



Fifty-seventh report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina

Summary

The present report covers the period from 16 October 2019 to 15 April 2020. At the time of writing, Bosnia and Herzegovina, like nearly every other country on the planet, is in the throes of battle with the coronavirus disease (COVID-19) pandemic. The citizens of Bosnia and Herzegovina are confronting these extraordinary circumstances with discipline, solidarity and unity, thereby contributing to the efforts of the authorities to invest in saving lives and preserving livelihoods. I also welcome the fact that political and institutional leaders showed an extraordinary level of preparedness to cooperate and coordinate in the period of crisis, in particular at its beginning. Over time, however, as the health crisis appears to be relatively under control, some politicians again resumed their divisive rhetoric.

In order for the efforts of the authorities to combat the pandemic and mitigate its effects to succeed, they must also be well devised, properly targeted and closely coordinated. Equally so, they must fully adhere to the constitutional and legal framework of the country, be proportionate and transparent, and always in full compliance with the highest international and European standards on human rights and fundamental freedoms, as also enshrined in the Constitution of Bosnia and Herzegovina. Above all, the crisis that Bosnia and Herzegovina now confronts must in no way be used to promote or achieve narrow political party interests and policy goals.

The international community has been providing financial and material assistance to the authorities of Bosnia and Herzegovina at different levels, while at the same time encouraging political and institutional leaders in Bosnia and Herzegovina to improve their cooperation and coordination, and assisting them in those efforts. The international community has also been closely monitoring the work of the Bosnia and Herzegovina authorities at all levels, based on the above parameters. It is important to acknowledge the important work of various actors of the international community in Bosnia and Herzegovina, which have, in accordance with their respective mandates, played a very useful and constructive role in assisting Bosnia and Herzegovina to manage this crisis.

While challenges associated with the pandemic have now come to the fore, it is my duty as High Representative responsible for upholding the civilian aspects of the General Framework Agreement for Peace in Bosnia and Herzegovina to draw the attention of the Secretary-General to preceding developments that in many respects challenge the key principles of the Agreement.

In this regard, I must report that it was almost the end of 2019, more than a full year after the holding of general elections in Bosnia and Herzegovina in 2018, before the new State-level Bosnia and Herzegovina Council of Ministers was appointed, while the new Federation entity Government and 2 of 10 cantonal governments remain unappointed. There has also been no genuine political dialogue to resolve the situation regarding the City of Mostar, where local elections have not been held for over a decade.

Moreover, the promise of progress following the appointment of the Bosnia and Herzegovina Council of Ministers in December was dashed by February, when the authorities of the Republika Srpska, led by the Union of Independent Social Democrats (SNSD), reacted to a ruling of the Bosnia and Herzegovina Constitutional Court affirming State-level competence over the issue of State property by renewing threats to withdraw from the Bosnia and Herzegovina institutions and largely successfully pursuing a policy of blocking all decision-making at the State level. This is the consequence of similar threats by SNSD and its allies over the past decade having been indulged by the international community and represents the continuance of the assault by the authorities of the Republika Srpska on the fundamentals of the General Framework Agreement for Peace, which began in September 2019, as outlined in my previous report.

As a result, among other things, the State of Bosnia and Herzegovina finds itself in the middle of a pandemic without an adopted State-level budget under which funds could be appropriately targeted to address the most pressing demands. Instead, the institutions of Bosnia and Herzegovina operate under temporary financing, which

provides far less flexibility. As an illustration of what could be done, we saw the Brčko District Assembly adopt, on 25 March, a budget for 2020 and a law on its execution that took into account the current situation and – through reallocations and restrictions on grants and material expenditures – laid the groundwork for these funds to be used to mitigate the medical and economic consequences of COVID-19.

Herewith, I would also emphasize that the adoption of the State-level budget for 2020 is a precondition for organizing and conducting local elections in Bosnia and Herzegovina, which are currently scheduled for October but are likely to be delayed, as technical preparations for them are made more difficult, if not entirely unfeasible, owing to the restrictions on movement and gatherings and other measures necessary to combat the pandemic.

In any case, according to statements by SNSD President and member of the Presidency of Bosnia and Herzegovina Milorad Dodik, the blockade of decision-making at the State-level is expected to resume once the crisis ends, which would be a highly worrying development.

It is high time for the authorities at all levels in Bosnia and Herzegovina to live up to their commitment to a peaceful and viable State that is irreversibly on course for Euro-Atlantic integration. I urge the political leaders to rise to the challenges directly ahead and to view the occasion of the twenty-fifth anniversary of the General Framework Agreement for Peace, in 2020, as an incentive to this end.

I expect that the authorities in Bosnia and Herzegovina will act upon these recommendations and address the deficiencies identified prior to and since the outbreak of the pandemic, as noted in the present report.

I. Introduction

1. This is my twenty-third 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 my responsibility to uphold the civilian aspects of the Agreement.
2. I continue to focus on fulfilling my mandate in accordance with annex 10 to the General Framework Agreement and relevant Security Council resolutions. To that end, I have 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. 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

3. The outbreak of the coronavirus disease (COVID-19) pandemic in Bosnia and Herzegovina in early March has, as elsewhere, created a new reality. The unprecedented human tragedy affects individuals, families, communities and the society as a whole. As at 15 April, the number of persons known to be infected in Bosnia and Herzegovina was 1,106, while 42 deaths were confirmed due to the virus.
4. During the reporting period, the authorities of the Republika Srpska intensified their rhetoric and resorted to frequent actions targeting the sovereignty and territorial integrity of Bosnia and Herzegovina as well as the State-level competences and institutions. An erroneous interpretation of the General Framework Agreement for Peace – particularly regarding the constitutional nature of Bosnia and Herzegovina and the two entities, the State-level competences and institutions, and the authority and past decisions of the High Representative – is an essential element of the long-standing policy of the authorities of the Republika Srpska,

led by the Union of Independent Social Democrats (SNSD), that, if further pursued, would not only represent challenges but could even materialize in the rollback of the key achievements in the implementation of the General Framework Agreement.

5. The authorities of the Republika Srpska persistently attempted to impose this erroneous interpretation by referring to Bosnia and Herzegovina as a union of states with limited and derived sovereignty that was created by two pre-existing entities as sovereignty bearers. Such an interpretation not only represents revisionism of the General Framework Agreement for Peace, but also aims at providing the basis for the Serb people and/or the Republika Srpska to claim the right to self-determination, as evidenced by the conclusions of the National Assembly of the Republika Srpska of 11 November. This was accompanied by public references to the Republika Srpska as “a state” (of Serb people).
6. The authorities of the Republika Srpska persistently demanded to revert to the so-called “original Dayton” wrongly asserting that any State institution not explicitly referred to in the Constitution of Bosnia and Herzegovina and any constitutional responsibility not expressly listed therein as belonging to the State in article III.1. of the Constitution belong to the entities, and that the institutions of Bosnia and Herzegovina that should exist are only those explicitly mentioned in the Constitution. This rhetoric of “original Dayton” aims to deprive the State-level institutions of most of the competences they have assumed in accordance with the State’s constitutional prerogatives, and to block any attempt to adopt State-level legislation in an area of State-level competence or to establish a State-level institution. The demand to repossess competences allegedly “usurped” by the State – particularly in relation to defence, indirect taxation and the High Judicial and Prosecutorial Council – featured prominently in the conclusions of the National Assembly of the Republika Srpska of 11 November and in the follow-up actions by the Republika Srpska Government.
7. The authorities of the Republika Srpska continued to undermine the State-level institutions, attempting to prove that they were inefficient, ineffective and not benefiting the interests of the Republika Srpska. Many State-level institutions, including the Parliamentary Assembly of Bosnia and Herzegovina, were paralysed as their work was effectively blocked by SNSD pending the appointment of its candidate for the Chair of the Bosnia and Herzegovina Council of Ministers. Although the agreement, on 19 November, concerning the Presidency of Bosnia and Herzegovina, represented a breakthrough in the long-overdue formation of the Council of Ministers as well as in the fulfilment of the standing obligations of Bosnia and Herzegovina towards the North Atlantic Treaty Organization (NATO), thus providing hope for accelerated progress, the State-level institutions were again paralysed at the beginning of 2020.
8. On 17 February, following the decision of the Bosnia and Herzegovina Constitutional Court of 7 February declaring certain provisions of the Republika Srpska Law on Agricultural Land unconstitutional and affirming the exclusive competence of the State for the issue of State property, the National Assembly of the Republika Srpska adopted a number of conclusions demanding, among other things, that representatives of the Republika Srpska in the institutions of Bosnia and Herzegovina suspend the adoption of any decision in bodies of Bosnia and Herzegovina, pending the adoption of a law to end the mandates of the foreign judges serving in the Court and the annulment of the Court decision. The efforts to block the adoption of decisions of the legislative bodies of Bosnia and Herzegovina have resulted in decreased revenues available to the State institutions, which undermines their ability to fully discharge their constitutional and legal obligations and appropriately respond to extraordinary situations, such as the COVID-19 pandemic or the increased inflow of migrants as of the fourth quarter of 2019.
9. The authorities of the Republika Srpska specifically targeted the High Representative and the Bosnia and Herzegovina Constitutional Court, as they are rightfully seen as guardians of the Constitution of Bosnia and Herzegovina. This is also what is at stake behind the Republika Srpska demand to remove the foreign judges in the Court. In that respect, the conclusions of

the National Assembly of the Republika Srpska of 17 February demand that all Republika Srpska institutions not accept or implement any future “anti-Dayton and undemocratic decisions” of the High Representative and the Bosnia and Herzegovina Constitutional Court. The persistent disregard for standing Bosnia and Herzegovina Constitutional Court decisions further undermines the State’s judicial authority.

