

# **56th report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina**

## *Summary*

The present report covers the period from 16 April through 15 October 2019. In October, the governments of the Federation and Republika Srpska simultaneously adopted a set of reform measures related to the European Union reform agenda. A month earlier, the capital city of Bosnia and Herzegovina, Sarajevo, was the scene of the country's first ever Pride Parade, which took place without incident. The entry into force of an agreement on the reduction of mobile roaming tariffs among countries in the Western Balkans on 1 July 2019 was also a welcome development.

Nonetheless, 7 October 2019 marked one full year since the holding of general elections in Bosnia and Herzegovina in 2018. It is with deep regret that I must report almost no progress on the formation of authorities during the reporting period, given that the new State-level Bosnia and Herzegovina Council of Ministers, the Federation entity government and two of the 10 cantonal governments have yet to be appointed. In contrast, the authorities of the Republika Srpska were established almost immediately following the elections and remain functional.

At the root of the standstill, at least at the State and Federation levels, is the divide between the main national parties – the dominant Federation-based parties, the Bosniak Party of Democratic Action (SDA) and the Croat Democratic Union of Bosnia and Herzegovina, and the dominant Republika Srpska-based party, the Serb Union of Independent Social Democrats (SNSD) – in their competing visions for the country and their interpretation of the Constitution of Bosnia and Herzegovina, often against terms that are part of the civilian aspects of the General Framework Agreement for Peace, for whose implementation I am responsible.

The parties remain at odds over fundamental aspects of the Constitution of Bosnia and Herzegovina, with some parties based in the Republika Srpska challenging the very role and authority of the State thereunder, as well as previously agreed policies and legal commitments towards the North Atlantic Treaty Organization (NATO).

In this regard, the delivery in May of the opinion of the European Commission on the application of Bosnia and Herzegovina for European Union membership, in which it set out 14 key priorities for the authorities of Bosnia and Herzegovina to meet as part of the process towards opening negotiations on accession, should have motivated the political leaders to overcome their differences and start moving on key reforms. Instead, an agreement made in August on principles for the formation of authorities signed by the leaders of the three aforementioned political parties expired in September without result, leading to even greater upheaval and threats, particularly from SNSD, to withdraw from existing agreements and roll back previous reforms, which, if they were carried out, would represent clear activity aimed at undermining the sovereignty of the State and its key institutions vested with exercising the constitutional responsibilities of Bosnia and Herzegovina. This has also led to significant rollback in terms of the authorities of Bosnia and Herzegovina meeting their obligations under the five objectives and two conditions that must be fulfilled prior to the closure of the Office of the High Representative.

In September, SNSD leader and member of the Presidency of Bosnia and Herzegovina, Milorad Dodik, threatened to withdraw the Republika Srpska from the agreements on legal transfers of competencies from the entities to the state signed by the two entities prior to the establishment of the single armed forces of Bosnia and Herzegovina, the single High Judicial and Prosecutorial Council of Bosnia and Herzegovina and the Indirect Taxation Authority of Bosnia and Herzegovina, further claiming that other institutions, including the Court of Bosnia and Herzegovina, the Office of the Prosecutor and the State Investigation and Protection Agency of Bosnia and Herzegovina, were established in violation of the Constitution of Bosnia and Herzegovina, without the consent of the Republika Srpska, and should therefore be considered only as interim and not permanent institutions. Mr. Dodik warned that all laws and decisions enacted “under pressure of the High Representative”, even those approved in the Parliament of Bosnia and Herzegovina, could be declared to be invalid, and he has announced a session of the National Assembly of the Republika Srpska for early November to consider such proposals.

Moreover, in September, SDA adopted its party programme declaration, establishing – not for the first time – its long-term goal of the adoption of a constitution that would define Bosnia and Herzegovina as the “Republic of Bosnia and Herzegovina”, with three levels of authority: State, regional and local. The SDA declaration was

unhelpful, given that it generated divisive pronouncements in Bosnia and Herzegovina.

Following the issuance of the SDA declaration, SNSD leader Dodik and other representatives of the Republika Srpska met with the President of Serbia, Aleksandar Vučić, in Belgrade, where Mr. Dodik reportedly warned of conflict and solicited Serbia's intervention in Bosnia and Herzegovina.<sup>(a)</sup> Mr. Vučić is to be commended for his calming statements, in which he urged leaders of the Republika Srpska to show restraint and support peace and stability and reiterated the support of Serbia for Bosnia and Herzegovina as a single State consisting of "two entities – the Republika Srpska and the Federation – with all their authorities and the agreement of three constituent peoples, Serbs, Croats and Bosniaks".<sup>(b)</sup>

The current political situation again reveals the long-standing politically driven dysfunctionality at the State level, which is to a large extent a consequence of the aforementioned diverging viewpoints and policies. Those issues must be properly addressed without further delay. Short of this, Bosnia and Herzegovina risks failure in its endeavour to undertake the necessary reforms and advance on its path towards Euro-Atlantic integration. Moreover, the country's severe shortcomings in confronting contemporary challenges, including managing irregular migration and combating organized crime and corruption, will remain unaddressed.

I must again draw your attention to the frequent destabilizing rhetoric employed by numerous political representatives in Bosnia and Herzegovina, including statements continually made by Mr. Dodik predicting the dissolution of Bosnia and Herzegovina <sup>(c)</sup> and advocating for the secession of the Republika Srpska<sup>(d)</sup> and unification with Serbia.<sup>(e)</sup>

In this context, under the authority vested in me under annex 10 to the General Framework Agreement, I reiterate that the entities have no right to secede from Bosnia and Herzegovina and that the Agreement guarantees the sovereignty and territorial integrity of Bosnia and Herzegovina and provides that it shall consist of two entities: the Republika Srpska and the Federation.

It appears that, nearly 25 years since the signing of the General Framework Agreement, the political elite in Bosnia and Herzegovina have still not abandoned their long-term goals, as witnessed during wartime. For the Serb parties, this means achieving the independence of the Republika Srpska; for the Croat parties, this means a territorial-administrative reorganization to establish a third, Croat, entity; for some Bosniak parties, this means a Republic of Bosnia and Herzegovina with no entities.

It is high time that the authorities in Bosnia and Herzegovina live up to their commitments to preserve peace and stability, move the country forward towards the self-declared goal of Euro-Atlantic integration and meet all obligations in this regard. I urge the political leaders to continue open and constructive dialogue with the aim of forming the authorities at all levels without further delay. The citizens of the country deserve better, and, for their sake, the international community must insist on it.

*a* "We have asked Serbia to assist us in a situation when needed in the strengthening and training of our security forces, as we think that we must not be naive. This is [SDA's] permanent goal: that there are no Serbs and no [Republika Srpska] in [Bosnia and Herzegovina]. They want [Bosnia and Herzegovina] for themselves. Anytime when we were naive and when we did not count on our states, we suffered and we were murdered. We must not allow that in these times ... It was important for us to inform President Vučić that we are concerned for our security, that this is a declaration with dangerous intentions and that this is a permanent determination of Bosniaks to eliminate the presence of Serbs in [Bosnia and Herzegovina]. But we also wanted to demonstrate our determination to defend ourselves, to say that [Republika Srpska] has its capacities and that we ask for support from Serbia in everything." Statement made by member of the Presidency of Bosnia and Herzegovina/SNSD President, Milorad Dodik, Belgrade, 21 September 2019.

*b* "Any conflict would mean economic collapse and the economic demise of us all. It would be the end of a good future for all of us. For those reasons, it is important that we call upon all actors to ease tensions and for the respect of the Dayton Peace Agreement. The political position of the Republic of Serbia is that we respect the existence of one State – Bosnia and Herzegovina – two entities – the [Republika Srpska] and the Federation – with all their authorities and the agreement of three constituent peoples – Serbs, Croats and Bosniaks. That position of the Republic of Serbia is based on principles; it remains unchanged and unchangeable." Statement made by the President of Serbia, Aleksandar Vučić, Belgrade, 21 September 2019.

*c* I do not believe in Bosnia and Herzegovina, in the concept of its formation; I do not believe in its future, and nobody here has a revolutionary plan to abolish it, but once there will be a stone of contention, whether it is the issue of NATO or something similar, it will fall apart by itself." Statement made by Mr. Dodik, East

Sarajevo, 3 September 2019.

d "If [SDA, Bosniaks] are allowed to do something like [issue the SDA programme declaration], then it is completely normal for us to be allowed to deal with the issue of self-determination until secession." Statement made by Mr. Dodik, Belgrade, 14 September 2019.

e "If someone thinks that there should be no [Republika Srpska], and they do, then it is completely logical that [the Republika Srpska] has to make its own way. It is only possible through declaring independence and unification with Serbia." Statement made by Mr. Dodik, TV Prva interview, 21 September 2019.

## **I. Introduction**

This is my twenty-second regular report submitted since assuming the post of High Representative for Bosnia and Herzegovina in 2009. It contains a narrative description of progress made towards goals outlined in previous reports, information on factual developments, relevant citations and my impartial assessment of the degree of implementation of the General Framework Agreement for Peace in key areas within the mandate. I have focused on addressing those areas, in line with my responsibility to uphold the civilian aspects of the General Framework Agreement. I have therefore continued to encourage the authorities of Bosnia and Herzegovina to make progress on the five objectives and two conditions necessary for the closure of the Office of the High Representative, which presupposes full compliance with the Agreement. It is imperative to insist that the authorities remain focused on full compliance, otherwise there is the risk of encouraging further rollback of the reforms enacted to implement the Agreement.

I continue to focus on fulfilling my mandate in accordance with annex 10 to the General Framework Agreement and relevant Security Council resolutions. My office also fully supports the European Union integration aspirations of Bosnia and Herzegovina, as reflected in the adopted decisions of the institutions of Bosnia and Herzegovina.

