches of data protection regulations; to order blocking, erasing or destroying of data, issue temporary or permanent bans of processing, issue warnings or reprimands to the controllers; to organise training and raise the awareness of government institutions as well as the wider public about data protection obligations; to provide advice and guidance on data protection matters; carry out inspections of government institutions to check whether they comply with the rules of data protection; and to ensure that no legislation infringes with the protection of personal data.

According to its director, Petar Kovacevic, the agency has drafted and put in place its internal regulations (book of rules on internal organisation and systematisation). Another four rulebooks and one instruction have also been adopted and are in force. The agency has sufficient equipment (e.g. computers, vehicles, etc.), and, at the time of the ESI/Populari visit on 25 August 2009, it had almost reached the staffing level foreseen for the first year of operation: 15 staff were employed with one more person to be hired this year (an officer for international cooperation and public information). There are plans to hire 9 more staff in 2010 and eventually reach a staffing level of 45.<sup>106</sup>

**Background:** *The commission found in its May 2009 assessment: “Despite some progress, the legal and administrative framework for establishing a fully independent Data Protection Agency of Bosnia and*

<sup>106</sup> Interview with Petar Kovacevic, head of the Data Protection Agency, 25 August 2009.

*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.”*

#### • Measures taken to ensure the implementation of the rules for personal data protection

Among the most important measures is operability of the Data Protection Agency, which is the key body to ensure the implementation of personal data protection rules (see previous requirement).

At the time of the ESI/Populari visit of the agency on 25 August 2009, the Data Protection Agency had already carried out 7 inspections of government bodies in order to check that they comply with data protection rules, and it planned to conduct another 20 inspections before the end of the year.

As of 25 August 2009, the Data Protection Agency had also received 5 complaints by citizens regarding the protection of personal data, which it had begun to investigate.

The agency was also planning to begin public information campaigns in order to raise the awareness of the public about data protection issues.<sup>107</sup>

**Background:** see previous requirement.

## Block 4 - External Relations and fundamental rights

Block 4 consists of 8 benchmarks. While Bosnia’s performance in this block was not bad in May either, the country has further improved its results. Most notably Bosnia has adopted an Anti-Discrimination Law which – for the first time – enables systematic follow-up and tracking of any cases of reported discrimination in Bosnia and Herzegovina.

Following the establishment of a unified, BiH-level Ombudsman’s Office, the remaining issue is the phasing-out of the Entity Ombudsman’s Office in the RS. The Law on the Cessation of the Functioning of the Ombudsmen of the RS has been so far three times on the agenda of the RS National Assembly, but it has not been adopted. The RS claims that a merger with the State-level Ombudsman’s Office would require constitutional changes.

As long as the RS office operates, a provision of the Anti-Discrimination Law is violated (which declares the BiH Ombudsman the main institution to receive public complaints), and so is the Law on the BiH Ombudsman, which envisages the merger. However, ESI does not believe that these short-comings hamper the fight against discrimination to such an extent that Bosnia should not be considered fit for visa-free travel; after all, the State-level Ombudsman’s Office is operational.

The excerpt from Bosnia’s scorecard below shows the improvement since May. It is followed by a detailed analysis of progress achieved in relation to each issue that the Commission mentioned in its letter of 15 July 2009. These are the “specific areas in which Bosnia and Herzegovina is asked to make further progress, and report on, in view of the fulfilment of the outstanding benchmarks.”<sup>108</sup> As regards the other aspects of the benchmarks, they are largely fulfilled and discussed in the Commission assessment of 18 May 2009.<sup>109</sup>

<sup>107</sup> Interview with Petar Kovacevic, head of the Data Protection Agency, 25 August 2009.

<sup>108</sup> Letter from Jean-Louis De Brouwer, Acting Deputy Director-General, Directorate-General Justice, Freedom and Security, to Samir Rizvo, Assistant Minister and coordinator of roadmap activities in BiH, BiH Ministry of Security, 15 July 2009.

<sup>109</sup> The assessment is available at: <http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Bosnia%20and%20Herzegovina%20updated%20visa%20dialogue%20assessment%2018%20May.pdf>.

<b>Block 4: External Relations and Fundamental Rights</b> <b>ESI/Popolari assessment: BiH generally meets the benchmarks under block 4.</b>		
4.1.1 Ensure freedom of movement for citizens without discrimination	2-	2-
4.2.1 Ensure access to travel and identity documents for all citizens	1-	1-
4.2.2 Ensure access to identity documents for IDPs and refugees	2	1-
4.3.1 Adopt and enforce legislation on anti-discrimination	3+	2-
4.3.2 Implement law on citizenship	1-	1-
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	2-	1-
4.3.4 Ensure respect for constitutional provisions on protection of minorities	2	2
4.3.5 Implement relevant policies regarding minorities, including Roma	1-	1-

## Citizens' rights including protection of minorities

### • Adoption of Anti-discrimination law

On 23 July 2009, a new Anti-Discrimination Law was adopted by the BiH Parliament. It entered into force on 6 August 2009. While discrimination is prohibited by the Constitution of BiH and the Criminal Code also contains some provisions, the new Anti-Discrimination enables an effective fight against discrimination by defining it and its exceptions and allocating clear tasks to various bodies, such as the Ministry of Human Rights and Refugees and the BiH Human Rights Ombudsman Office.