10. The actions of the National Assembly of the Republika Srpska were accompanied by corresponding rhetoric, with SNSD President and member of the Presidency of Bosnia and Herzegovina Milorad Dodik most vocal in challenging the sovereignty, territorial integrity, competences and institutions of Bosnia and Herzegovina, particularly in the lead-up to and in the aftermath of the special session of the National Assembly of the Republika Srpska, on 17 February, in relation to the Bosnia and Herzegovina Constitutional Court decisions.[1][2]
11. In parallel, the Federation continued to suffer from chronic dysfunctionality. The Bosniak Party of Democratic Action (SDA) and the Croat Democratic Union of Bosnia and Herzegovina (HDZ Bosnia and Herzegovina) maintained their long-standing alliance, joined by the multi-ethnic Democratic Front (DF) and the predominantly Bosniak Union for a Better Future of Bosnia and Herzegovina (SBB), but diverging viewpoints and policies contributed little to overcoming the impasse in the Federation. No steps were taken towards appointing a new Federation Government following the 2018 general elections, owing to the continued insistence of HDZ Bosnia and Herzegovina that this must be preceded by 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”, a condition rejected by SDA.
12. There was also no progress in finalizing the appointment of judges to the Federation Constitutional Court, as the procedure was stalled by the Federation President, Marinko Čavara (HDZ Bosnia and Herzegovina). The Court currently operates with only five out of the nine required judges, which is the minimum for a quorum. Moreover, its vital national interest panel has no quorum to meet and decide, which directly affects decision-making in cantonal assemblies and in the House of Peoples of the Federation.
13. The Federation-based parties also made no progress towards resolving issues stemming from the Bosnia and Herzegovina Constitutional Court decision on the electoral system of the City of Mostar, where local elections have not been held since 2008. The outstanding obligation of several cantons in the Federation to harmonize their constitutions with the Federation Constitution to ensure the full equality of Serbs as a constituent people has also not been satisfactorily addressed. In Sarajevo Canton, the reshuffle of the cantonal government led by SDA triggered a series of events and actions that raised questions of compliance with the constitutional framework governing the procedure of election of the Sarajevo cantonal assembly Speaker and the Deputy Speaker, which required me provide my interpretation and urge adherence to constitutional obligations.
14. In February, after previously announcing his support for the implementation of the October 2019 ruling of the European Court of Human Rights in the case of *Orlović and Others v. Bosnia and Herzegovina* related to the Serbian Orthodox church illegally constructed in 1998 on the private property of the Orlović family in the village of Konjević Polje, near Bratunac, in the Republika Srpska, Mr. Dodik publicly reversed his position.[3] The Court had 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.
15. Tackling corruption and dealing with organized crime remained a cause of deep-rooted public disappointment in the criminal justice system. The Federation legislation establishing a special prosecutor and court department for fighting corruption and organized crime, adopted in 2014, remains unimplemented. The lack of progress in two high-profile cases – one in Banja Luka and the other in Sarajevo – of young men killed under suspicious circumstances, in which activists allege cover-ups by the authorities, is also indicative of the problem. Further concerns arise from the continued practice of improper political interference in operational policing.

16. The flow of migrants into the country attempting to transit to the European Union has continued over the past six months but significantly slowed as a result of the COVID-19 pandemic. Currently, there are between 6,500 and 8,000 migrants in Bosnia and Herzegovina. Providing access to temporary accommodation and food in accordance with humanitarian standards remain the main challenges facing the authorities of Bosnia and Herzegovina. However, the situation has improved lately, which has also contributed to easing tensions between the authorities, the migrants and the local population. All migrants in Bosnia and Herzegovina remain accommodated only in the Federation, as the authorities of the Republika Srpska continue to refuse to accommodate any migrants in the Republika Srpska.
17. The trends observed are alarming and must be reversed. As the Steering Board of the Peace Implementation Council accentuated in its communiqué of 4 December, the interests of all levels of government are best served not by rolling back essential reforms, but by implementing forward-looking reforms that support and strengthen the security, stability and prosperity of Bosnia and Herzegovina, and that promote local ownership. The COVID-19 pandemic demonstrates best that acting within the constitutional and legal framework, ensuring the full functionality of all institutions and their close coordination, is in the common interest of all levels of government and all citizens in Bosnia and Herzegovina.
18. Finally, in a late development relating to the COVID-19 pandemic, on 9 April, the Central Election Commission of Bosnia and Herzegovina submitted an initiative to the Parliamentary Assembly of Bosnia and Herzegovina for the adoption of changes to the Election Law of Bosnia and Herzegovina that would authorize the Central Election Commission to postpone the announcement and conduct of regular elections under extraordinary circumstances, such as the current pandemic. The Central Election Commission also submitted its legislative proposal in this regard, along with its reasoning for the proposed amendments. Currently, the municipal elections in Bosnia and Herzegovina should be announced by 7 May 2020 and held in October.
19. Whether the 2020 municipal elections are delayed or not, I encourage the political parties to accelerate efforts to include more women candidates, which would be more reflective of the make-up of the population and move Bosnia and Herzegovina in the right direction towards gender equality.

B. Decisions of the High Representative during the reporting period

20. Despite frequent challenges to the core principles of the General Framework Agreement for Peace during the reporting period, I continued to refrain from using my executive powers, pursuant to the policy of the Steering Board of the Peace Implementation Council, which seeks to promote local ownership over international decision-making.

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

1. Progress on objectives

21. My office continues to urge progress towards the full implementation of the five objectives and two conditions established by the Steering Board of the Peace Implementation Council in 2008 as essential steps towards the transition of the closure of the Office of the High Representative. The intention of the Steering Board in establishing that agenda was for Bosnia and Herzegovina to assume full responsibility and to demonstrate its credibility. Thus, the agenda is for the authorities of Bosnia and Herzegovina to deliver, not the international community. Regrettably, they show no serious commitment to implementing it. Many areas covered by the agenda have seen stagnation and even rollbacks.

2. State and defence property

22. There was no substantial progress in achieving the acceptable and sustainable resolution of the

issues of State and defence property; yet, developments of relevance were noted.

23. On 7 February, deciding upon the request by Bosniak delegates in the Republika Srpska Council of Peoples to review the constitutionality of recent legislation adopted by the National Assembly of the Republika Srpska, the Bosnia and Herzegovina Constitutional Court adopted two decisions relevant to State-owned/public property. In the first case, U-8/19, the Court, inter alia, decided that article 53 of the Republika Srpska Law on Agricultural Land, which stipulates that agricultural land in question shall become, by force of law, property and possession of the Republika Srpska, is not in conformity with the relevant provisions of the Constitution of Bosnia and Herzegovina. In the second case, U-9/19, the Court decided that article 4 of the Republika Srpska Law on Inland Waterways Navigation, which stipulates that inland waterways shall become, by force of law, property and possession of the Republika Srpska, is also not in conformity with the relevant provisions of the Constitution of Bosnia and Herzegovina.
24. Regarding the Republika Srpska Law on Agricultural Land, the Bosnia and Herzegovina Constitutional Court established that agricultural land is a natural resource and a public good of common interest, which in the previous legal systems was defined as public good governed under decisions of the State, that is to say it constituted property under public or State ownership. Pursuant to the constitutional principle of legal continuity and the reasoning provided, in July 2012, in its decision on State property (case U-1/11), the Court concluded that Bosnia and Herzegovina is the titleholder of the property of its legal predecessors, and that agricultural land in question constitutes part of State property of which the State of Bosnia and Herzegovina is the titleholder. As a result, Bosnia and Herzegovina has the exclusive right to continue to regulate such property. In the opinion of the Court, the fact that a State-level law on State property has not been enacted yet does not entitle the entities to regulate through their own laws the issue of ownership pertaining to State property that has yet to be defined at the State level.
25. As for the Republika Srpska Law on Inland Waterways Navigation, the Court also recalled its decision of 2012, which defined the term “State property” as “a specific legal concept enjoying a special status”. The Court established that State property may also include a “public good” (seawater and seabed, river water and riverbeds, lakes, mountains and other natural resources), and that the interest of Bosnia and Herzegovina should not be disregarded when it comes to preserving its “public good” as part of State property serving all citizens of Bosnia and Herzegovina. It follows from the Court jurisprudence that waters, as public goods, are State property and that “inland waters” are encompassed by the term “State property”. The disputed provision is contrary to the Constitution of Bosnia and Herzegovina, since the decision pertaining to State property ought to be made at the State level as the decision on the status of State property is within the exclusive competence of the State.
26. Although the Bosnia and Herzegovina Constitutional Court reiterated that its decision on agricultural land did not prejudice the future regulation of State property, including agricultural land, by Bosnia and Herzegovina, the Republika Srpska, the Federation and the Brčko District, the decision triggered harsh rhetoric and political actions by the authorities of the Republika Srpska that leave no doubt that neither this nor any other State property decision of the Bosnia and Herzegovina Constitutional Court will be recognized, respected or implemented in the Republika Srpska. The conclusions of the National Assembly of the Republika Srpska of 17 February affirm such an approach (see sect. D.1).
27. The Republika Srpska Law on Agricultural Land is only one in a series of laws adopted by the National Assembly of the Republika Srpska in recent years, including the Republika Srpska Law on Inland Waterways Navigation, the Republika Srpska Law on Forests and amendments to the Republika Srpska Law on Property Rights, whose relevant provisions aim at declaring, by force of law, various categories of “State or publicly owned property” as ownership of the Republika Srpska and at registering that ownership right in cadastral records in order to substantiate the promotion by the Republika Srpska of the concept of Bosnia and Herzegovina as a union of

states deprived of its sovereignty, territorial integrity, constitutional competences and property title.

28. By contrast, the Bosnia and Herzegovina Constitutional Court established in its decision of July 2012 that, pursuant to the relevant constitutional provisions and principles, “it is clear that Bosnia and Herzegovina is the title holder of this property” and that Bosnia and Herzegovina “is entitled to continue to regulate ‘the State property’ of which it is the title holder”, as this is the “sole possible logical and substantive content of the notion of ‘identity and continuity’” under the relevant constitutional provision. Despite the conclusion of the Court that State property reflects the statehood, sovereignty and territorial integrity of Bosnia and Herzegovina, the authorities of the Republika Srpska continue to claim that the entities are the titleholders of State property and to act accordingly.
29. There has been no progress in the registration of prospective defence property. In the Federation, the number of prospective defence locations registered under the ownership of the State of Bosnia and Herzegovina remains 31, with a handful of “legally and technically complex” locations still pending. The Republika Srpska continues to block the registration of all 20 prospective defence locations under the ownership of the State of Bosnia and Herzegovina, despite the existing legal framework and the final and binding court decisions. Moreover, at least two prospective defence locations in the Republika Srpska were, partly or wholly, registered under ownership of that entity. Those include considerable portions of the “Mahovljani” airport near Banja Luka, for which the Republika Srpska Geodetic Administration issued a decision in October to be registered as the ownership of the Republika Srpska.