## **II. Political update**

### **A. General political environment**

The Bosniak Party of Democratic Action (SDA), the Croat Democratic Union of Bosnia and Herzegovina (HDZ Bosnia and Herzegovina) and the Serb Union of Independent Social Democrats (SNSD), as the main victors of the general elections held in Bosnia and Herzegovina in October 2018, have attempted to reach an agreement on the formation of the State-level authorities since March 2019, twice agreeing to sets of governing principles and even agreeing on the distribution of mandates within the Bosnia and Herzegovina Council of Ministers, but still without result. The persistent stumbling block is the disagreement over the submission by Bosnia and Herzegovina of its first annual national programme to the North Atlantic Treaty Organization (NATO) as part of its NATO membership action plan, which SDA, together with Croat member of the Bosnia and Herzegovina Presidency Željko Komšić of the Democratic Front (DF), insist on as a precondition for the formation of authorities, and which SNSD categorically rejects, citing the declared military neutrality of the Republika Srpska, without regard for the Law on Defence of Bosnia and Herzegovina and the previously adopted and still valid State-level decisions on the path to NATO membership for of Bosnia and Herzegovina.

In late September, still with no agreement on the annual national programme, SNSD leader, Milorad Dodik, announced that, should it persist as a condition for establishing the State-level authorities, he would introduce a new condition: the removal of international judges from the Constitutional Court of Bosnia and Herzegovina.[1]

The parliament of Bosnia and Herzegovina is also affected, given that SNSD has blocked the holding of sessions and the establishment of committees and working bodies and pledged to continue to do so until the appointment of the Chair-designate of the Council of Ministers, who would come from the ranks of SNSD.

The Federation-based, civic-oriented party DF and the primarily Bosniak Union for a Better Future of Bosnia and Herzegovina (SBB) are also part of the State-level coalition, in theory, but have thus far been sidelined as the main parties continue to altercate.

At the Federation level, SDA and HDZ Bosnia and Herzegovina maintain their long-standing alliance, joined by DF and SBB, although this coalition has yet to take steps towards appointing a new Federation Government, due to the continued insistence of HDZ Bosnia and Herzegovina on amending the Election Law of Bosnia and Herzegovina, ostensibly to include amendments to resolve what the party views as the issue of the "legitimate representation of constituent peoples", prior to the appointment of a new Federation Government, a condition rejected by SDA.

Unlike at the State level, there has been little apparent effort towards resolving the impasse at the Federation level.

At the cantonal level, in the majority of the cantons (6 of 10), the coalitions are SDA or HDZ Bosnia and Herzegovina. In Sarajevo, civic-oriented political parties lead the ruling coalition, without SDA. In Una-Sana Canton, the Party for Democratic Activity leads the governing coalition, also excluding SDA. Two cantons, Herzegovina-Neretva Canton and Canton 10, are still without governments, even though the legislative majorities there are the same as in the previous mandates.

The oldest Federation-based, civic-oriented party, the Social Democratic Party (SDP), has seen significant defections at all levels, in part due to internal disagreements over whether to govern with SDA. This was one of the driving factors that led to the formation of a new party, the Bosnia and Herzegovina Social Democrats (Bosnia and Herzegovina SD), which was formally launched in September. Due to defections to Bosnia and Herzegovina SD, SDP lost five seats in the Federation House of Representatives dropping from 16 to 11, one in the Federation House of Peoples, dropping from eight to seven, and one in the Bosnia and Herzegovina House of Representatives, dropping from five to four.

In the Republika Srpska, SNSD, the party with the largest electoral support in that entity by far, maintains a governing coalition with previous partners the Democratic People's Alliance (DNS) and the Socialist Party of Republika Srpska (SPRS), joined by the Peoples' Democratic Movement (NDP), United Srpska (UJS) and the more recently formed Democratic Alliance (DEMOS), controlling an absolute majority in the National Assembly of the Republika Srpska. The opposition parties are the Party of Democratic Progress, the Serb Democratic Party, and the Together for Bosnia and Herzegovina coalition comprised of Federation-based parties SDA, Party for Bosnia and Herzegovina and the Bosnian Patriot Party.

During the previous reporting period, the international community followed the changes proposed to be made to the Law on Police and Internal Affairs of the Republika Srpska, which, among others, would have created a Republika Srpska reserve police force. In June, under international pressure, the Ministry of the Interior of the Republika Srpska withdrew the corresponding amendments. However, the Republika Srpska has subsequently introduced, through the reorganization of the Ministry of the Interior, the gendarmerie of the Republika Srpska, a nomenclature and concept that more commonly refers to components of the military tasked with civil law enforcement, a development which warrants further scrutiny.

An agreement on principles for the formation of the State-level authorities signed by the leaders of SDA, HDZ Bosnia and Herzegovina and SNSD in August expired in September without result. As the agreement appeared to break down, member of the Presidency of Bosnia and Herzegovina/SNSD President Dodik threatened to withdraw the Republika Srpska from the agreements on transfers of competencies from the entities to the State signed by the two entities prior to the establishment of the single armed forces of Bosnia and Herzegovina, the single High Judicial and Prosecutorial Council of Bosnia and Herzegovina and the Indirect Taxation Authority of Bosnia and Herzegovina.

In response, the Peace Implementation Council Steering Board, without the Russian Federation, issued a statement encouraging political dialogue towards the formation of authorities at all levels and the facilitation of unconditional reforms consistent with existing policy goals and commitments. The Steering Board also called upon political leaders not to undertake actions that would undermine, weaken or inhibit the proper functioning of State institutions. The Steering Board reaffirmed its position that entities and institutions must abide by existing legislation and legally binding arrangements, recalling that reforms, including defence reform, the creation of a single State-level High Judicial and Prosecutorial Council of Bosnia and Herzegovina and State-level indirect taxation system, were enacted with the full support of the entity and State-level parliaments. The Steering Board called upon parties to respect the Constitution of Bosnia and Herzegovina, existing legislation and the integrity of State-level institutions.

Subsequently, Mr. Dodik called for negotiations with the Federation to jointly withdraw from the transfer agreements and claimed that other institutions, including the Court of Bosnia and Herzegovina, the Office of the Prosecutor of Bosnia and Herzegovina and the State Investigation and Protection Agency of Bosnia and Herzegovina, were established in violation of the Constitution of Bosnia and Herzegovina, without the consent of the Republika Srpska, and should therefore be considered only as interim and not permanent institutions. Mr. Dodik warned that, should the Federation reject the prospect of holding discussions, the main board of SNSD would request that all laws and decisions enacted "under pressure of the High Representative", even those approved in

the parliament of Bosnia and Herzegovina, be declared to be invalid.

In September, SDA adopted its party programme declaration, establishing – not for the first time – its long-term goal of the adoption of a constitution that would define Bosnia and Herzegovina as the “Republic of Bosnia and Herzegovina”, with three levels of authority: State, regional and local. Although the party set this out as a goal to be achieved through political and constitutional processes, as I indicated in a statement at the time, it was unhelpful that the party presented such a concept knowing that it would trigger negative reactions and create additional tensions.

At its party congress in April, just preceding the reporting period, HDZ Bosnia and Herzegovina adopted a similarly problematic declaration calling for the “administrative reorganization” of Bosnia and Herzegovina, with three layers of authority, of which the middle layer should have “at least three administrative units”, an allusion to long-standing Croat demands for a third ethnic entity. A week later, the Main Council of the Croat National Assembly – an umbrella organization of Croat political parties, which HDZ Bosnia and Herzegovina dominates – adopted a conclusion calling for the “territorial-administrative reorganization” of Bosnia and Herzegovina.

Bosnia and Herzegovina continues to struggle with the influx of migrants into the country transiting to European Union countries, which has recently intensified. The authorities of Bosnia and Herzegovina are ill prepared, with no effective countrywide strategic plan for addressing the crisis. This shortcoming continues to tax the country’s resources and raise tensions in local communities where migrants are temporarily accommodated. It is worth noting that all migrants are currently accommodated in the Federation, because the authorities of the Republika Srpska repeatedly announced that they would not allow accommodation of migrants in the Republika Srpska. As migrants attempt to travel from Serbia and Montenegro through Bosnia and Herzegovina to Croatia, a State member of the European Union, there are concerning reports that Croatian police have frequently entered Bosnia and Herzegovina to push migrants back into the country.

In its final report on the general elections held in Bosnia and Herzegovina in 2018, the Office for Democratic Institutions and Human Rights of the Organization for Economic Cooperation in Europe made several critical recommendations for improving the integrity of the electoral process in Bosnia and Herzegovina. Many of the recommendations had already been made following previous election cycles, but remain unimplemented. It is imperative that the authorities address those issues well before the next elections, which are expected to be held at the local level in October 2020. A lack of confidence by the population in the integrity of the electoral process continues to erode the authority of governing structures at all levels in Bosnia and Herzegovina.

The lack of commitment to the rule of law throughout Bosnia and Herzegovina remains a fundamental problem. Authorities at all levels continue to disregard or reject binding decisions of the judiciary. The Federation-based parties have made no effort to resolve issues stemming from the decision of the Constitutional Court of Bosnia and Herzegovina in the *Ljubić Case* or from the Court’s decision on the electoral system of the City of Mostar, as result of which local elections have not been held in Mostar since 2008. The Republika Srpska persistently refuses to adhere to judgments of the Constitutional Court of Bosnia and Herzegovina and the State Court of Bosnia and Herzegovina concerning the registration of defence property and the decisions of the Constitutional Court of Bosnia and Herzegovina regarding the 9 January “Republika Srpska Day” holiday. While no one disputes the right of the Republika Srpska to have a celebratory day, it must be organized in accordance with the legal framework and in respect of the rule of law.