The scope and definition of the law appear to be largely adequate, according to the Commission. However, the law cannot be fully implemented before the closure of the Ombudsman offices at Entity level. According to Article 7 of the new Anti-Discrimination Law, the main body to receive anti-discrimination complaints is the Human Rights Ombudsman of Bosnia and Herzegovina.

**Background:** *In its May 2009 assessment, the Commission wrote: "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."*

### • Follow up to cases of discrimination and ethnically motivated incidents (police investigations, prosecution and court action)

The new Anti-Discrimination Law offers now a mechanism to monitor cases of discrimination and ethnically motivated incidents. So far a mechanism for the systematic monitoring and follow-up of such incidents was not available.

With the new law, all relevant institutions in BiH are required to keep records of cases of reported discrimination. They are also obliged to regularly submit the gathered information to the Ministry of Human Rights and Refugees of BiH. The ministry will establish a central database of all acts of registered and confirmed discrimination. It will also annually report about discrimination to the Council of Ministers, which in turn will inform the BiH Parliament. The ministry is also required to draft special reports proposing measures to prevent and suppress discrimination in Bosnia and Herzegovina.

So, in the future the new law will ensure systematic follow-up to all registered cases of discrimination. At

the same time, the new database will also offer statistics that will help fight discrimination.

As regards the current situation, BiH has not succeeded in collecting the relevant data since police, prosecutors and courts have so far not applied the new definitions of discrimination (e.g. there are police records of criminal acts against returnees, but if such a crime was committed by another returnee, it may not be an ethnically motivated crime etc.).

**Background:** *The Commission wrote in its May 2009 assessment: "A low number of cases of discrimination has been recorded. The immediate follow-up to these cases by the BiH Ministry of Human Rights and Refugees appears to be adequate. However, no information has been provided on further follow-up as regards police investigations, prosecution and court action."*

#### • Progress towards full functioning of the single Ombudsman Office

**Background:** *The Dayton Peace Agreement, which ended the 1992-1995 war in BiH and entered into force on 14 December 1995, created the Office of the Ombudsman of BiH<sup>110</sup> to investigate allegations of violations of human rights, identify those that warrant judicial investigation and prosecution, prioritise the cases and refer them to the then-operating Human Rights Chamber. Under the peace agreement, the position of BiH Ombudsman was to be held by a non-BiH citizen appointed by the OSCE Chairman for a mandate of five years following the entry into force of the DPA (until 14 December 2000), and then to be transferred to the institutions of BiH. An Ombudsman Office in the Federation had existed since 1995, and an Ombudsman Office in the RS was set up in 2000.*

*Although a Law on the BiH Human Rights Ombudsman was drafted in 1999, the BiH Parliament failed to adopt it so that the High Representative imposed it on 12 December 2000.<sup>111</sup> The position of the international Ombudsman was prolonged until December 2003. In 2002, the BiH Parliament adopted the law imposed by the High Representative in 2000, and in 2006, this law was amended. The amendments, a result of long-standing international pressure, envisaged the merger of the offices of the Entity Ombudsmen with the Office of the BiH Ombudsman in order to create one single institution and thus ensure the same level of human rights protection across the country.*

In December 2008, the three members of the Office of the BiH Ombudsman (a Bosniak, a Serb and a Croat) were elected. However, the RS has refused to close the RS Ombudsman's Office, so that the Law on the BiH Ombudsman cannot be fully implemented – the RS Ombudsmen's Office still operates, assuming powers that only the BiH Ombudsman should have and using resources and equipment that should be transferred to the State-level Ombudsman. The Law on the Cessation of the Functioning of the Ombudsmen of the RS has been so far three times on the agenda of the RS National Assembly, but it has not been adopted.

Nonetheless, the State-level Ombudsman's Office is operational.<sup>112</sup> All bylaws necessary for its functioning have been adopted, such as the rules of procedure and decision-making, a salary plan, the internal organisation, etc. By 30 April 2009, 434 complaints had been lodged with the State Ombudsman and the Ombudsman issued eight recommendations regarding submitted cases.

**Background:** *"The role of the Ombudsman for Human Rights adequately reflects the requirement for establishment of an "equality body" required under Directive 2000/43/EC [on Anti-Discrimination]. (...) The problems in phasing out of the Entity Ombudsmen offices have been delaying the effective merger and full operationality of the single Ombudsman Office."*

<sup>110</sup> General Framework Agreement for Peace, Annex 6, Part B: Human Rights Ombudsman, at: [http://www.ohr.int/dpa/default.asp?content\\_id=374](http://www.ohr.int/dpa/default.asp?content_id=374).

<sup>111</sup> Decision imposing the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, 12 December 2000, at: [http://www.ohr.int/decisions/statemattersdec/default.asp?content\\_id=364](http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=364).

<sup>112</sup> The website is at: <http://www.ombudsmen.gov.ba/>.