3. Brčko District

30. The Office of the High Representative continued to support the Supervisor for Brčko District in promoting good governance, infrastructure development and private sector growth reforms in Brčko District to reinforce its resilience and advance the District to the stated objectives of the Final Award.
31. The fiscalization process completed in September exceeded initial expectations, contributing to the efforts of the District and of Bosnia and Herzegovina to fight tax evasion and generate public revenues. A new budget law, indispensable for improving fiscal discipline and transparency in spending public revenues and drafted with assistance from the Office of the High Representative, was adopted unanimously by the District Government on 18 September and by the District Assembly on 18 December. The 2020 District budget was adopted on 25 March in line with this law.
32. In adopting the budget and the law on its execution, the groundwork was laid for generating close to KM 40 million to help prevent the spread of COVID-19 and mitigate its consequences. The District Assembly was the first legislature in Bosnia and Herzegovina to discuss measures to support the economy in these extraordinary circumstances, while the District Government agreed on KM 6 million in financial support to affected businesses. Good governance will be further strengthened by the Law on Public Gatherings, which will regulate the exercise of the right of peaceful assembly in accordance with international standards. Also planned is the Law on Foundations and Associations, intended to lay the ground for transparent, equitable and merit-based support to the non-governmental sector, and the Law on National Minorities, aimed at regulating the exercise of the right of national minorities in Brčko to equal participation in the community. The Office of the High Representative assisted in the preparation of all three laws. In order to further foster transparency, the Brčko District Government will establish a register of financial compensation received by public and elected officials, which will be accessible to the public.
33. As for infrastructure development, following the Supervisor’s facilitation of the adoption of the Brčko Port modernization agreement in March 2019, which unlocked a €7 million loan by the European Bank for Reconstruction and Development (EBRD) and the complementing €3 million

grant by the European Union after more than two years of the adoption of the agreement being held hostage to political party considerations, the Office of the High Representative succeeded in accelerating activities towards the commencement of construction works, currently planned for the third quarter of 2020.

34. The Supervisor also facilitated activities towards returning the Brčko-Gunja Bridge, a key transport corridor and a Bosnia and Herzegovina border crossing, to use by heavy traffic, with works expected to commence in the fourth quarter of 2020. Following the Supervisor's engagement with the District authorities and the resulting budget rebalance adopted by the Assembly in November, which provided sufficient funding for the completion of outstanding refurbishment works for the new police building, the District police are set to move into the building in June. The building, co-financed by the European Union in the amount of €3.5 million, will finally be put to use for its intended purpose, after sitting empty and unused for over four years. It will also house the local detachment of both the Bosnia and Herzegovina State border police and the Service for Foreigners' Affairs, which will improve coordination in managing the migration crisis.
35. The Supervisor's engagement with the relevant authorities resulted in a timely agreement on electricity supply for Brčko District in 2020. The agreement was formalized on 4 October between the District and the Republika Srpska power company as the most favourable supplier and was subsequently supplemented by the decision on 11 March of the State Electricity Regulatory Commission regarding new electricity tariffs for Brčko applicable as from 1 April. On 17 March, the District authorities launched the bidding for electricity supply for 2021. While this early initiative is commendable, ensuring a long-term, predictable and reliable electricity supply in a market context remains an outstanding objective. The Office of the High Representative will continue to encourage the strengthening of the District's energy security through legislation and projects promoting energy efficiency and local, renewable energy production.
36. The dynamic achieved in the reporting period encouraged new infrastructure projects in Brčko. On 30 January, the Bosnia and Herzegovina Council of Ministers supported the initiative launched on 23 September by the District Government to borrow up to €6.5 million from EBRD to expand and improve the District's water supply system, thus authorizing negotiations towards the conclusion of the loan agreement.
37. As private sector growth is central to Brčko District's economic viability, the Supervisor worked with the District leadership and the business community to improve investment legislation and business processes to foster a pro-business environment. As a result, in December, with the prior approval of the District Assembly, the District Government signed a memorandum of understanding with the largest foreign investor in Brčko, Studen Holding, whereby both parties committed to public-private initiatives to improve Brčko's business environment and foster new investments, including investments by Studen Holding.
38. While the steps taken by the District leadership are crucial for strengthening the stability and sustainability of Brčko, concerns remain that progress may slow down to the COVID-19 pandemic, but also as the local elections approach in the fourth quarter of 2020. Of additional concern is a possible spillover of the tensions in the rest of the country to the District, including the challenges posed to the District by some of the centrifugal trends observed in Bosnia and Herzegovina that are covered in the present report.
39. In that context, on 20 February, following the death in January of a member of the Arbitral Tribunal for the Dispute over the Inter-Entity Boundary in the Brčko Area appointed by the Federation, Čazim Sadiković, the Federation Government unanimously appointed Lada Sadiković as his replacement, which keeps intact the Tribunal as set forth in the Final Award.

4. Fiscal sustainability

40. In accordance with its mandate, including coordination responsibilities, the Office of the High Representative continued to follow, analyse and report on developments and legislative actions

relevant to fiscal sustainability. This included monitoring and reporting to the Steering Board of the Peace Implementation Council on the activities of the Governing Board of the Indirect Taxation System for Bosnia and Herzegovina, in which the Office of the High Representative is the only international community representative, the Indirect Taxation Authority and the Fiscal Council of Bosnia and Herzegovina. Worrying developments in these institutions may have implications for the ability of governments at all levels to ensure the unimpeded functioning of institutions and the discharge of their constitutional and legal obligations.

41. The Bosnia and Herzegovina Fiscal Council was among the State-level bodies paralysed by SNSD, as the Republika Srpska representatives in the body refrained from attending its meetings pending the appointment of the candidate selected by SNSD as Chair of the Bosnia and Herzegovina Council of Ministers. Accordingly, the Council held no sessions until 27 December, when it finally met and adopted the global framework of fiscal balance and policies for the period 2020–2022, which was overdue, foreseeing an increase of KM 30 million in the overall budget of the State institutions and their share in indirect tax revenues in 2020. The projected increase, while welcome, is still disproportionate to the needs of the State institutions, particularly as their capacities deteriorated owing to the seven-year freeze of their financing levels and to the fact that their obligations increased as a result of new legislation and new realities on the ground. The late adoption of the framework delayed the preparation of the State budget for 2020. Consequently, the 31 December deadline for its adoption was not met.
42. The Bosnia and Herzegovina Fiscal Council met again on 1 April to consider the letter of intent seeking assistance under the International Monetary Fund (IMF) Rapid Financing Instrument in the amount of up to €330 million or 100 per cent of the quota of Bosnia and Herzegovina to address urgent needs arising from the COVID-19 outbreak in Bosnia and Herzegovina. According to the letter of intent, the funds will be used to ramp up health spending and finance economic stabilization measures, while there is also an expectation that the Rapid Financing Instrument will catalyse donor support and strengthen confidence in the currency board. The letter of intent includes a commitment by its signatories not to allow the international reserves of the Central Bank of Bosnia and Herzegovina to be used for fiscal purposes, to enhance the framework for bank resolution by adopting the new Deposit Insurance Agency Law of Bosnia and Herzegovina, to further protect bank depositors by concluding a credit line with EBRD that will backstop the Deposit Insurance Agency, to prioritize the adoption of the 2020 State budget, and to promptly adopt revised personal income tax and social security tax laws in the Federation.
43. Nevertheless, disputes between the Federation and the Republika Srpska and within the Federation over the distribution of IMF assistance caused delays in the consideration of Bosnia and Herzegovina's request by the Executive Board of IMF, thus also delaying the disbursement. The impasse was eventually resolved on 11 April, following a meeting of the leaders of SNSD, SDA and HDZ Bosnia and Herzegovina and State and entity prime ministers and finance ministers, which was facilitated by the international community and opened the door to the adoption and signing of the letter of intent by all members of the Bosnia and Herzegovina Fiscal Council, and the submission thereof to the IMF Executive Board, which was scheduled to meet on 20 April. However, different understandings of the agreement reached on 11 April concerning the criteria for distribution to the cantons and the Brčko District's share thereof do not rule out complications relating to IMF assistance, even upon its disbursement to Bosnia and Herzegovina.
44. The Governing Board of the Indirect Taxation Authority of Bosnia and Herzegovina met three times during the reporting period (on 18 November, 27 January and 6 March). Apart from addressing technical issues within its competence, the Board reached no agreement on any long-outstanding obligations. Of a total of 46 quarters since 2008, the entity revenue allocation coefficients have been adjusted for only 13 quarters (28.2 per cent), while the inter-entity debt accumulated since 2012 exceeds KM 86 million. The failure to comply with the Board

regulations requiring quarterly coefficient adjustments and biannual debt settlements continues to burden inter-entity relations, as reflected in the Republika Srpska and Federation lawsuits against each other for their respective debts and the corresponding interest. Attempts by the entity governments to reach an out-of-court settlement, subject to confirmation by the Governing Board, have to date produced no result.

45. By extension, the inter-entity disputes have a negative impact on the unimpeded functioning of the single indirect tax system and its State-level institutional structure. An illustrative example is the lawsuit of the Republika Srpska against the Indirect Taxation Authority for damages stemming from the Federation debt to the Republika Srpska in 2009 and 2010 (settled in 2011) and, following a decision of the Bosnia and Herzegovina Court in 2015 in its favour, the attempted enforcement by the Republika Srpska of those damages against public revenue accounts managed by the Indirect Taxation Authority. The consequences, which the Court has somewhat mitigated by suspending the attempted enforcement on several occasions, most recently until 11 September 2020, include financial damage to all revenue beneficiaries, including both entities and Brčko District, as well as recipients of value added tax refunds and customs insurance depositors, and are again attributed to and sought from the Indirect Taxation Authority as the system operator. Moreover, the precedent opens the door to future entity lawsuits against the Indirect Taxation Authority over mutual debts, as well as for financial damages resulting from their enforcement.
46. The outlined trends weaken the State-level indirect tax 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, which, if it proceeds, would have serious and far-reaching consequences, not least for the State of Bosnia and Herzegovina.

5. Anti-corruption efforts

47. The Federation legislation establishing a special prosecutor and court department for fighting corruption and organized crime, adopted in 2014, remains unimplemented.
48. On 13 January, the Bosnia and Herzegovina Court dismissed as ill-founded the lawsuit filed by the High Judicial and Prosecutorial Council against the decision of the personal data protection agency of Bosnia and Herzegovina prohibiting the Council from processing the personal data of judges and prosecutors in the manner stipulated by its rulebook on submission, verification and processing of financial statements of judges and prosecutors, which would have enabled the Council to check the veracity of financial statements. While judges and prosecutors submit financial statements under the current legislation, the accuracy thereof is not checked. In a letter dated 28 January, the Bosnia and Herzegovina Court judges stressed that the Council had no legal grounds for such processing of financial statements under the current legislation, and that actions to that effect required legislative changes. After years of attempting to amend the Law on the High Judicial and Prosecutorial Council, the working group established by the Justice Ministry of Bosnia and Herzegovina in November 2019 started to meet. However, it targets the entire law, rather than prioritizing amendments that would advance the prevention of conflict of interest and prevent legal violations.
49. On 20 February, the President of the High Judicial and Prosecutorial Council, Milan Tegeltija, attended the gathering of officials of the Republika Srpska working in the State institutions organized by Mr. Dodik (SNSD), despite the fact that he is neither an official nor a representative of the Republika Srpska, but a State official and a representative of a State institution, and disregarding the Law on the High Judicial and Prosecutorial Council that obliges its members to be independent and impartial in the exercise of their duties.
50. The developments outlined above highlight the need for a thorough revision of the rules under which the High Judicial and Prosecutorial Council operates.