In its plenary session of 5 July, the Constitutional Court of Bosnia and Herzegovina decided to terminate proceedings in the *Krišto Case*, as a result of the 23 May letter from Bosnia and Herzegovina House of Representatives Speaker, Borjana Krišto (HDZ Bosnia and Herzegovina), by which she withdrew her request from the Court. As previously reported, following the decision of the Constitutional Court of Bosnia and Herzegovina in the *Ljubić Case* and the failure of the parliament of Bosnia and Herzegovina to amend the Election Law of Bosnia and Herzegovina in line with the constitutional framework in place, HDZ Bosnia and Herzegovina, through Krišto, initiated proceedings for the review of constitutionality of the provisions of the Federation Constitution concerning the so-called “1-1-1 rule”. On 10 January 2018, Krišto filed a request for a review of the constitutionality of the element of article IV of the Federation Constitution that provides that, in the Federation House of Peoples, there shall be at least one Bosniak, one Croat and one Serb from each canton that has at least one such delegate in its legislative body. On 28 March 2018, the Constitutional Court of Bosnia and Herzegovina invited the High Representative to provide written observations with regard to the request in the case in an *amicus curiae* capacity. Since then, the Court postponed deliberations. Meanwhile, the Central Election Commission of Bosnia and

Herzegovina made up for the inaction of the parliament and enacted rules to enable the establishment of the Federation House of Peoples while respecting the constitutional requirement concerning the so-called "1-1-1 rule".

On 1 October, the European Court of Human Rights issued a decision in the case of *Orlovic and Others v. Bosnia and Herzegovina* related to the Serbian Orthodox church illegally constructed in 1998 on the private property of the Orlovic family in the village of Konjevic Polje, near Bratunac, in the Republika Srpska. The Court ordered the removal of the church within three months from the entry into force of its decision and the provision of monetary compensation to the plaintiffs. Parties to the proceedings have three months to request the referral of the case to the Grand Chamber of the Court, after which the decision becomes final. The ruling was generally welcomed by the public in Bosnia and Herzegovina, because it brings to a close a case that has been ongoing since 2002 and has been an impediment in inter-ethnic relations in the vicinity. Nonetheless, once the decision becomes final, although implementing the physical relocation of the church will be difficult, it provides an opportunity for authorities to demonstrate adherence to rulings of the Court and to reverse the negative track record on compliance in this regard to date. Encouragingly, SNSD leader Dodik has indicated support for implementation of the decision.[2]

The outstanding obligation of several cantons in the Federation, including the Herzegovina-Neretva Canton, to amend their constitutions to harmonize them with the Federation Constitution and to ensure the full equality of Serbs as a constituent people, is another specific area in which I continue to urge local authorities to respect the rule of law. In May 2018, the Federation Constitutional Court issued a new decision requiring three cantons to amend their constitutions accordingly, which none have done so far.

In addition to the issue of unimplemented court decisions, Bosnia and Herzegovina also faces a problem with deep-rooted public disappointment in the criminal justice system's seeming incapacity to tackle corruption and deal with organized crime. This has been reflected in two cases, one in Banja Luka and the other in Sarajevo, of young men killed under suspicious circumstances, in which activists allege a cover up by the authorities. The cases are symptomatic of the profound disappointment of many citizens in the state of the rule of law throughout Bosnia and Herzegovina, which is a driving factor in the growing exodus of mostly young people from the country, a tragic trend that, should it continue, will leave Bosnia and Herzegovina aging and depopulated.

## **B. Decisions of the High Representative during the reporting period**

Despite frequent challenges to the rule of law and the General Framework Agreement during the reporting period, I continued to refrain from using my executive powers, in accordance with the policy of the Peace Implementation Council Steering Board, which emphasizes "local ownership" over international decision-making.

## **C. Five objectives and two conditions for the closure of the Office of the High Representative**

### *Progress on objectives*

My office continues to urge the authorities of Bosnia and Herzegovina at all levels to work towards the full implementation of the five long-standing objectives and two conditions established by the Peace Implementation Council Steering Board in 2008 as essential steps towards the transition of the closure of the Office of the High Representative. It is important to recall that the requirements set out in that agenda by the Steering Board are for the authorities of Bosnia and Herzegovina to deliver, not the international community. The intention of the Steering Board in establishing that agenda was for local authorities and institutions to assume full responsibility and to demonstrate their credibility. Regrettably, the actions by the authorities make it abundantly clear that they are not seriously committed to implementing the agenda. Consequently, with few exceptions, there is long-term stagnation, and even rollbacks, in many areas covered by that agenda – and beyond it.

### *State and defence property*

There is no progress to report with regard to achieving the first objective, namely, the acceptable and sustainable resolution of the issue of apportionment of property between the State and other levels of government.

Concerning the second objective, namely, the acceptable and sustainable resolution of defence property, to date, approximately 30 prospective defence locations in the Federation have been registered under the ownership of the Bosnia and Herzegovina State, with a handful still pending. As previously reported, the registration of all 20 prospective defence locations in the Republika Srpska remains completely blocked.

For several years, the Republika Srpska has consistently and openly disregarded final and binding court decisions, particularly those of the Constitutional Court of Bosnia and Herzegovina and the State Court of Bosnia and Herzegovina. Instead of complying with requests for the registration of prospective defence property, which are based on the provisions of the Constitution of Bosnia and Herzegovina as interpreted in several final and binding decisions of the Constitutional Court of Bosnia and Herzegovina, the succession agreement, relevant state legislation and final and binding decisions of other courts, the Republika Srpska continues to deny not only the State-level ownership rights over State and defence property, but even the legal capacity of Bosnia and Herzegovina to be subject of those ownership rights.

The continued denial by the competent authorities and senior officials of the Republika Srpska not only represents a failure to respect the validity of the decisions of State-level judicial institutions and open defiance of their applicability; it is, in fact, a central element of the long-standing policy of the Republika Srpska to opt out of the judicial system of Bosnia and Herzegovina when it suits the political goals of the entity leadership. This is not merely a technical dispute; it is the vehicle for promoting the policies of the Republika Srpska that are focused on systemic challenges to the State's sovereignty, its constitutional order and the rule of law. Those policies are based on the entity's misinterpretation of the provisions of the General Framework Agreement concerning the definition of the Bosnia and Herzegovina State or the constitutional and legal nature of the Bosnia and Herzegovina State and the two entities.

For some time, officials of the Republika Srpska have propagated the incorrect assertion that Bosnia and Herzegovina is a "union of states" established in 1995 by two pre-existing "states". A recent example is the resolution of the National Assembly of the Republika Srpska, entitled "Resolution on the protection of the constitutional order and declaration of Republika Srpska military neutrality", adopted in October 2017, in which it asserted that the constitutional order of Bosnia and Herzegovina as set forth in annex 4 to the General Framework Agreement was created by the entities and could be changed only with their agreement. In the resolution, it also attempted to use provisions concerning the territory of the entities under the Agreement to prevent the registration of State and defence property on the territory of the Republika Srpska in the name of the Bosnia and Herzegovina State, claiming that such registration would represent a "violation of the constitutional order and international law and would have no legal effect". This rationale relies on the incorrect assumption that any registration of property under the name of the Bosnia and Herzegovina State would be the equivalent of carving away the territory of the Republika Srpska.

In the letter dated 24 February 2011 from the President of the Republika Srpska addressed to the Ambassadors of the States members of the European Union and the Peace Implementation Council in Bosnia and Herzegovina, Mr. Dodik indicated that: any reference to the internal continuation of the Republic of Bosnia and Herzegovina did not have a legal basis in the international agreement which created and determined the present Bosnia and Herzegovina; not a single article of the Constitution of Bosnia and Herzegovina gave Bosnia and Herzegovina a right to any property; Bosnia and Herzegovina did not exist beyond the entities; and any registration of the land or facilities as real estate to the ownership of Bosnia and Herzegovina would directly violate the international agreement.

In its jurisprudence, the Constitutional Court of Bosnia and Herzegovina has emphasized that the binding character and enforceability of its decisions does not exclusively apply to the merits thereof, but also relates to the legal opinion and positions of the Court determined in the reasoning of its decisions. In a decision issued in July 2012, the Court clearly established that, pursuant to the relevant provisions of the Constitution of Bosnia and Herzegovina, the Bosnia and Herzegovina State was the owner of State property and the Parliamentary Assembly of Bosnia and Herzegovina had the exclusive responsibility to regulate the issue of State property. The Court pointed out that the Constitution treated "Bosnia and Herzegovina" as the successor of the Republic of Bosnia and Herzegovina under international law in terms of the State and legal continuity and that the identity and the continuity between the Republic of Bosnia and Herzegovina and the former Socialist Federal Republic of Yugoslavia with Bosnia and Herzegovina led to the conclusion that, pursuant to the succession agreement, the state property mentioned in the agreement had been awarded to the State of Bosnia and Herzegovina, i.e. Bosnia and Herzegovina was the titleholder of that property.

Pursuant to relevant constitutional provisions: "state property reflects the statehood, sovereignty and territorial integrity of Bosnia and Herzegovina. Therefore, it forms an integral part of the constitutional attributes and powers of the state". Furthermore: "on the basis of the previous reasoning about the continuity between the Socialist Republic of Bosnia and Herzegovina and Bosnia and Herzegovina, it is clear that Bosnia and Herzegovina is the

titleholder of this property. Pursuant to article I (1) of the Constitution of Bosnia and Herzegovina, Bosnia and Herzegovina is entitled to continue to regulate 'state property' of which it is the titleholder, meaning all issues related to the notion of 'state property', in terms of both civil law and public law. This conclusion is the sole possible logical and substantive content of the notion of 'identity and continuity' under the quoted provision."

Furthermore, in July 2016, the State Court of Bosnia and Herzegovina issued a final decision in the separate case of the prospective defence location in Han Pijesak, confirming the ownership right of the Bosnia and Herzegovina State and instructing the competent authority of the Republika Srpska to register that property under the ownership of the Bosnia and Herzegovina State within 30 days, which the Republika Srpska has not done to date.

Clearly, the issue of State and defence property has become a vehicle for promoting the unilateral policies of the Republika Srpska aimed at undermining the fundamental components of the General Framework Agreement. Therefore, it is necessary to intensify efforts aimed at addressing the issues of State and defence property at the political level, through the collective voice of the international community, mindful that the only acceptable and sustainable resolution is the adoption of comprehensive State-level legislation fully based on the principles of the decision of the Constitutional Court of Bosnia and Herzegovina issued in 2012.

### *Brčko District*

Improving the resilience of Brčko District to challenges through, among other things, good governance, infrastructure development and private sector growth, has remained the focus of the engagement of the Supervisor for the District.

In terms of good governance, the fiscalization initiated in March has been successfully completed, in line with the legislation prepared in 2016 with the expert assistance of the Office of the High Representative, empowering the Brčko District tax authorities to fight tax evasion and generate public revenue, thereby also contributing to the country's efforts in that regard. A new budget law aimed at improving fiscal discipline, transparency and responsibility in spending has been finalized with the expert support of the Office of the High Representative, and is currently pending adoption by the District Assembly. The Supervisor is also assisting the authorities in preparing a new law on foundations and associations, which is also aimed at limiting the scope for misuse of budget funds. Amendments to the Brčko police legislation, prepared with expert assistance of the Office of the High Representative, were adopted with commendable efficiency.

As for infrastructure development, the adoption of the long-outstanding loan agreement for the Brčko Port modernization in March, resulting from the Supervisor's intensive political engagement with the District authorities and individual parties, has unlocked financing by the European Bank for Reconstruction and Development and the European Union. Preparations for the implementation of the project are in the final stage, and the actual construction should start in the second quarter of 2020. The recent allocation by the District Assembly of funding for the reconstruction of the Brčko-Gunja Bridge, a key transport corridor and a Bosnia and Herzegovina border crossing, is a welcome development.

In the first half of 2019, particular attention was paid to the issue of the supply of electricity to Brčko District, which has remained dependent on annual ad hoc arrangements and therefore prone to financial and political abuse. The Supervisor held several meetings with the relevant State, entity and District authorities in an effort to identify and facilitate a solution by the third quarter of the year that would remove risks to the uninterrupted supply to the District after 31 December 2019. As a result, the supply of electricity to Brčko District for 2020 was agreed between the relevant District authorities and the Republika Srpska power company as the most favourable supplier on 4 October, within the legal deadline and significantly earlier than in previous years. While this is commendable, ensuring long-term and thus predictable and reliable supply to the District remains a challenge and will remain a focus of the Office of the High Representative during the next reporting period.

As private sector growth is vital to the development and prosperity of Brčko District, the Supervisor has worked with the District leadership and the business community to improve investment legislation and business support processes in order to foster a pro-business environment.

While the steps taken by the Brčko District leadership during the reporting period are crucial for the end goal of strengthening the stability and sustainability of the District, concerns remain that progress on those and other matters may become a hostage to politics, especially as the 2020 local elections approach. Of concern is a possible spillover of the tensions in the rest of the country to the District but also the challenges posed to the District by

some of the observed trends in Bosnia and Herzegovina and recent declarations, including those by Mr. Dodik.

In September, the Presiding Arbitrator of the Arbitral Tribunal for Brčko District, Ambassador for the United States of America, Clint Williamson, visited Bosnia and Herzegovina and, accompanied by the Supervisor for Brčko District, met in the District with the District authorities and in Sarajevo with members of the Presidency of Bosnia and Herzegovina and the Constitutional Court of Bosnia and Herzegovina. Mr. Williamson reiterated that, under the terms of the Final Award, covered under annex 2 to the General Framework Agreement, the Tribunal's jurisdiction will continue to exist until the Supervisor, with the approval of the High Representative, notifies the Tribunal that the conditions for its closure have been met.

### *Fiscal sustainability*

In accordance with the mandate, including the coordination responsibilities, the Office of the High Representative continues to follow, analyse and report on developments and legislative actions related to fiscal sustainability in Bosnia and Herzegovina. Fiscal sustainability, understood as the government's ability to maintain credible revenue levels and service its obligations in the long run, is crucial to functional governance at all levels. The Office's activities in this area include monitoring and reporting to the Peace Implementation Council Steering Board on the activities of the Governing Board of the Indirect Taxation Authority of Bosnia and Herzegovina, on which the Office of the High Representative is the only international community representative, and the Bosnia and Herzegovina Fiscal Council.

Developments in both institutions raise concerns over the implications that they may have for the ability of governments at all levels to ensure the unimpeded functioning of institutions and the discharge of their constitutional and legal obligations.

Attempts to undermine the single, indirect tax system and its State-level institutional structure, the announcement of the potential withdrawal of the Republika Srpska from the agreement between the entities transferring the responsibility for indirect taxation to the State and the financial uncertainty of the State institutions stemming not only from the long-standing State budget freeze that directly affects their performance and ability to fully meet all of their obligations, including international obligations, but also from the availability of their funding, due to political attempts to starve the State-level institutions, indicates a serious rollback of one of the most important reforms made subsequent to the General Framework Agreement in Bosnia and Herzegovina. Such trends directly undermine fiscal stability and sustainability in Bosnia and Herzegovina and must be reversed if progress towards the fourth objective, namely, fiscal sustainability, is to be achieved.

The Bosnia and Herzegovina Fiscal Council is among the State-level institutions held hostage by SNSD, as representatives of the Republika Srpska in the body (its Prime Minister and Finance Minister) have indicated that they would refrain from attending Council meetings pending the appointment of the SNSD candidate for Bosnia and Herzegovina Council of Ministers Chair. Accordingly, the Council held no sessions during the reporting period, thereby failing to adopt the global framework of fiscal balance and policies for the period 2020-2022 by the May deadline as the basis for the preparation and adoption of the budgets for 2020.

The Governing Board of the Indirect Taxation Authority of Bosnia and Herzegovina met four times during the reporting period (on 8 May, 21 June, 24 July and 23 September), but with no significant outcome. Apart from addressing some technical issues within its competence, the Board reached no agreement on any of the long-outstanding obligations. Of a total of 44 quarters since 2008, the entity revenue allocation coefficients have been adjusted for only 13 quarters (29.5 percent), while the inter-entity debt accumulated since 2012 exceeds KM 70 million. The failure to comply with the Board regulations requiring quarterly coefficient adjustments and biannual debt settlements continues to burden inter-entity relations. This is evident in the lawsuit of the Republika Srpska against the Federation filed on 5 August for the outstanding Federation debt of KM 34.5 million, and the corresponding interest, and the Federation Government's lawsuit against the Republika Srpska announced on 5 September for the outstanding Republika Srpska debt of KM 31.9 million, and the corresponding interest.

Of greater concern is the negative impact of entity disputes on the unimpeded functioning of the single indirect tax system and its State-level institutional structure. An illustrative example is the Republika Srpska lawsuit against the Indirect Taxation Authority of Bosnia and Herzegovina for damages stemming from the Federation debt to the Republika Srpska in 2009 and 2010 (settled in 2011) and, following a decision of the Court of Bosnia and Herzegovina of 2015 in its favour, the attempted enforcement by the Republika Srpska of those damages against public revenue accounts and single account revenues managed by the Authority. The consequences – which the

Court has somewhat mitigated by suspending the attempted enforcement on several occasions, most recently until 11 March 2020 – include financial damage to all revenue beneficiaries, including the Federation, the Republika Srpska and Brčko District as well as value added tax refund recipients and customs insurance depositors and are again attributed to and sought from the Authority as the system operator. Moreover, the precedent opens the door to future entity lawsuits against the Authority over mutual debts, as well as for financial damages resulting from their enforcement.

Those trends ultimately have political consequences, because they weaken the State-level system, contribute to the lack of trust in its proper functioning and are abused as a pretext for further challenges along the lines of the threatened withdrawal of the Republika Srpska from the transfer agreement on indirect taxation.

*Entrenching the rule of law: Bosnia and Herzegovina Law on Foreigners and Bosnia and Herzegovina Law on Asylum*

My office continues to provide support and assistance to the authorities of Bosnia and Herzegovina in implementing the Bosnia and Herzegovina Law on Foreigners of 2015 and the Bosnia and Herzegovina Law on Asylum of 2016.

*Anti-corruption efforts*

Federation legislation establishing a special prosecutor and court department for fighting corruption and organized crime, adopted in 2014, remains unimplemented.

In June 2019, the disciplinary panels of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina dismissed a disciplinary complaint against the Council President with an explanation that the President and Vice-Presidents of the Council were not subject to disciplinary liability, effectively placing those judicial officials above the law. The complaint concerned an alleged case of bribery following a meeting in a cafe between the Council President and a private citizen seeking to expedite his legal case, with audio and video recordings of the meeting released to the media.

Given that the law does not exclude the disciplinary liability of the President and Vice-Presidents of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, the decision to exempt them was met with strong reactions from the public and the international community in Bosnia and Herzegovina, highlighting the urgent need to improve the standards of the Council, as the leadership of the institution tasked with appointing and disciplining judges and prosecutors should meet the highest ethical and professional standards.

Such recent events within the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, including apparent conflicts of interest, the controversial appointments of judges other than the best-ranked candidates and the lack of independence of the Council's disciplinary bodies, with no legal remedy outside the Council itself, should prompt a thorough revision of the rules under which the Council operates.

*War crimes cases*

In its report war crimes management at the Office of the Prosecutor of Bosnia and Herzegovina, issued in June 2019, the Organization for Security and Cooperation in Europe noted persistent deficiencies, a lower conviction rate in war crimes cases at the State-level, the fragmentation of cases and the retraumatization of victims, concluding that the Office of the Prosecutor would be unable to complete its work on war crimes cases by 2023, as envisaged by the war crimes prosecution strategy of Bosnia and Herzegovina.

## **D. Challenges to the General Framework Agreement for Peace**

*Challenges to the sovereignty and territorial integrity of Bosnia and Herzegovina*

During the reporting period, statements challenging the sovereignty and territorial integrity of Bosnia and Herzegovina continued, with Mr. Dodik again being the most frequent exponent of such proclamations.[3]

The Peace Implementation Council Steering Board has repeatedly called upon parties to refrain from divisive action and rhetoric and reiterated its commitment to the territorial integrity and fundamental structure of Bosnia and Herzegovina as a single, sovereign state comprising two entities and reiterated that there would be no redrawing of the map of Bosnia and Herzegovina.