6. War crimes cases

51. As a result of regional conferences on processing war crimes cases, the latest of which was held in December in Sarajevo, the Bosnia and Herzegovina Court regularly transfers cases to the countries of the region. At the same time, the Office of the Prosecutor of Bosnia and Herzegovina reported in early 2020 that there are 325 persons, who have been investigated in 150 cases, who are not available to Bosnia and Herzegovina, of whom 127 are in Serbia, 95 in Croatia, 20 in Montenegro and 83 in other countries. The Office of the Prosecutor is still working on some 500 war crimes cases against identified perpetrators, 500 cases against unidentified perpetrators, and 1,500 indefinable cases, including exhumations.

D. Challenges to the General Framework Agreement for Peace

1. Challenges to the sovereignty and territorial integrity, competences and institutions of Bosnia and Herzegovina

52. Throughout the reporting period, the Republika Srpska pursued and even advanced its long-standing and consistent policy of challenging the sovereignty and territorial integrity of Bosnia and Herzegovina, disregarding the State-level constitutional competences and undermining the key State-level institutions. It announced its intention to unilaterally withdraw from the two-entity agreements transferring entity competences to the State level in the fields of defence, indirect taxation and matters related to the High Judicial and Prosecutorial Council – thereby attempting to deprive the State of Bosnia and Herzegovina of those competences, as part of efforts that are aimed at dissolving the State-level institutional structure in those fields and rolling back the key achievements in the implementation of the General Framework Agreement for Peace. That development poses a serious threat to the overall political stability of Bosnia and Herzegovina and represents another illustration of flawed and unilateral interpretation of the Bosnia and Herzegovina Constitution by the authorities of the Republika Srpska, led by SNSD.
53. In the context of its discussion, on 11 November, regarding the information on the unconstitutional transformation of the Dayton structure of Bosnia and Herzegovina and its impact on the position and rights of the Republika Srpska, the National Assembly of the Republika Srpska adopted 20 conclusions that challenge the fundamental principles of the General Framework Agreement for Peace. They are based on an erroneous interpretation of the Agreement and specifically target the constitutional nature of Bosnia and Herzegovina and the two entities, the State-level competences and institutions, and the authority and past decisions of the High Representative. The conclusions refer to Bosnia and Herzegovina as a union of states with limited and derived sovereignty that was created by two pre-existing entities as sovereignty bearers, and affirm the right to self-determination, linking it to the preservation of the original Dayton structure and the entity autonomy. They also challenge State competences beyond those enumerated in article III.1 of the Constitution of Bosnia and Herzegovina, particularly those that were entrusted to the State of Bosnia and Herzegovina based on the transfer of competence agreements, and seek their repossession. The National Assembly of the Republika Srpska also seeks to oblige officials of the Republika Srpska as well as elected and appointed State-level officials coming from the Republika Srpska to pursue the positions of the National Assembly of the Republika Srpska, threatening them with criminal sanctions should they fail to comply.
54. The Republika Srpska Government soon followed up on the conclusions of the National Assembly of the Republika Srpska of 11 November, tasking its ministries with identifying all entity competences transferred to the level of Bosnia and Herzegovina and to analyse the work of the State-level bodies created by the transfers. It also expressed its readiness to begin negotiations with Federation authorities on the adoption of a law on the Bosnia and Herzegovina

Constitutional Court and on reviewing previous consent to State-level laws on defence, indirect taxation and the High Judicial and Prosecutorial Council. The Republika Srpska Government also pledged to explore options for amending the Republika Srpska Criminal Code to provide for sanctioning activities that are contrary to adopted positions of the National Assembly of the Republika Srpska.

55. Similar positions were reiterated in the conclusions adopted at the special session of the National Assembly of the Republika Srpska held on 17 February, organized following the Bosnia and Herzegovina Constitutional Court decision of 7 February, which declared certain provisions of the Republika Srpska Law on Agricultural Land unconstitutional and affirming the exclusive competence of the State for the issue of State property. The adopted conclusions primarily target the Bosnia and Herzegovina Constitutional Court but also go beyond it. For instance, they demand that Republika Srpska representatives in the institutions of Bosnia and Herzegovina initiate the adoption of a law aimed at ending the mandates of the foreign judges serving in the Court and, pending the adoption of such a law and the annulment of the recent Court decision, that they suspend the adoption of any decision in bodies of Bosnia and Herzegovina, thus effectively blocking the work of those bodies.
56. In the conclusions, the National Assembly of the Republika Srpska accuses the High Representative and the Bosnia and Herzegovina Constitutional Court of altering the political system in Bosnia and Herzegovina contrary to the General Framework Agreement for Peace, and further demand that all institutions of the Republika Srpska not accept or implement any future anti-Dayton and undemocratic decisions of the High Representative and the Bosnia and Herzegovina Constitutional Court. Moreover, they task the Republika Srpska Government to continue negotiations with the Federation Government to, in accordance with annex 2 to the General Framework Agreement, define the “borderline” between the Republika Srpska and the Federation (which actually is the Inter-Entity Boundary Line established only for administrative purposes and in no way a “borderline”). Following the adoption of the conclusions, Mr. Dodik called on two judges from the Republika Srpska to withdraw from the Bosnia and Herzegovina Constitutional Court immediately, or face being removed by the National Assembly of the Republika Srpska.
57. The actions of the National Assembly of the Republika Srpska were accompanied by corresponding rhetoric, with Mr. Dodik (SNSD) being the most vocal in challenging the sovereignty, territorial integrity, competences and institutions of Bosnia and Herzegovina. On 20 January, Mr. Dodik stated that Bosnia and Herzegovina could only survive by returning to the “original Dayton”.^[4] In an interview for the N1 television news network on 12 February, he hinted at the re-establishment of a Republika Srpska army.^[5] Finally, in his address before the National Assembly of the Republika Srpska on 17 February, he applied the Brexit analogy and said: “Goodbye Bosnia and Herzegovina, welcome Republika Srpska exit”,^[6] echoing his comments following the meeting with the President of Serbia, Aleksandar Vučić, on 15 February in Belgrade, that the Republika Srpska would ask that its status be decided through a referendum.^[7]
58. On 20 February, in East Sarajevo, Mr. Dodik, and the Chair of the Bosnia and Herzegovina Council of Ministers, Zoran Tegeltija (SNSD), hosted a gathering of State-level officials of Serb ethnicity elected or appointed from the Republika Srpska to inform them of the recently adopted conclusions of the National Assembly of the Republika Srpska and detail how those would affect their work. Elaborating at the subsequent press conference on the instruction given to the participants, Mr. Dodik said that all representatives of the Republika Srpska should come to work regularly but refrain from taking part in any decision-making processes until further notice. The meeting gathered a number of elected officials, political appointees and civil servants. The heads of independent, autonomous institutions, including most notably the President of the High Judicial and Prosecutorial Council, Milan Tegeltija, and the Chair of the Central Election Commission of Bosnia and Herzegovina, Branko Petrić, also attended. In a press

release on 25 February, I condemned the participation of State-level officials at this gathering, reminding them that they represent State institutions and recalling their responsibility to strictly abide by the Constitution of Bosnia and Herzegovina and the law and to ensure full, unimpeded functioning of State institutions, including swift decision-making.[8]

59. On 19 February, Mr. Dodik voted against two decisions of the Presidency of Bosnia and Herzegovina – the decision to invite the President of Montenegro, Milo Đukanović, for an official visit to Bosnia and Herzegovina and the decision to accept the agreement on the activities of the European Border and Coast Guard Agency (Frontex) on the territory of Bosnia and Herzegovina – and declared both decisions harmful to a vital entity interest of the Republika Srpska. The support of the National Assembly of the Republika Srpska for his declaration prevented the two decisions from taking effect.
60. Addressing the 9 January ceremony marking the “Republika Srpska Day”, organized in contravention of several final and binding decisions of the Bosnia and Herzegovina Constitutional Court which determined the designation of 9 January as “Republika Srpska Day” to be unconstitutional, Mr. Dodik said that the Serb people could not have freedom without their state, repeating that Serbs nowadays have two states: the Republika Srpska and Serbia.[9] On 10 January, he also attended the “Republika Srpska Day” ceremony in Brčko District. The continued observing of the Republika Srpska Day on the day that the Bosnia and Herzegovina Constitutional Court found to be unconstitutional and statements referring to the Republika Srpska as a state of Serb people reflect the continued disrespect for the constitutional order of Bosnia and Herzegovina and provoke strong reactions.
61. The rhetoric and actions of Mr. Dodik also provoked strong reactions, including by members of the Presidency of the Bosnia and Herzegovina Željko Komšić (DF) and Šefik Džaferović (SDA). Mr. Džaferović noted that the lack of respect for the decisions of the Constitutional Court of Bosnia and Herzegovina constituted a criminal act as well as a direct violation of the General Framework Agreement for Peace, and that the announced blockage of the work of State-level institutions was another direct attack on the Agreement. Both Mr. Džaferović and Mr. Komšić repeatedly stressed the importance of foreign judges in the highest judicial body of Bosnia and Herzegovina for protecting the country’s sovereignty and territorial integrity against unconstitutional actions. Both stressed that any blockage of State-level institutions was unacceptable.
62. The Steering Board of the Peace Implementation Council 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. The entities have no right to secede from Bosnia and Herzegovina and only exist legally by virtue of the Constitution of Bosnia and Herzegovina. In its communiqué of 4 December, the Steering Board – with the exception of the Russian Federation – reminded authorities in Bosnia and Herzegovina that its Constitution is an integral part of the General Framework Agreement for Peace and that the decisions of the Constitutional Court of Bosnia and Herzegovina are final and binding and must be implemented, also recalling the provisions of the General Framework Agreement under which the entities are obliged to comply with the decisions of the institutions of Bosnia and Herzegovina and to provide the necessary assistance to the Government to enable it to honour the international obligations of Bosnia and Herzegovina.