### *Threats to withdraw from existing transfer agreements*

As outlined in the present report, ongoing threats by the Republika Srpska to withdraw from existing agreements on the legal transfer of competences from the entities to the State in the field of defence, indirect taxation and matters related to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, which were achieved in implementing the General Framework Agreement through years of work and investment of the international community, are aimed at undermining progress in the political and economic stability of Bosnia and Herzegovina, the rule of law and the defence system of Bosnia and Herzegovina, among other things.

Such initiatives represent a long-standing and consistent policy of the Republika Srpska of undermining the sovereignty of the state of Bosnia and Herzegovina and its key institutions, which are indispensable for exercising the constitutional responsibilities of the Bosnia and Herzegovina State. There is an undeniable historical pattern of the Republika Srpska challenging state competences, as well as undermining and threatening to withdraw from the State-level institutions that uphold the stability of the entire country.

### *Position of the Republika Srpska on military neutrality*

As previously noted, in October 2017, the National Assembly of the Republika Srpska adopted a resolution proclaiming the “military neutrality” of the Republika Srpska, despite the exclusive competence of the Bosnia and Herzegovina State for foreign policy under the Constitution of Bosnia and Herzegovina and despite previously adopted decisions by the Presidency of Bosnia and Herzegovina and other institutions on this issue. Foreign policy and defence matters are State competencies that do not fall within the responsibilities of the entities. However, the resolution is now invoked as the basis for the Republika Srpska rejecting the registration of prospective defence property in the Republika Srpska under the ownership of Bosnia and Herzegovina and the submission of the annual national programme of Bosnia and Herzegovina to NATO. In practical terms, it is being used to block crucial processes, which represents a direct challenge to several fundamental aspects of the General Framework Agreement, including the constitutional order and sovereignty of Bosnia and Herzegovina.

### *Rhetoric on war crimes*

Hate speech, the glorification of war criminals and the revision or denial of genocide, the findings of which were established by international judicial institutions, are common in the political discourse. Ethnic identity politics – the root of the conflict in Bosnia and Herzegovina – are once again resurfacing as a political tool employed by public officials.

Nationalist leaders continue to pursue wartime policies, while denying war crimes committed by “their side”, glorifying convicted war criminals and leading divided commemorations that perpetuate the notion of group victimhood while ignoring or downplaying empathy and compassion for the suffering and loss of others. Nearly a quarter of a century following the cessation of hostilities, officials, public figures and media organizations are increasingly challenging the rulings of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the International Court of Justice and the International Residual Mechanism for Criminal Tribunals.

Senior political figures from the Republika Srpska continue to deny and diminish the genocide committed in Srebrenica,[4] which has been confirmed by two international tribunals and domestic courts, and to reject the verdicts and findings of international courts in war crimes cases. The repealing, in August 2018, of the report of the Republika Srpska Government on Srebrenica, issued in 2004, in which it had officially acknowledged the involvement of Republika Srpska military and police forces in the events in Srebrenica in July 1995, highlights the extent to which the reconciliation process has deteriorated over the past several years.

In this regard, there is a need for State-level legislation addressing the denial of genocide and memorializing war criminals and other controversial figures by naming public buildings and other spaces after war criminals, which the parliament of Bosnia and Herzegovina should pursue as a priority when it resumes its work. As the European Commission noted in its opinion on the application of Bosnia and Herzegovina for European Union membership: “Revisionism and genocide denial contradict the most fundamental European values.”

In a speech in September at his party congress, SDA President Bakir Izetbegović denounced the Bosnia and Herzegovina judiciary’s indictment and prosecution of several former military and police officials of the wartime

Republic of Bosnia and Herzegovina, alleging a conspiracy to “equalize” the warring factions.[5]

In August, the Croat political parties comprising the Croat National Assembly marked the twenty-sixth anniversary of the proclamation of the Croat Republic of Herzeg-Bosnia, the wartime Croat proto-state within Bosnia and Herzegovina, six of the leaders of which were convicted by the International Criminal Tribunal for the former Yugoslavia as part of a “joint criminal enterprise”.[6] In his speech at the anniversary event, Croat National Assembly President/HDZ Bosnia and Herzegovina President, Dragan Čović, glorified the Croat Republic of Herzeg-Bosnia.[7]

It is disturbing that senior political figures and certain segments of society have failed to come to terms with the past and continue to deny judgments of international courts and the seriousness of indictments for war crimes in domestic courts. Such attitudes greatly hinder the prospects of lasting reconciliation in the country.

### **III. State-level institutions of Bosnia and Herzegovina**

#### **A. Presidency of Bosnia and Herzegovina**

The members of the Presidency of Bosnia and Herzegovina, Mr. Dodik (SNSD), Mr. Komšić (DF) and Šefik Džaferović (SDA), continued to meet and perform their functions. Despite disagreements and the ongoing political crisis resulting from a lack of political consensus on the formation of the State-level authorities, the Presidency managed to hold five regular sessions during the reporting period, as well as an indeterminate number of urgent or extraordinary sessions, which are not announced or recorded. The Presidency agreed on some important issues, such as the path towards European Union membership, issues related to the succession agreement, including property of Bosnia and Herzegovina in Croatia, and the adoption of various working documents within its competence.

Mr. Dodik chaired the Presidency until 20 July, when Mr. Komšić assumed the mantle as part of the regular eight-month rotation. He announced as his short-term priorities the adoption of the Bosnia and Herzegovina State budget for 2019, the appointment of the Chair-designate of the Bosnia and Herzegovina Council of Ministers and the submission of the annual national programme to NATO. Predictably, the latter became a source of contention within the Presidency as Mr. Komšić and Mr. Džaferović attempted to have the Presidency assume responsibility for the issue through a consensus vote supporting submission of the annual national programme, without success.

The Presidency jointly participated in the summit of the Brdo-Brijuni initiative, a meeting of leaders of the Western Balkans held in Tirana, and paid an official visit to Turkey in May, and a tripartite summit with the Presidents of Serbia and Turkey was held in October in Belgrade, which also marked the groundbreaking for the Sarajevo-Belgrade Highway. The Presidency also hosted the summit of the South-East European Cooperation Process in July. Individually or in smaller numbers, members of the Presidency paid official visits to the General Assembly, as well as to the United Kingdom of Great Britain and Northern Ireland, the Russian Federation and the Vatican. However, such visits often resulted in controversy, given that visiting members of the Presidency occasionally made statements that were at odds with the views of other members of the Presidency, who in turn disputed the “official” nature of the statements and the visits themselves.

In July, the Presidency adopted conclusions calling upon Croatia to halt construction on the Pelješac Bridge, which spans Neum-Klek Bay in Bosnia and Herzegovina and has been a contentious issue for several years, given that the treaty concluded in 1999 on the State border between Bosnia and Herzegovina and Croatia has never been ratified by either country. This is due in part to the absence of a settled sea boundary demarcation, which could have an impact on access for Bosnia and Herzegovina to international waters. Mr. Dodik voted against the conclusion and invoked the “vital entity interest” protection mechanism, declaring the conclusion to be harmful to the interests of the Republika Srpska. The National Assembly of the Republika Srpska supported Mr. Dodik’s invocation, thereby preventing the Presidency’s conclusions from taking effect.

Later in July, the Presidency adopted the State budget for 2019, over the dissenting vote of Mr. Dodik, who immediately announced that the adopted budget would be blocked in the Parliamentary Assembly of Bosnia and Herzegovina and would not be adopted prior to the appointment of the new Bosnia and Herzegovina Council of Ministers.

The Presidency attempted to address the migrant crisis in Bosnia and Herzegovina, declaring in July that Bosnia and Herzegovina must not become a migrant base, tasking the Bosnia and Herzegovina Council of Ministers to

submit a comprehensive action plan to address the crisis and announcing talks with Montenegro and Serbia on illegal migration from those countries to Bosnia and Herzegovina. However, the Presidency could not agree on several proposals to address the migrant crisis, including the deployment of the armed forces of Bosnia and Herzegovina to the border areas with the largest influx of migrants, primarily the eastern border with Montenegro and Serbia, the organization of temporary migrant centres throughout Bosnia and Herzegovina or the development of a coordinated approach between the entity police forces and the Bosnia and Herzegovina border police.

## **B. Bosnia and Herzegovina Council of Ministers**

Due to the failure to appoint a new Council of Ministers, the Council from the previous mandate continued to meet, albeit infrequently, holding six regular and seven urgent sessions. The Council focused its work on the migrant crisis in Bosnia and Herzegovina, European Union issues, the ratification of international treaties, infrastructure projects, food safety, public administration and various information, reports and other documents governing the work of the Council of Ministers. The Council adopted only one item of legislation, amending the Bosnia and Herzegovina Law on State Aid.

The absence of the State budget for 2019 forced the Council of Ministers into adopting quarterly decisions on temporary financing of government institutions, most recently in October for the fourth quarter of 2019.

The Council of Ministers adopted several strategies and action plans, including the draft public investments programme for the period 2020-2022, the midterm strategy for debt management for the period 2018-2021, the action plan implementing the communication strategy for informing the public on European Union integration and the integrated nuclear safety plan for the period 2019-2023.

In July, the Council of Ministers participated in the Western Balkans Summit under the Berlin Process, held in Poland.

## **C. Parliamentary Assembly of Bosnia and Herzegovina**

The work of the Parliamentary Assembly of Bosnia and Herzegovina remained hostage to the political crisis in the country, effectively blocked by SNSD representatives making the establishment of parliamentary committees and other working bodies conditional upon the appointment of the new Council of Ministers. Apart from constituent sessions to elect parliamentary leadership in late 2018 and earlier in 2019, the Bosnia and Herzegovina House of Representatives and House of Peoples have held no regular sessions.

The Bosnia and Herzegovina House of Representatives attempted to hold two urgent sessions but succeeded only once, in a June session convened by opposition parties, in which representatives called for the resignation of all members of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. The Bosnia and Herzegovina House of Peoples attempted to hold one urgent session, without success.