2. Position of the Republika Srpska on military neutrality

63. As previously reported, on 18 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 State of Bosnia and Herzegovina for foreign policy under its Constitution, the Bosnia and Herzegovina Law on Defence (2005) and previously adopted and still standing decisions of the Presidency and other institutions of Bosnia and Herzegovina on

this issue. Since then, the resolution has been used to block crucial processes, such as 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, which represents a direct challenge to several fundamental aspects of the General Framework Agreement for Peace.

64. The resolution adopted in 2017 was affirmed on 23 December 2019, when the National Assembly of the Republika Srpska discussed information on the programme of reforms of Bosnia and Herzegovina adopted by the Presidency of Bosnia and Herzegovina at its forty-fifth extraordinary session, and adopted a set of conclusions interpreting the document as a significant departure from the long-held ambition of Bosnia and Herzegovina for NATO membership. The conclusions stress that the programme may not serve as the basis for activating any process other than “cooperation and partnership” with NATO and that the National Assembly of the Republika Srpska “rejects any other interpretation or treatment of this document”. It is affirmed in the conclusions that a potential decision on NATO membership may be adopted in line with the constitutional system of Bosnia and Herzegovina, which entails mechanisms allowing the Republika Srpska to realize its stances, and obliges Serb representatives from the Republika Srpska to respect the positions of the National Assembly of the Republika Srpska and use protection mechanisms without hesitation. Finally, the adopted conclusions recall the obligation of all bodies and institutions of the Republika Srpska and representatives of the Republika Srpska institutions of Bosnia and Herzegovina and in international organizations and forums to implement the 2017 resolution. The adopted conclusions are based on the oft-asserted but flawed assumption that the National Assembly of the Republika Srpska is entitled to dictate policy matters, including on foreign policy and defence, both of which, according to the Constitution of Bosnia and Herzegovina, fall within the exclusive jurisdiction of the State. Through the adopted conclusions, the National Assembly of the Republika Srpska seeks to unilaterally interpret a decision of the Presidency of Bosnia and Herzegovina in exercising the exclusive responsibilities of the State.

3. Rhetoric on war crimes

65. Nationalist leaders continue to deny war crimes, glorifying convicted war criminals and leading divisive commemorations that perpetuate the notion of group victimhood while ignoring or downplaying empathy and compassion for the suffering and loss of others. A quarter of a century following the cessation of hostilities, senior political figures and certain segments of society are increasingly challenging the rulings of the International 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. 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

66. The members of the Presidency of Bosnia and Herzegovina, Mr. Dodik (SNSD), Mr. Komšić (DF) and Mr. Džaferović (SDA), held four regular sessions and a number of urgent and extraordinary sessions during the reporting period. Mr. Komšić chaired the Presidency until 20 March, when Mr. Džaferović took over as part of the regular eight-month rotation.
67. The members of the Presidency jointly paid official visits to the European Union institutions in Brussels in October and to Slovenia in December, and individually conducted visits to Canada, the United States of America, the Holy See, the European Union institutions in Brussels, North Macedonia, Japan and Serbia. They participated in the ceremonies to mark the seventy-fifth anniversary of the liberation of Auschwitz, the World Holocaust Forum in Jerusalem, the second

Paris Peace Forum, the eighteenth Summit Conference of Heads of State or Government of Non-Aligned Countries, in Baku, and the Turkish Radio and Television Corporation (TRT) World Forum in Istanbul. Mr. Džaferović attended the completion ceremony, in Edirne, Turkey, for the Trans-Anatolian Natural Gas Pipeline, the longest stretch of the Southern Gas Corridor, which will carry gas from Azerbaijan to Europe. The Presidency hosted a number of visits by foreign dignitaries.

68. While managing to reach consensus and unity on several important topics, the members of the Presidency of Bosnia and Herzegovina were mostly in disagreement on a number of issues.
69. Following a meeting with the Quint Ambassadors^[10] and the Head of the European Union delegation in Bosnia and Herzegovina, the Presidency of Bosnia and Herzegovina held an urgent session on 19 November and agreed on the appointment of the Chair of the Bosnia and Herzegovina Council of Ministers and the submission to NATO headquarters of the programme of reforms of Bosnia and Herzegovina within one day of the confirmation of the Chair by the House of Representatives of Bosnia and Herzegovina. The programme of reforms was submitted pursuant to that decision. The agreement reached on 19 November was a breakthrough in the long-overdue formation of the Council of Ministers, following the 2018 general elections and in fulfilment of the standing obligations of Bosnia and Herzegovina with regard to NATO. However, the hope of accelerated progress was overshadowed by divisive rhetoric and actions by the authorities and political party representatives of the Republika Srpska, including Mr. Dodik, challenging the character of the State, its sovereignty, territorial integrity, competences and institutions on numerous occasions, as mentioned throughout the present report.
70. The outbreak of the COVID-19 pandemic somewhat restored decision-making and unity in the Presidency of Bosnia and Herzegovina. In March, the Presidency held coordination meetings with all relevant stakeholders, agreed to engage the Armed Forces of Bosnia and Herzegovina in assisting civilian authorities with non-combat materials and technical equipment, adopted several documents within its competence to further contribute, and issued a joint public statement. On 6 April, the Presidency discussed the latest reports on measures taken in confronting the disease. While concluding that the authorities throughout Bosnia and Herzegovina had addressed the pandemic on time, the Presidency still asked for further actions. It instructed the Council of Ministers to work with the entities and Brčko District, and set up quarantine tents at each border crossing that was still open for people traffic, while it closed other crossings. It encouraged the Bosnia and Herzegovina Council of Ministers to intensify negotiations with international financial institutions to secure economic assistance.
71. At the same session, the Presidency of Bosnia and Herzegovina held consultations with the Chair of the Bosnia and Herzegovina Council of Ministers on the draft law on the budget of Bosnia and Herzegovina institutions and international obligations for 2020, returning it to the Council of Ministers for adjustments by 31 May. That would allow for the unimpeded functioning of State-level institutions and the discharge of their constitutional and legal obligations, while also adapting to the newly arisen extraordinary circumstances.
72. Disagreements in this period arose mostly over Mr. Dodik's announcement regarding the setting up of the Republika Srpska checkpoints on the Inter-Entity Boundary Line in order to control the movement of people and prevent the spread of COVID-19, and his calls to the Central Bank of Bosnia and Herzegovina to release its reserves so as to mitigate the economic consequences of the pandemic. He subsequently abandoned both initiatives.

B. Bosnia and Herzegovina Council of Ministers

73. As a result of the failure to appoint a new Council of Ministers, the Council from the previous mandate continued to meet until 6 December, albeit infrequently, focusing mainly on European Union-related issues, transborder cooperation, energy efficiency, infrastructure projects and protection from natural disasters. It adopted a number of technical decisions, reports and information, by-laws, decisions on the ratification of international agreements, and documents governing the work of the Council of Ministers. The adopted documents include the midterm

work programme for the period 2020–2022, as the basis for the qualitative management of economic development, and the public investments programme/development investment programme of the institutions of Bosnia and Herzegovina for the period 2020–2022. The former Council of Ministers appointed the delegation of Bosnia and Herzegovina to the Committee of Experts on the Evaluation of Anti-Money-Laundering Measures and the Financing of Terrorism, and relieved from duty the Director of the State Investigation and Protection Agency.

74. The new Council of Ministers was confirmed by the Bosnia and Herzegovina House of Representatives on 24 December, more than 14 months after the general elections held in October 2018. It held its first session on 30 December, when it appointed its internal boards as well as its representatives to international bodies and organizations. At the same session, the Council of Ministers adopted a decision on temporary financing for the period January–March 2020, to allow for the uninterrupted financing of State-level institutions beyond the end of 2019. Since then, the Council of Ministers has held a total of four regular and 13 extraordinary or urgent sessions.
75. In the months since its appointment, the Council of Ministers mainly focused on infrastructure development projects and migration, adopting a number of decisions on the ratification of international agreements, strategies, action plans, reports and information, as well as technical decisions within its competence.
76. On 24 March, the Council of Ministers adopted a decision on temporary financing for the period April–June 2020, as well as the draft budget of Bosnia and Herzegovina institutions and international obligations for 2020, thus initiating the procedure for its adoption. The draft budget did not receive support from the Chair of the Council of Ministers, Zoran Tegeltija, or from other Serb ministers, who considered that it did not reflect the new realities arising from the COVID-19 pandemic.
77. The Council of Ministers also adopted amendments to the Law on Misdemeanours, harmonizing it with the Law on Traffic Security, and amendments to the Law on Salaries and Other Remunerations in Judicial and Prosecutorial Institutions at the Level of Bosnia and Herzegovina, implementing the relevant decisions of the Constitutional Court of Bosnia and Herzegovina. The appointments of the Director of the State Investigation and Protection Agency and the Director of the Intelligence-Security Agency of Bosnia and Herzegovina are still pending.
78. On 17 March, the Council of Ministers adopted a decision declaring a state of natural or other disaster on the Territory of Bosnia and Herzegovina to curb the spread of COVID-19 and allow for engaging additional resources to address the threat to public health. It reactivated the Protection and Rescue Coordination Body of Bosnia and Herzegovina, appointing the Minister for Security of Bosnia and Herzegovina, Fahrudin Radončić (SBB), as its Chair, and adopted a decision regulating the functioning of institutions of Bosnia and Herzegovina during the pandemic. Mr. Radončić subsequently resigned as Chair of the Coordination Body, with the Council of Ministers confirming his deputy as Acting Chair.
79. The pandemic-related measures taken by the Council of Ministers include banning the entry of foreigners – except foreign diplomats and medical personnel – to Bosnia and Herzegovina, banning the issuance of visas, closing airport border crossings to passenger traffic, identifying border crossings for cargo traffic, and exempting all humanitarian and medical material and equipment of indirect taxes.

C. Parliamentary Assembly of Bosnia and Herzegovina

80. The work of the Parliamentary Assembly remained essentially paralysed until December, as the establishment of parliamentary committees and other working bodies was effectively blocked by SNSD pending the appointment of its candidate for the Chair of the Bosnia and Herzegovina Council of Ministers. It was only on 5 December that the standing committees of the Bosnia and Herzegovina House of Representatives were appointed, when SNSD finally submitted its candidates for the committees in order to avoid being excluded from them, pursuant to the

amended rules of procedure of the House of Representatives adopted at the proposal of the Serb Democratic Party (SDS) and the Party of Democratic Progress (PDP). The rules provide for an unblocking mechanism in situations in which one political party chooses not to nominate its delegates to parliamentary working bodies.

81. On 5 December, after a positive vetting outcome, the Bosnia and Herzegovina House of Representatives confirmed the appointment of Zoran Tegeltija as Chair of the Bosnia and Herzegovina Council of Ministers. The appointment of ministers and deputy ministers of the Council of Ministers - with the exception of the Minister for Human Rights and Refugees of Bosnia and Herzegovina and the Deputy Minister for Security of Bosnia and Herzegovina, whose appointments are still pending - was confirmed by the House of Representatives on 23 December. The constitution of working bodies of both houses of the Bosnia and Herzegovina Parliamentary Assembly and the appointment of its delegations to international forums such as the Parliamentary Assembly of the Council of Europe were finalized on 16 January. Prior to that, Bosnia and Herzegovina had been the only member of the Parliamentary Assembly of the Council of Europe not to have appointed its delegation.
82. During the reporting period, the Bosnia and Herzegovina House of Representatives held six regular sessions and three urgent sessions, while the Bosnia and Herzegovina House of Peoples held three regular sessions and two urgent sessions. The legislative capacity was extremely weak. The vacuum was filled with initiatives from individual delegates, requesting the executive authorities to formulate legislative proposals or proposing legislation themselves, which mostly had no prospect of being adopted. The only piece of legislation adopted by the Bosnia and Herzegovina Parliamentary Assembly on 20 December was the budget of Bosnia and Herzegovina institutions and international obligations for 2019.
83. In addition, the required parliamentary approval was given for the ratification of long-pending international agreements and several minor technical documents and reports were also adopted. Several pieces of legislation - mostly proposed by parliamentarians themselves - were rejected, including amendments to *the Law on the Bosnia and Herzegovina Ombudsman for Human Rights*, while the Law on Conflict of Interest remains pending, with the Bosnia and Herzegovina Council of Ministers yet to submit its proposal. The Bosnia and Herzegovina House of Peoples rejected the proposal by DF amending the Criminal Code of Bosnia and Herzegovina to criminalize the glorification and denial of genocide. The Bosnia and Herzegovina House of Representatives adopted the Law on the Termination of Mandates of Current Members of the High Judicial and Prosecutorial Council, proposed by SDS, while the Bosnia and Herzegovina Parliamentary Assembly, as usual, rejected the annual work reports of the High Judicial and Prosecutorial Council and the Office of the Prosecutor of Bosnia and Herzegovina. The House of Representatives held a thematic session on the work of the judiciary, which was a debate without legislative result.
84. The work of the Bosnia and Herzegovina Parliamentary Assembly was again hampered when SNSD representatives, acting in accordance with the conclusions of the National Assembly of the Republika Srpska of 17 February on non-participation in State-level decision making, began voting against or not voting at all in parliamentary committees and in both houses. Given the voting mechanisms and requirements, this slowed down and ultimately blocked decision-making of the State-level legislature.
85. Meanwhile, on 25 February, representatives of SNSD and HDZ Bosnia and Herzegovina in the House of Representatives submitted the proposed law on the selection of the judges of the Bosnia and Herzegovina Constitutional Court who were previously selected by the President of the European Court of Human Rights, which seeks to immediately terminate the mandate of three foreign judges and substitute them with domestic judges. The proposal is incompatible with the Constitution of Bosnia and Herzegovina for various reasons. Under the Constitution, foreign judges are appointed for life, unless they resign or are removed for cause, by consensus of the other judges. Likewise, under the Constitution, a law passed by the Bosnia and

Herzegovina Parliamentary Assembly may only change the method of appointment of international judges but cannot terminate their mandates with immediate effect in order to replace them with domestic judges. This would require the prior adoption of an amendment to the Constitution.

86. On 11 March, SDA, DF, SDS and PDP secured votes in the Bosnia and Herzegovina House of Representatives to appoint two new members of the Central Election Commission of Bosnia and Herzegovina from the ranks of Serbs and to reappoint two members from the ranks of Bosniaks. The proposal by DF to replace the fifth member, whose mandate had expired, with its own candidate, did not receive sufficient support from the Republika Srpska and remained pending, awaiting consultations in the House of Representatives collegium and a likely second-round vote. Representatives from HDZ Bosnia and Herzegovina and the bloc led by SNSD walked out of the session prior to the vote, accusing SDA of betraying their alliance with them and using opposition parties from the Republika Srpska to secure control over the Central Election Commission. They alleged a violation of the procedure for replacing members of the Commission prescribed by the Election Law of Bosnia and Herzegovina. SDA provided its legal interpretation and recalled that the mandates of five of the seven members of the Commission had expired.
87. With the outbreak of the COVID-19 pandemic in Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina suspended its sessions, intending to resume them after the rules of procedure of both Houses are amended to allow for sessions to be conducted online. On 15 April, the House of Representatives collegium set a date of 28 April for a full session of the House of Representatives to amend its rules of procedure accordingly.

IV. Federation of Bosnia and Herzegovina

88. Pending the appointment of a new Federation Government following the general elections held in October 2018, the Government from the previous mandate continues to work to its full capacity, holding 25 regular sessions and 25 extraordinary sessions during the reporting period.
89. On 16 March, the Government declared a state of emergency owing to the COVID-19 pandemic and established a crisis headquarters, which has since then taken a number of measures in response to the pandemic. In order to mitigate the economic consequences, on 3 April the Government adopted the Law on Mitigating Negative Economic Consequences, envisaging, among other measures, subsidies to affected companies for contributions and taxes on the minimum salary, a statute of limitation interruption for all administrative, litigation, extrajudicial and enforcement procedures, and a guarantee fund, with an initial deposit of KM 80 million. The proposal enables different levels of government in the Federation to alter the purpose of previously earmarked funds and redirect them towards fighting the pandemic.
90. The Government also adopted two decisions allocating a total of KM 21 million to lower levels, so as to further support their efforts. Following a significant public outcry, alleging unfair, illogical and politically motivated distribution of those funds, the decisions were annulled on 5 April, with the Government deciding instead to transfer the funds to the Federation Ministry of Health for the purchase of medical equipment.
91. Both Houses of the Federation Parliament also met, albeit infrequently, with the Federation House of Representatives holding four regular sessions, one extraordinary session and one thematic session, and the Federation House of Peoples holding two regular sessions and three extraordinary sessions. Legislative output is poor, with only four amendments to existing laws and one new law having been passed.
92. The collegium of both Houses remains incomplete. Since its inaugural session in February, the House of Peoples has failed to appoint a Deputy Speaker from the ranks of Serbs, due in part to the political divide in the Serb caucus, which has also prevented the caucus from electing its president. The 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 House of Representatives collegium, in which the Deputy Speaker, from the ranks of Serbs, is similarly yet to be appointed.

93. In early April, both houses amended their respective rules of procedure to allow for sessions to be conducted online during the pandemic.

A. Vital national interest panel of the Federation Constitutional Court remains non-functional

94. Following a series of retirements of judges since 2016, the Federation Constitutional 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 people 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 directly affects decision-making in cantonal assemblies and in the Federation House of Peoples. There are currently several cases pending before the panel.
95. Although the High Judicial and Prosecutorial Council of Bosnia and Herzegovina earlier fulfilled its obligations in adopting the final list of candidates to replace three of the four retired judges and submitting it to the Federation Presidency, the Presidency has failed to finalize the replacements. On 20 November, the European Union Special Representative, the United States Embassy, the Organization for Security and Cooperation in Europe and Office of the High Representative sent a joint letter to the President and Vice-Presidents, recalling their constitutional responsibilities. On 27 November, the President of the Federation Constitutional Court, Aleksandra Martinovic, asked the Federation President, Mr. Čavara (HDZ Bosnia and Herzegovina) and the Vice-Presidents, Melika Mahmutbegović (SDA) and Milan Dunović (DF), to accelerate the procedure. On 3 December, the two Vice-Presidents submitted their proposals to the President, urging him to nominate the three candidates for judges. This was followed by a joint meeting of representatives of the international community with the Federation President in February. To date, the Federation President has taken no action in this regard.

B. No progress on local elections in Mostar

96. No agreement was reached during the reporting period to enact amendments to the Election Law of Bosnia and Herzegovina that would regulate local elections in the City of Mostar, where local elections have not been held since 2008. Pressure to address the issue further increased on 29 October, when the European Court of Human Rights adopted a judgment in the case *Irma Baralija vs Bosnia and Herzegovina*, ruling that the State of Bosnia and Herzegovina has to amend its Election Law and enable the holding of local elections in Mostar. The Court found that a legal void made it impossible for the applicant to exercise her voting rights and her right to stand in local elections for a prolonged time. It noted that the situation in Mostar is not compatible with the concepts of "effective political democracy" and "the rule of law" referred to in the preamble to the Convention for the Protection of Human Rights and Fundamental Freedoms and concluded that the State has failed to fulfil its obligation to adopt measures to hold democratic elections in Mostar and thus is in violation of article 1 of Protocol No. 12 to the Convention. Bosnia and Herzegovina must, within six months of the date on which the judgment becomes final, amend the Election Law in order to allow for local elections in Mostar. Should it fail, the Court noted that the Constitutional Court has the power to set up arrangements as necessary transitional measures.
97. I continue to urge a solution that would 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.

C. Reshuffling of Sarajevo cantonal government

98. On 17 December, a new majority in the Sarajevo cantonal assembly, led by SDA, submitted a request for the dismissal of the Speaker and for convening a session at which a vote of no confidence in the government was to be scheduled. That request triggered a series of events and actions that raised questions regarding compliance with the constitutional framework that governs the procedure for electing the Speaker and the Deputy Speaker of the assembly. Consequently, on 8 January, the President of the Croat caucus of the assembly requested my interpretation concerning amendment LXXIX to the Federation Constitution regulating the nomination and confirmation of a Speaker and Vice-Speakers of the assembly. I responded on 15 January, recalling the relevant provisions of the Federation Constitution and urging the assembly to take the necessary steps to ensure adherence to its constitutional obligations.
99. Following a sequence of events and political turbulence, the assembly, during its session of 29 January, voted in favour of a motion of no-confidence in the government led by Edin Forto (Our Party (NS)), and appointed a new government, with Mario Nenadić (SBB) as Prime Minister, on 3 March.
100. I must acknowledge the tangible efforts of the removed government towards reforms, fighting corruption and delivering services to the citizens of the canton. I expect no less from the new government, which, as all other levels of authority, must now confront the COVID-19 pandemic and its consequences.