The blockade of the legislative authority in Bosnia and Herzegovina undermines the country's capacity not only to enact legislation, but also to meet international obligations. Despite several requests from the Council of Europe, the Bosnia and Herzegovina Parliamentary Assembly failed to appoint its delegation to the Parliamentary Assembly of the Council of Europe held in June. Representatives of the Bosnia and Herzegovina Parliamentary Assembly have been reduced to fulfilling diplomatic protocol in receiving guests and foreign delegations.

Dozens of legislative proposals remain pending deliberation in the Bosnia and Herzegovina Parliamentary Assembly, most importantly the State budget for 2019 and numerous international financial agreements in support of infrastructure development, totalling as much as €1 billion.

## **IV. Federation of Bosnia and Herzegovina**

As a new Federation Government has still not been appointed since the general elections held in 2018, the Federation Government from the previous mandate continues to work in full capacity, holding 20 regular and 6 extraordinary sessions during the reporting period. Both houses of the Federation Parliament also meet, albeit very infrequently, with the Federation House of Representatives holding three regular and three extraordinary sessions and the Federation House of Peoples holding two regular sessions and one extraordinary session. Legislative output is practically non-existent, with only four amendments to existing laws and one new law passed.

In both houses of the Federation Parliament, the appointments of the collegiums are incomplete. As previously

reported, since its inaugural session in February, the Federation House of Peoples has failed to appoint the Deputy Speaker from the ranks of the Serb peoples, due in part to the political divide in the Serb caucus, which has also prevented the caucus from electing its president. Failure to elect the president does not restrict two thirds of the caucus from invoking the “vital national interest” mechanism, but the failure to elect the Serb Deputy Speaker does hinder the caucus from using the full range of protection mechanisms. In July, a reshuffling of the parliamentary majority led to a reappointment of the Federation House of Representatives collegium, in which the Deputy Speaker from the ranks of the Serb peoples was not appointed.

#### *Vital national interest panel of the Federation Constitutional Court is non-functional*

Following a series of retirements of judges from the Federation Constitutional Court since 2016, the Court currently operates with only five of the nine required judges. All five judges must be present for a quorum to exist, and decisions must be reached by consensus. Moreover, the Court’s vital national interest Panel is left with only four sitting judges and is unable to convene. In accordance with the Federation Constitution, the panel is composed of seven members, two from each constituent peoples and one from the group of others. With three members missing, one from each constituent people, there is no quorum. The inability of the panel to function and take decisions within its jurisdiction directly affects the decision-making process in cantonal assemblies and in the Federation House of Peoples. There are currently several cases pending before the panel.

In September, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted the final list of candidates to replace three of the four retired judges. Subsequently, the Federation Constitutional Court submitted to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina its written opinion concerning the candidates, subsequent to which the Council is to submit a proposal of candidates to the Federation President for the nomination and appointment procedure. In accordance with the Federation Constitution, Constitutional Court judges are nominated by the Federation President, with the concurrence of the Vice-Presidents, and require the approval of a majority of the present and voting members of the Federation House of Peoples in order to be appointed.

#### *Federation House of Representatives reaction to proposed Republika Srpska reserve police*

On 14 May, the Federation House of Representatives adopted, without the presence of representatives from HDZ Bosnia and Herzegovina or the Croat National Assembly, conclusions related to proposed amendments to the Republika Srpska Law on Police and Internal Affairs setting out the introduction of the Republika Srpska reserve police force. The Federation House of Representatives requested the international community, primarily the Office of the High Representative, to halt further activities towards the adoption of the amendments, stating that they undermined security and caused concern among citizens. The Federation House of Representatives also urged the Federation and cantonal governments to fully staff and equip their police forces to ensure the overall security of Federation territory. On 9 June, the Federation Minister of the Interior, Aljoša Čampara (SDA), announced that the ministry was preparing amendments to existing Federation laws to provide for the introduction of a reserve police force in the entity. On the withdrawal of amendments in the Republika Srpska later that month, the ministry also halted the further drafting of amendments.

#### *No progress on local elections in Mostar*

The responsible political parties have held no serious discussions in 2019 to reach an agreement to enact amendments to the Bosnia and Herzegovina Election Law that would regulate local elections in the City of Mostar, where there have not been local elections held since 2008. I urge the parties to initiate talks to finally resolve the issue and enable the citizens of Mostar to enjoy the same democratic rights to elect their local leaders and to stand for elections as do the citizens in the rest of the country.

#### *Constitutional equality of Serbs in the Federation cantons*

The decision of the High Representative in 2002 enacting amendments to the Federation Constitution within the wider implementation of the decision of the Constitutional Court of Bosnia and Herzegovina on the equality of constituent peoples determined that all three constituent peoples were equal in the Federation, that the official languages of the Federation were Bosnian, Croatian and Serbian and that the official scripts would be Latin and Cyrillic. The cantons remain obliged to harmonize their constitutions with the Federation Constitution. The Federation Constitutional Court determined in 2018 that several provisions of the constitutions of Posavina, Herzegovina-Neretva and West Herzegovina Cantons did not conform with the Federation Constitution in that

regard and ordered the assemblies of those cantons to amend their respective constitutions accordingly, which none have done.

I have continued to urge the authorities of Posavina, Herzegovina-Neretva and West Herzegovina Cantons to ensure that their respective constitutions are harmonized with the provisions of the Federation Constitution providing for the constitutional equality of all three constituent peoples, in particular the Serb people, the three official languages and Cyrillic script as one of the two official scripts.

## **V. Republika Srpska**

SNSD continues to lead the Republika Srpska ruling coalition with its partners from the previous mandate, DNS and SPRS, along with UjS, NDP and the more recently formed DEMOS. Led by Prime Minister Radovan Višković (SNSD), the Republika Srpska Government has met regularly. According to available information, the National Assembly of the Republika Srpska held three regular and two special sessions, adopting nine new laws and 27 sets of amendments to existing laws.

In September, in retaliation for the SDA declaration setting out the “Republic of Bosnia and Herzegovina” as a political goal, the SNSD-led majority in the National Assembly of the Republika Srpska initiated the removal of the Bosniak Deputy Speaker of the National Assembly of the Republika Srpska, Senad Bratić (SDA). Although Mr. Bratić submitted his resignation prior to the session scheduled solely to remove him, the National Assembly of the Republika Srpska nonetheless proceeded with his removal.

The authorities of the Republika Srpska have taken steps aimed at limiting the freedom of assembly of both the opposition and citizens in Republika Srpska. In June, opposition representatives in the National Assembly of the Republika Srpska requested the Republika Srpska police to issue a permit for a protest against what they say was police repression against the members of the “Justice for David” group that has protested for 18 months over the mysterious death in March 2018 of 21-year-old student David Dragicevic in Banja Luka, claiming a police conspiracy. Police issued the permit but for a location well away from the town centre. Since breaking up daily protests in the main square in Banja Luka at the end of 2018, the Republika Srpska police has not allowed further protests in the main square.

The Republika Srpska police continues to pressure and intimidate “Justice for David” activists, ordering the activists in June to leave the churchyard of the Cathedral of Christ the Saviour and forcefully arresting a 66-year-old Swedish national of Bosnia and Herzegovina origin who was talking to one of the protesters. Despite the announcement of the Office of the Prosecutor of Banja Luka in 2018, after months of protests, that it had opened an investigation into the death of David Dragicevic, to date, it has issued no indictment in the case or revealed any of its findings.

On 27 June, under considerable international pressure, the National Assembly of the Republika Srpska passed the Law on Changes and Amendments to the Law on Police and Internal Affairs removing contentious provisions that would introduce a Republika Srpska reserve police force. At the same time, the Minister of the Interior of the Republika Srpska announced that the Republika Srpska would introduce a gendarmerie instead, with the Republika Srpska Government giving its consent to changes in the Ministry rules of procedure to establish the gendarmerie. On 24 September, the Republika Srpska held an inauguration ceremony for the Republika Srpska gendarmerie, which consists of the former support unit of the Ministry.

### *Srebrenica and Sarajevo commissions*

As previously reported, earlier in 2019, the Republika Srpska Government-appointed commissions for the investigation of events in Srebrenica and Sarajevo from 1992 to 1995, fulfilling the request made by the National Assembly of the Republika Srpska, in its 14 August 2018 conclusions, to the Republika Srpska Government to repeal its report on Srebrenica issued in 2004, in which the Government had acknowledged the involvement of Republika Srpska military and police forces in the July 1995 events in Srebrenica, and to establish independent international commissions to investigate the entire war period in Srebrenica, as well as in Sarajevo. The commissions have continued their work during the reporting period. However, they have decided not to share information until their work is completed.

In its communiqué of 18 June 2019, the Peace Implementation Council Steering Board, without the Russian Federation, deplored the decision of the Republika Srpska Government to establish a Srebrenica commission and

the related revisionist rhetoric concerning the issue, recalling that the events in Srebrenica of July 1995 have been conclusively qualified as genocide by international tribunals and national courts alike.

#### *Non-cooperation with the High Representative*

The Republika Srpska Government continues to deny my office access to official information and documents as required under article IX of the General Framework Agreement and annex 10 to the Agreement, which obliges all authorities in Bosnia and Herzegovina to fully cooperate with the High Representative. Repeated calls by the Peace Implementation Council Steering Board reminding the authorities of the Republika Srpska of their obligations in this regard have so far had no impact. The practice of the Republika Srpska Government not to provide information and documents as requested by the Office of the High Representative contradicts frequent claims by the Republika Srpska that the entity respects the letter of the Agreement.

### **VI. Public security and law enforcement, including intelligence reform**

The long-standing practice of improper political interference in operational policing has not diminished.

In May, authorities in Zenica-Doboj Canton adopted changes to the Law on Internal Affairs postponing the implementation of the separate police budget until the fiscal year 2020, owing to coalition politics.

In June, authorities in Sarajevo Canton adopted controversial changes to police legislation deemed unacceptable by the Sarajevo Canton police union and a government coalition partner as enabling improper political interference in professional policing. In August, the Sarajevo cantonal government appointed a new police commissioner.