D. Constitutional equality of Serbs in the Federation cantons

101. 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 were 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 their assemblies to amend them accordingly, which West Herzegovina has partially done but Posavina and Herzegovina-Neretva have not implemented at all.
102. I continuously urge those cantons to harmonize their constitutions with the Federation Constitution and provide for the constitutional equality of all three constituent peoples.

V. Republika Srpska

103. The Union of Independent Social Democrats (SNSD) continued to lead the Republika Srpska ruling coalition with its partners from the previous mandate. The Republika Srpska Government met regularly under the chairmanship of the Prime Minister, Radovan Višković (SNSD). The National Assembly of the Republika Srpska held three regular sessions and seven special sessions, adopting seven new laws and 22 sets of amendments to existing laws.
104. Among the trends observed in the Republika Srpska is a continuous effort on the part of the authorities led by SNSD to roll back previous reforms and restore the so-called "original Dayton" as outlined in section D of the present report. The authorities of the Republika Srpska also attempted to restrict political freedoms, including by referring in the conclusions of the National Assembly of the Republika Srpska of 11 November to activities aimed against the Constitution of the Republika Srpska as criminal acts, threatening elected and appointed officials in State-level institutions who come from the Republika Srpska with criminal liability in cases of non-

compliance, or changing the rulebook of the National Assembly of the Republika Srpska in a manner limiting the opposition from effectively doing its job, thus undermining due checks and balances in the Republika Srpska. There was also an increased number of threats directed towards and physical assaults against opposition representatives of the Republika Srpska.

105. Furthermore, the authorities of the Republika Srpska attempted to restrict civil freedoms, in particular the freedom of assembly. The detention on 23 November of an activist from Banja Luka for staging a puppet show at the Banja Luka Main Square is illustrative of this. The Republika Srpska authorities continued to pressure “Justice for David” activists by preventing their prominent members from gathering at the Banja Luka Main Square, either as individuals or in small groups. On 27 February, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina reported the use of excessive force by the Republika Srpska police against “Justice for David” members.
106. The initial reactions of the authorities of the Republika Srpska, and the Banja Luka local authorities in particular, to the COVID-19 pandemic are generally viewed positively, with measures being taken promptly and efficiently. The Republika Srpska Government established a crisis headquarters, declared an emergency situation and undertook epidemiological measures, implemented by-the-book throughout the Republika Srpska, and in particular in Banja Luka, which has the highest number of infected persons, as well as taking political and economic measures. While citizens of the Republika Srpska mostly complied with the epidemiological measures, the political measures triggered many reactions from the media, non-governmental organizations and the international community, as well as the Republika Srpska opposition, owing to concerns that the measures to contain the pandemic could be used as a rationale for silencing criticism. As the crisis continued, the intention of the ruling coalition to silence critics and take over all levers of power, without maintaining a minimum of democratic oversight, became more obvious. In that vein, on 26 March, the Republika Srpska Government proposed that the National Assembly of the Republika Srpska declare a state of emergency, which the National Assembly did at a special session on 28 March.
107. Addressing the media following the session of the National Assembly of the Republika Srpska, the President of the Republika Srpska, Željka Cvijanović (SNSD) stated that the National Assembly should not convene under the present circumstances and that following the proclamation of a state of emergency, she would use her constitutional authority to issue decrees with the force of law, including on issues falling under the competency of the National Assembly. She added that such measures would be issued in cooperation with the Republika Srpska Government, members of the National Assembly, including the heads of each party caucus, and a team of legal experts. She also stated that the suspension of citizens’ rights and freedoms under the Republika Srpska Constitution would not occur. The opposition was not allowed to discuss the proposal, and the session was closed to the public.
108. The announcement by the President of the Republika Srpska that she would use “the authority to issue decrees with the force of law” does not appear to comply with the stipulation in article 81 of the Constitution of the Republika Srpska that the State of Bosnia and Herzegovina must declare a state of emergency. Such a declaration must be made in accordance with the Law on Defence of Bosnia and Herzegovina, which requires the Presidency of Bosnia and Herzegovina to request the Parliament of Bosnia and Herzegovina to make the declaration “in the event of a threat to the existence of Bosnia and Herzegovina, a threat to the normal functioning of constitutional institutions, or an immediate threat of war”. Article 81 provides that, during a state of emergency declared by the institutions of Bosnia and Herzegovina, the President of the Republika Srpska, “on the proposal of the Republika Srpska Government, or per his/her individual initiative, and after considering the opinion of the Speaker of the National Assembly of the Republika Srpska”, shall adopt legally binding decrees and other decisions, such as the appointment and dismissal of functionaries who are elected, appointed and dismissed by the National Assembly. Such decisions would require confirmation by the National Assembly once it

is able to reconvene. Thus far, the State of Bosnia and Herzegovina has not declared such a state of emergency.

109. On 6 April, the President of the Republika Srpska promulgated her first two decrees with the force of law: the Decree with the Force of Law on Deadlines and Procedures in Court Proceedings During the State of Emergency, providing for a suspension of deadlines during the state of emergency in the majority of judicial procedures, and the Decree with the Force of Law on Prohibition of Causing Panic and Disorder During the State of Emergency, prohibiting the spreading of “fake news” or allegations that cause panic or seriously undermine public peace and order or disable or seriously interfere with the execution of orders and measures of the State bodies, other institutions and organizations with public authorities. The latter decree raised concerns, especially after several prominent opposition figures were fined or summoned before the police immediately after its promulgation. The Association of Journalists of Bosnia and Herzegovina viewed it as an undue limitation on the freedom of speech, and Transparency International called for its withdrawal. The Republika Srpska opposition parties criticized the President’s choice of her first decrees, claiming that she chose to prioritize sanctioning Republika Srpska citizens over measures to assist Republika Srpska businesses.

A. Srebrenica

110. Senior political figures from the Republika Srpska continue to deny and diminish the genocide committed in Srebrenica, which was established by two international tribunals and domestic courts, and to reject the verdicts and findings of international courts in war crimes cases. The repeal 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 the Republika Srpska military and police forces in the events in Srebrenica of July 1995, highlights the extent to which the reconciliation process has deteriorated.
111. In February, the Independent International Commission for Inquiry into Suffering of all Peoples in the Srebrenica region in the Period 1992-1995, appointed by the Republika Srpska Government, requested the Potočari Memorial Centre to allow access to information on 8,372 persons listed by the Centre as victims of war events in July 1995 and general information on their death. The Director of the Centre, Emir Suljagić, responded that the Centre would never provide such information and thereby participate in the denial of genocide, which was perceived by Republika Srpska media and officials as an attempt to hide the truth. The associations of mothers generally perceived the request as an insult.
112. On 23 October, the Republika Srpska had its official representation at the Belgrade Bookfair, promoting a book entitled *Srebrenica: The Reality and Manipulations*, which challenges the wartime events as recorded in court verdicts. More recently, on 1 April, Mr. Dodik warned the Chair of the Presidency, Mr. Džaferović, about the abuse of his position and the misleading of foreign dignitaries by his sending invitations earlier in 2020 for the commemoration of the Srebrenica genocide to be held in July 2020. Mr. Dodik insists that the Presidency provided no consent for this and that Mr. Džaferović should only have addressed foreign dignitaries in a capacity other than that of Chair. On the same day, Mr. Dodik wrote to the President of Montenegro with reference to Mr. Đukanović’s recent interviews acknowledging the genocide, criticizing him for accepting “one-sided” interpretations of wartime events in Bosnia and Herzegovina and reiterating that qualifying events around Srebrenica in July 1995 as “genocide” was “absolutely unacceptable”.
113. The continued genocide denial, as well as the glorifying and memorializing of war criminals and other controversial figures, accentuate the need for State-level legislation addressing these matters. 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.”

B. Non-cooperation with the High Representative

114. 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 for Peace 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 Steering Board of the Peace Implementation Council, reminding the authorities of the Republika Srpska of their obligations in this regard, have so far had no impact.

VI. Public security and law enforcement, including intelligence reform

115. The practice of improper political interference in operational policing has not diminished.

116. The Posavina Canton authorities have again failed to adopt changes to the relevant law and delete a provision that contravenes the letter of the President of the Security Council of 2007 on police denied certification by the former United Nations International Police Task Force, despite repeated assurances from the canton authorities. In October, the Bosnian-Podrinje cantonal assembly adopted a new law on police officials, despite sharp criticism from the local police union and the police commissioner that their professional viewpoints were ignored. In December, 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 2021, owing to coalition politics.

117. In January, the Tuzla Canton government dismissed the police commissioner, sparking widespread criticism from local and international circles that the dismissal was politically motivated. In March, the local court suspended a follow-on selection procedure until the completion of complaint proceedings initiated by the dismissed police commissioner. In January, the Independent Board in the Bosnian-Podrinje Canton handed down a negative annual evaluation of the police commissioner, raising questions of transparency and accountability, as addressed in the joint letter of the Office of the High Representative and the United States Embassy to the canton authorities on 14 February. At the same time, the Herzegovina-Neretva Canton authorities expressed a political commitment to complete the procedures for appointing a new independent board, police commissioner, public complaints bureau and police board. The canton has not had a duly appointed police commissioner since October 2018, nor a functioning independent board since March 2017.

118. At the February 2020 meeting of the heads of police bodies in the Federation, the participants unanimously agreed that the recent trend of negative evaluations of the heads of police bodies, leading to the premature termination of their mandates, was a cause of concern affecting the efficiency and stability of the police bodies in question. The Bosnia and Herzegovina Council of Ministers has not completed the appointment process for a new Director of the State Investigation and Protection Agency. The mandate of the previous Director ended in November 2019. The Independent Board of Bosnia and Herzegovina, the body in charge of conducting the selection procedure, concluded its part of the process in November 2019. The process has faced difficulties due to disputes within the governing coalition. Additional complications have arisen, as several of the candidates for the post have reportedly reached the mandatory retirement age and the mandate of the currently sitting independent board expired in March 2018.

119. Even though the Federation Independent Board completed the selection procedure for the Federation Police Director in April 2019, the Federation Government has not yet completed the appointment process, despite repeated appeals by the Federation Independent Board.