Due to an ongoing court case, Posavina Canton authorities have faced delay in their legislative schedule to delete a provision in police legislation required by the letter of the President of the Security Council of 2007 on police denied certification by the former United Nations International Police Task Force.

In August, the Bosnian-Podrinje Canton government, and in September the cantonal assembly, adopted a draft Law on Police Officials without consulting the police commissioner, drawing criticism from the local police union. In July, the cantonal assembly had appointed an independent board to oversee the work of the police commissioner, even though the mandate of the current independent board had not expired.

Herzegovina-Neretva Canton authorities have made no effort to appoint a new police commissioner to replace the previous police commissioner, whose mandate expired in October 2018, and the canton has not had a functional independent board since March 2017.

In June, the Brčko District authorities adopted changes to the police legislation that, inter alia, strengthened the merit-based selection process of police managers.

The Bosnia and Herzegovina Independent Board published the vacancy for the selection of the Director of the State Investigation and Protection Agency on 27 August. In September, the Independent Board selected four candidates from among the applicants and will conduct interviews in October. The mandate of the current Director of the Agency ends in November.

In April, the Federation Independent Board completed the selection procedure for the Federation Police Director. However, the Federation Government has not yet completed the appointment process.

The unveiling in September of a new gendarmerie by the Republika Srpska, drawn from the former support unit of the Ministry of the Interior of the Republika Srpska, is a concerning development that warrants further monitoring.

### **VII. Economy**

In its report issued in August 2019 on macroeconomic indicators for the period January to May 2019, the Council of Ministers Directorate for Economic Planning noted continued economic growth in Bosnia and Herzegovina, estimating it at 2.3 per cent in the first quarter of 2019. However, Eurostat data indicate that Bosnia and Herzegovina (and Albania) had the lowest GDP per capita in the region in 2018, at less than one third of the European Union average. Compared with 2018, industrial production decreased by 5 per cent, while exports and imports increased by 1.1 and 6.3 per cent, respectively. Inflation was estimated at 0.9 per cent. Compared with 2018, foreign direct investment in the first half of 2019 registered a significant increase of over 50 per cent, but in

absolute terms still left Bosnia and Herzegovina lagging behind other countries of the Western Balkans.

The administrative and real unemployment rates of 32.9 and 15.7 per cent, respectively, reflect the continued decline in unemployment. The growing population drain, according to the estimate of the Union for Sustainable Return that as many as 30,000 people left Bosnia and Herzegovina in the first six months of 2019, is likely among the factors accounting for the unemployment decline.

Despite a 5.1 per cent increase in the average net salary (KM 926) and a 4.4 per cent increase in the average pension (KM 402), the average price of the basket of goods of KM 2,039 as at May 2019 suggests that even those with steady incomes struggle to make ends meet. This is particularly the case with pensioners with the lowest pension payments (KM 191.9 in the Republika Srpska and KM 371.8 in the Federation).

In September, Standard & Poor's ratings services affirmed Bosnia and Herzegovina's credit rating at "B", with a "positive" outlook, leaving the door open for revision dependent on addressing the political stalemate and reviving structural reform.

The banking sector is assessed as generally stable and liquid. The 15 Federation-based commercial banks had a 3.7 per cent profit increase totalling KM 89.8 million, while profits of the 8 commercial banks based in the Republika Srpska fell by 3 per cent and totalled KM 26.6 million.

The stability of the banking sector is underpinned by the Bosnia and Herzegovina Central Bank, as a key General Framework Agreement institution, which nonetheless faces sustained challenges to its independence, responsibilities and unimpeded functioning. The most recent risk stems from the decision of the Presidency of Bosnia and Herzegovina of 19 June, taken by a majority vote at the proposal of Mr. Dodik, to remove two members of the Bosnia and Herzegovina Central Bank Governing Council two years before the expiry of their mandates. Both Council members were removed with immediate effect.

The lack of requisite support within the Presidency of Bosnia and Herzegovina for the appointment of their successors, as proposed by Mr. Dodik, left the Council with three of five members, the minimum for a quorum.

Although the Court of Bosnia and Herzegovina addressed the immediate threat on 19 July, prohibiting on an interim basis the enforcement of the decisions to remove the members of the Bosnia and Herzegovina Central Bank Governing Council pending its final decision in the case initiated by the removed Council members, in September, the Appellate Chamber of the Court accepted the appeal of the Presidency of Bosnia and Herzegovina against the interim measure, meaning the removal of the members is valid and the Board is again left with only three members.

#### *Fiscal issues*

There were no delays in debt servicing and regular monthly budget payments during the reporting period. This was primarily owing to the continued growth of indirect tax revenues (up by 6.84 per cent in the first seven months of 2019 compared with the same period in 2018) but also, particularly in the Republika Srpska, due to continued borrowing. The International Monetary Fund released no funds to Bosnia and Herzegovina during the reporting period.

The State-level institutions entered the fourth quarter of 2019 without a budget. Although the Council of Ministers adopted the budget for Bosnia and Herzegovina institutions and international obligations for 2019 in January and the Presidency of Bosnia and Herzegovina adopted it in late July, with the dissent of Mr. Dodik, the process remains stalled in the Parliamentary Assembly of Bosnia and Herzegovina, owing to the blockade of parliamentary work by representatives of Mr. Dodik's party, SNSD. The budget's chances of adoption are dubious, given objections by SNSD to a 2 per cent increase, the first increase for the Bosnia and Herzegovina institutions in the past seven years. The increase is in line with the global framework of fiscal balance and policies for the period 2019-2021 adopted by the Bosnia and Herzegovina Fiscal Council in July 2018, with the support of the Prime Minister and Finance Minister of the Republika Srpska, and does not affect the State's share of indirect tax revenues, which remains locked at the 2012 level.

The absence of a budget for 2019 forces the State-level institutions into temporary financing, restricting not only the amount of available funding but also the scope of activities. It also makes those institutions vulnerable to political calculations, as evidenced in June, when HDZ Bosnia and Herzegovina used procedural mechanisms to

delay the adoption of the temporary financing decision for the third quarter of 2019, which posed a risk to the continued financing and functioning of the State institutions beyond 30 June and triggered strong reactions by over 20,000 employees, a majority of whom worked in the defence and security sector. After several attempts, the Council of Ministers eventually adopted the third quarter financing in late July and for the fourth quarter of 2019 in early October.

The blockage by SNSD of the work of the Bosnia and Herzegovina Fiscal Council pending the appointment of the SNSD candidate for the Chair of the Council of Ministers prevented the adoption of the global framework of fiscal balance and policies for the period 2020–2022 by the May deadline, as the basis for the preparation and adoption of 2020 budgets, adding to the financial uncertainty of the State-level institutions.

The Federation maintained budget stability during the reporting period. In the consolidated budget execution report for the period January to June 2019, a positive cumulative financial result of KM 395.3 million was noted for all levels of government in the Federation in total. In July, the Federation Parliament rebalanced the 2019 budget, primarily to provide funds for the implementation of the Law on the Rights of Demobilized Soldiers and Their Family Members, adopted in response to renewed demands from war veterans.

On 14 September, the Ministry of Finance of the Republika Srpska initiated the rebalancing of the Republika Srpska budget for 2019, adopted by the National Assembly of the Republika Srpska on 23 December 2018 in the amount of KM 3.256 billion. The budget rebalancing, which is subject to adoption by the National Assembly of the Republika Srpska, is justified by the increased collection of public revenues. From January to July, public revenues totalled KM 1.6 billion, KM 51.5 million more than in the same period in 2018. According to the Republika Srpska Fiscal Council, the main economic challenges in the Republika Srpska are overstuffed and loss-making public companies, increased government borrowing and health sector sustainability.

According to the report of information on public indebtedness of Bosnia and Herzegovina as at 30 June 2019, adopted by the Council of Ministers on 19 September, Bosnia and Herzegovina public debt totals KM 11.15 billion, of which 73.5 per cent constitutes foreign, and 26.4 per cent internal, debts. The share of the Federation and the Republika Srpska in the overall public debt is 50.91 and 47.97 per cent, respectively. The share of the Bosnia and Herzegovina institutions and Brčko District is 0.65 and 0.47 per cent, respectively. Compared with the end of 2018, overall public debt increased by KM 50.8 million (0.46 per cent). The public debt share of the GDP of Bosnia and Herzegovina is estimated at 31.4 per cent.

### *International obligations*

The failure of Bosnia and Herzegovina to address its long-standing breach of obligations under the Energy Community Treaty within the six-month deadline given by the Ministerial Council of the Energy Community on 29 November 2018 resulted in the reintroduction of the Council's measures against Bosnia and Herzegovina. The compliance of Bosnia and Herzegovina is held hostage to entity disputes over the scope of regulation of the gas sector at the State-level and the corresponding State-level legislation. The absence of State-level gas sector regulation also contributes to inter-entity disputes that pose a risk to the uninterrupted gas supply in Bosnia and Herzegovina, as evidenced in early October when the gas company based in the Republika Srpska unilaterally cut off the gas supply to the Federation over disputes with the Federation-based gas company. Although resolved without significant consequence, the dispute illustrates how issues of relevance for the country are held hostage to politics.

After withholding payments to the Bosnia and Herzegovina Public Railways Corporation in the first six months of 2019, the Republika Srpska recently settled one third of its obligations for the period from January through August. While the Republika Srpska fully met its 2018 payment obligations, in 2016 and 2017, it deprived the Corporation of funds equivalent to one Republika Srpska annual budget contribution. The uncertainty of funding caused by the unilateral cutbacks by the Republika Srpska poses a risk to the unimpeded functioning of the sole State-level corporation established under annex IX to the General Framework Agreement. This is also significant in view of the still standing 16 March 2017 conclusion of the Republika Srpska Government requesting the its Ministry of Transport and Communications to initiate a review of the agreement between the Federation and the Republika Srpska on the establishment of a joint public railway corporation as part of the Transportation Corporation.

Disputes within the Federation and between the Federation and the Republika Srpska over management appointments within the State-level Electricity Transmission Company affect its unimpeded functioning. The mandates of the entire management and management board have expired, and there is no support for the

appointment of their successors. While all public officials have the right and an obligation to carry out their duties until replaced, they refrain from decision-making, including on necessary investments in the electricity transmission grid. This not only poses a risk to the electricity supply in Bosnia and Herzegovina, but also provides a pretext for political challenges to the Electricity Transmission Company, which was established by the Law Establishing the Company for the Transmission of Electric Power in Bosnia and Herzegovina of 2004, adopted by the Parliamentary Assembly of Bosnia and Herzegovina following the conclusion by the entities on 2 June 2003 of an agreement on the transmission company and independent system operator, on the basis of article III (5) (b) of the Constitution of Bosnia and Herzegovina.

### **VIII. Return of refugees and displaced persons**

The realization of the right of refugees and displaced persons to return to their homes of origin remains central to the fulfilment of annex 7 to the General Framework Agreement, because it requires authorities at all levels to create in their territories the political, economic and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group.

Education remains a contentious issue in several returnee communities. The authorities of the Republika Srpska continue to refuse to acknowledge the right of Bosniak returnee schoolchildren to refer to their language as “Bosnian”, despite the decision of the Constitutional Court of Bosnia and Herzegovina of 2016 guaranteeing this right, opting instead for the selective application of a provision of the entity constitution referring to “the language of the Bosniak people”, while referring to the language of the other two constituent peoples as “Serbian” and “Croatian”.

Serb returnee parents in some parts of the Federation continue to seek the introduction of the Serbian language into their children’s education, without success.

### **IX. Media developments**

During the reporting period, the free media helpline of the Bosnia and Herzegovina Union of Journalists registered 21 cases of violations of the rights of journalists, including physical attacks, threats, verbal intimidation, political and economic pressure and job insecurity. Assaults on journalists are becoming increasingly injurious, as in the case of RTV BN journalist and owner of the web portal [gerila.info](http://gerila.info), Vladimir Kovacevic, who was badly beaten in August 2018. In July 2019, the Banja Luka Court issued a first instance decision sentencing one of the attackers to four years’ imprisonment for attempted murder. The motives for the attack remain unclear.

Responding to the concerns of the Bosnia and Herzegovina Union of Journalists, in April 2019, the Federation House of Representatives adopted the Union’s proposed initiative calling for the adoption of amendments to the Federation Criminal Code defining an attack against a journalist as a serious criminal offense against an official person on duty.

The Bosnia and Herzegovina Public Broadcasting System failed to make progress in fulfilling its legal obligations stemming from the relevant legislation. The PBS Board failed to agree on sustainable financing. As a result, radio-television tax collection remains split along entity lines and collected revenues are not distributed according to the legally defined ratios.

The Federation Parliament made no progress in the long overdue appointment of members of the governing board of the Federation public broadcaster, Radio-Television Federation of Bosnia and Herzegovina, which operates with only one governor, whose mandate expired in June 2013. On 5 July, over a year past the expiry of the mandates of the governors of Radio-Television Republika Srpska, the National Assembly of the Republika Srpska finally publicized the vacancy announcements. The selection of governors is made exclusively by entity parliaments and is highly politicized.

Due to such political influence within the Public Broadcasting System, the public broadcasters that were meant to lead the process of digitalization have failed to register the joint legal entity responsible for finalizing the process. In June, the communications regulatory agency decided to break the deadlock and published a tender for awarding a license to a commercial operator for multiplex C. The license is expected to be granted by the end of October.

### **X. European Union military mission in Bosnia and Herzegovina**

The European Union military mission in Bosnia and Herzegovina (EUFOR) with its continued executive mandate plays a vital role in supporting the efforts of Bosnia and Herzegovina to maintain a safe and secure environment. In this context, I am particularly concerned with the recent reorganization of some police forces into increasingly militarized formations, which, if augmented with long-barrelled weapons and other military-grade equipment, would have a profound and destabilizing effect on the safe and secure environment in Bosnia and Herzegovina. The sole focus of all authorities in Bosnia and Herzegovina in terms of security should be on professionalism, accountability and coordination of law enforcement agencies throughout Bosnia and Herzegovina. Only in this way will the police be able to serve its citizens and provide them with personal safety and security.

Under such circumstances, I believe monitoring weapons and ammunition stocks from the armed forces of Bosnia and Herzegovina and the police agencies is an appropriate measure to ensure better situational awareness and promote confidence-building across a highly fragmented law enforcement and public security sector.

## **XI. Future of the Office of the High Representative**

The political directors of the Peace Implementation Council Steering Board met in Sarajevo on 17 and 18 June 2019 to review the progress in implementing the General Framework Agreement, again underlining their unequivocal commitment to the territorial integrity and sovereignty of Bosnia and Herzegovina and their full support to the High Representative in ensuring respect for the Agreement and carrying out the mandate under annex 10 thereto and relevant Security Council resolutions. The political directors emphasized the need for local authorities and institutions to complete the five objectives and two conditions that must be fulfilled prior to the closure of the Office of the High Representative. The Steering Board next meets on 3 and 4 December 2019.

Fundamentally, policy considerations regarding Bosnia and Herzegovina must be the basis for assessing the resource requirements of the Office of the High Representative. As indicated in the present report, it is clear that there is still considerable work to be done to move the country forward. My office has worked diligently to streamline operations. At its peak in 2002, the Office of the High Representative budget was €25 million, with a staff of about 700, compared with the current €5.3 million budget and a staff of only 92.

During my tenure as mandate holder alone, the budget has decreased by 53 per cent and the staff by over 58 per cent. However, while the organization has faced substantial reductions to staff and funding, tasks have largely remained the same. As the budget decreases over time, it becomes exponentially more difficult to further reduce without cutting essential expertise and capacity. Given the challenges ahead, the Office of the High Representative must retain the effective capacity to mitigate risks to stability and encourage irreversible progress. Staff reductions pose a greater risk for an organization such as the Office of the High Representative, which relies on its human capital, institutional memory, expertise and long-standing contact networks. The diminishing of financial resources only exacerbates the issue. A robust and effective Office of the High Representative is required, coupled with the necessary political and financial support.

Without the appropriate level of resources, the capacity to fulfil mandated responsibilities, implement the General Framework Agreement and fulfil the conditions for closure of the Office of the High Representative is restricted. This would be counterproductive to the end goal established by the Peace Implementation Council Steering Board, as well as a key condition for the path of Bosnia and Herzegovina towards European Union integration cited in the opinion of the European Commission on the application of Bosnia and Herzegovina for European Union membership, issued in 2019.

## **XII. Reporting schedule**

The present report is submitted in keeping with the practice of submitting regular reports for onward transmission to the Security Council, as required by Security Council resolution [1031 \(1995\)](#). I would be pleased to provide additional information at any time, should the Secretary-General or any member of the Security Council require it. The next regular report to the Secretary-General is scheduled for April 2020.

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### **Notes:**

[1] "I will probably these days ask that we do not enter into the authorities until foreign judges depart Constitutional Court. And now, like others, we will begin to [apply a] condition [to] the formation of the

government. Here, now, I go to Sarajevo and, when I will speak there, I will say 'when judges of the Constitutional Court depart, then we will discuss the formation of authorities'." Statement made by Mr. Dodik, ATV interview, 1 October 2019.

[2] "I am in favour of agreeing operationally how the church should be relocated. I was for that five years ago. I prefer that attitude and I think the story needs to end." Statement made by Mr. Dodik, FTV, 7 October 2019.

[3] "The [Republika Srpska] would defend and secure itself and become independent through a political process." Statement made by Mr. Dodik, interview with Alo.rs, 1 October 2019.

[4] "They made a myth out of Srebrenica, which serves to build the Bosniak national identity. Just as Serbs have the myth of Kosovo, they are making a Srebrenica myth, because there are no serious people without a myth. I can understand that." Statement made by Mr. Dodik, Radio Sarajevo, 12 July 2019.

[5] "[Atif] Dudakovic, [Sakib] Mahmuljin, [Ramiz] DrekoVIC, [Ahmet] Sejdic, [Naser] Oric, [Dragan] Vikić [and Jusuf] Pusića are just some of the names of defenders who face judicial crucifixion. The obvious goal is to compromise the distinguished commanders in each of the Republic of Bosnia and Herzegovina Army Corps and the Ministry of the Interior and thus prove that all parties in the war did the same thing - that there is no significant difference." Statement made by Bosnia and Herzegovina House of Peoples Speaker/SDA President, Bakir Izetbegović, SDA congress, Sarajevo, 14 September 2019.

[6] "The members of this [joint criminal enterprise] were found to have implemented an entire system for deporting the Muslim population of the Croatian Republic of [Herzeg-Bosnia]. This system consisted of a wide range of crimes: the removal and placement in detention of civilians, murders and destruction of property during attacks, mistreatment and destruction of property during eviction operations, mistreatment and very harsh conditions of confinement in [Bosnian Croat army] detention centres, the use of detainees on the front lines for labour or as human shields and the removal of detainees and their families to other territory once they were released from detention. The Trial Chamber found that thousands of persons lay victim to these acts of violence, which were committed in an organized fashion by the military and political forces of the [Bosnian Croat army]." International Criminal Tribunal for the former Yugoslavia trial judgment summary for *Prlić et al*, 29 November 2017. Available at <https://www.icty.org/case/prlic>.

[7] "By forming the [Croat Republic of Herzeg-Bosnia], we have also formed Bosnia and Herzegovina, as all those elements defined in Bosnia and Herzegovina through the Constitution, Dayton Peace Agreement, constituent status and equality are simply a substitution for the [Croat Republic of Herzeg-Bosnia]." Statement made by Croat National Assembly President/Dragan HDZ Bosnia and Herzegovina President, Dragan Čović, twenty-sixth anniversary of proclamation of the Croat Republic of Herzeg-Bosnia, 28 August 2019.