VII. Economy

120. The present section is based on the latest available indicators covering the period prior to the COVID-19 pandemic. As COVID-19 continues to spread, its tragic human consequences and negative impact on the global economy continue to evolve at an unprecedented speed, and

these are also evident in Bosnia and Herzegovina. This is particularly the case as of early March, when Bosnia and Herzegovina saw its first cases of infection and its economy felt the first effects of containment measures, undertaken at both the global and regional levels to curb the spread of the virus and protect lives. The situation has since deteriorated, with significant disruptions in manufacturing, trading and services, rising unemployment, fears of declining remittances and increased uncertainty of investments, with a corresponding effect on public revenues. While there are still no aggregate data to provide a reliable assessment of the impact of COVID-19 on the economy of Bosnia and Herzegovina, it is clear that it will be devastating.

121. International organizations, including international financial institutions, and bilateral donors have committed support to Bosnia and Herzegovina in mitigating the medical and economic consequences of the pandemic, complementing measures that Bosnia and Herzegovina has undertaken to that effect. The crisis also accentuates the need to refocus on and accelerate reforms that may revive and strengthen the economic, social, financial and fiscal stability of Bosnia and Herzegovina, while refraining from abusing the situation – owing to a lack of understanding or political goals – to pursue actions that could be counter-effective to stabilization efforts.

A. Economic trends

122. In October, IMF revised its economic growth projection for Bosnia and Herzegovina from 3.1 per cent to 2.8 per cent in 2019, and from 3.2 per cent to 2.6 per cent in 2020. Industrial production from January to October decreased by 5.6 per cent, while the 2019 data for exports and imports show a 3.4 per cent decrease and a 1.2 per cent increase, respectively. Inflation was 0.3 per cent. Foreign direct investments (FDI) increased by 11.6 per cent but in absolute terms still left the country lagging behind its neighbours. The *2019 World Investment Report* of the United Nations Conference on Trade and Development ranked Bosnia and Herzegovina last, in terms of 2018 FDI inflows, in South-Eastern Europe. The December administrative and real unemployment rates of 32.6 per cent and 15.7 per cent, respectively, reflect the continued decline in unemployment. The youth unemployment rate in 2019 was estimated at 33.8 per cent, a 5 per cent decrease from 2018. The growing population drain is likely among the factors accounting for the unemployment decline. According to the estimate of the Union for Sustainable Return and Integration in Bosnia and Herzegovina, more than 200,000 people have left Bosnia and Herzegovina since 2013, approximately 60,000 in 2019 alone.
123. Despite a modest increase in 2019, the average net salary and average pension are significantly below the average price of the basket of goods, suggesting that even those with steady incomes struggle to make ends meet. This is particularly the case for pensioners with the lowest pension payments. In February, the Statistics Agency of Bosnia and Herzegovina noted that as many as 129,673 minors and 419,873 adults in Bosnia and Herzegovina receive social welfare, while the data released in December by Eurostat show that Bosnia and Herzegovina is at the bottom level of economic well-being in Europe. Other ratings of Bosnia and Herzegovina are also generally discouraging.
124. The banking sector is assessed as being stable and liquid. Its stability is underpinned by the Bosnia and Herzegovina Central Bank, which nonetheless faces sustained challenges to its independence, responsibilities and unimpeded functioning. Its Governing Council currently operates with three out of five members, which is the minimum for a quorum. The situation is the result of the decision taken by the Presidency of Bosnia and Herzegovina on 19 June, upon the proposal of Mr. Dodik, to remove two Council members, and the lack of requisite support within the Presidency for the appointment of their proposed successors, pending the outcome of the ongoing court proceedings.
125. Furthermore, the COVID-19 pandemic has provided a pretext for renewed calls, primarily by Mr. Dodik and SNSD officials, to free up the reserves of the Bosnia and Herzegovina Central Bank. On the basis of the assessment by the Central Bank and the consultations on 18 March within

the Bosnia and Herzegovina Standing Committee for Financial Stability, such measures would be both premature and potentially dangerous, posing a threat to the monetary, financial and fiscal stability of Bosnia and Herzegovina. IMF also warned on 18 March that “[a]ny attempt to use the Central Bank’s international reserves for fiscal purposes would undermine the currency board, threaten financial stability, and risk significant inflationary developments. Such attempts undermine the anchor of macroeconomic stability. They should be avoided at all times and particularly in a situation of crisis.”

B. Fiscal issues

126. There were no delays in debt servicing and regular monthly budget payments. This was primarily owing to a record indirect tax revenue collection in 2019, totalling KM 7.98 billion, or 5.14 per cent more than in 2018, but also because of domestic borrowing, particularly in the Republika Srpska.
127. The State institutions were on restricted temporary financing throughout 2019. This was due to the blockade of parliamentary work by SNSD representatives, which stalled the adoption of the 2019 State budget until 20 December. The adopted budget amounted to KM 1.791 billion. Out of that amount, the financing of the State institutions was set at KM 966 million, an increase of 2 per cent compared with the level of financing in the previous seven years, while the foreign debt servicing decreased by 8 per cent and was set at KM 825.7 million.
128. Owing to the late adoption of the global framework of fiscal balance and policies for the period 2020–2022, as the basis for budget preparation, the 31 December deadline for the adoption of a State budget for 2020 was not met. Consequently, the Bosnia and Herzegovina Council of Ministers adopted a decision on temporary financing for the first quarter and then also for the second quarter of 2020. The uninterrupted financing and unimpeded functioning of the State institutions beyond 30 June are conditional on the adoption of either the 2020 budget or, at a minimum, a decision on temporary financing for the third quarter of 2020. Extending temporary financing is not the preferred solution, as it raises the question of the reliability of financing for the State institutions, and limits the amount of funds available to them and the scope of their activities. Such limitations can seriously affect the ability of the State institutions to discharge their constitutional and legal obligations and to respond to extraordinary circumstances, such as the COVID-19 pandemic.
129. On 24 March, the Bosnia and Herzegovina Council of Ministers – with the Chair of the Council of Ministers and Serb ministers dissenting – adopted the draft State budget for 2020 and forwarded it to the Bosnia and Herzegovina Presidency, which officially proposes it to the Bosnia and Herzegovina Parliamentary Assembly for final adoption. Pursuant to the global framework, the budget foresees a modest and insufficient but still much needed increase of KM 30 million. On 6 April, following consultations with the Chair of the Council of Ministers, the Presidency of Bosnia and Herzegovina returned the draft budget to the Council for adjustments, by 31 May, that would allow for the unimpeded functioning of State-level institutions and the discharge of their constitutional and legal obligations, while also adapting to the extraordinary circumstances emerging from the COVID-19 pandemic through budget reallocations and cost savings that would help accumulate funds to mitigate economic setbacks, while respecting the budget framework of the institutions of Bosnia and Herzegovina agreed by the Fiscal Council of Bosnia and Herzegovina on 27 December. The conclusion of the Presidency of Bosnia and Herzegovina is somewhat at variance with Mr. Dodik’s earlier statements announcing his opposition to the existing draft budget for underestimating revenue shortages and assessing that a 30 per cent decrease would be necessary to adjust the budget.
130. The Federation maintained budget stability during the reporting period. Its consolidated budget execution report for the period from January to September notes a positive cumulative financial result of KM 764.7 million for all levels of government in the Federation in total. The Federation Parliament, at the session of the House of Representatives on 18 December and the session of

the House of Peoples on 19 December, adopted the Federation budget for 2020 in the total amount of KM 4.954 billion. The drastic increase of 83 per cent over the 2019 rebalanced budget is mostly related to the inclusion of the Federation Pension and Disability Insurance Fund in the budget as from 1 January. That change makes pensions the key payment priority after debt servicing. The COVID-19 pandemic, however, will require a budget rebalancing to allow for mitigating the negative effects on the economy, including through measures foreseen in the Law on Mitigating Negative Economic Consequences.

131. On 17 December, the National Assembly of the Republika Srpska adopted the 2020 budget, the economic reform programme and the accompanying decision on borrowing and loan guarantees. The budget amounts to KM 3.425 billion, an increase of 3.3 per cent over the rebalanced 2019 budget. More than half of the budget funds are planned for pension payments and civil servants' salaries. The budget foresees borrowing of KM 342.5 million. The economic reform programme projected annual economic growth in the Republika Srpska of between 3.5 per cent and 4 per cent, and set out the Republika Srpska Government priorities to focus on health sector reform, the social security system, the improvement of corporate governance in public enterprises and the improvement of labour market efficiency. However, the COVID-19 pandemic will require changes to the projections and plans. In response to its effects on the economy, the Republika Srpska Government proposed certain measures. The Republika Srpska Investment and Development Bank postponed loan repayments to both businesses and households, and commercial banks plan to reschedule loan repayments. The Republika Srpska Tax Administration postponed the payment of taxpayer obligations. The 2020 budget of the Republika Srpska will also be rebalanced to meet the new priorities.

C. International obligations

132. On 13 December, the Ministerial Council of the Energy Community failed to reach unanimity on reintroducing measures against Bosnia and Herzegovina for its serious and persistent breach of obligations under the Energy Community Treaty. The lack of unanimity, however, does not dismiss the obligation of compliance, which has been held hostage to entity disputes over the scope of regulation of the gas sector at the State level and the corresponding State-level legislation. Although resolved without significant consequence, the incident 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, shows that the absence of State-level gas sector regulation also contributes to inter-entity disputes that may pose a risk to the uninterrupted gas supply in Bosnia and Herzegovina.
133. The withholding of contributions by the Republika Srpska to the Public Railways Corporation of Bosnia and Herzegovina in 2016 and 2017, which deprived the Corporation of funds, has triggered countermeasures by the Federation. Based on the findings of the October audit, the Federation requested the Corporation to compensate it for the difference in funds provided to the Corporation by the entities. To further compensate for the imbalance in entity contributions to the Corporation resulting from unilateral cutbacks by the Republika Srpska, the Federation did not plan any funds for the Corporation in its 2020 budget. Risks to the sole State-level corporation established under annex 9 to the General Framework Agreement for Peace arise not only from the uncertainty of funding but also from the conclusion of the Republika Srpska Government of 12 March, requesting its Ministry of Transport and Communications to re-evaluate, together with its Federation counterpart, the Agreement on the Establishment of a Joint Public Railway Corporation as Part of the Transportation Corporation.
134. Disputes within the Federation and between the Federation and the Republika Srpska over management appointments within the Bosnia and Herzegovina Electricity Transmission Company affect its functioning. The mandates of the entire management and management board have expired, and there is no support for the appointment of their successors. Regardless of the expiration of their mandates, public officials have the right and obligation to carry out

their duties until replaced. Nonetheless, they refrain from decision-making, including on necessary investments in the electricity transmission grid. This poses a risk to the electricity supply in Bosnia and Herzegovina but also provides a pretext for challenges to the Company, which was established by the Law Establishing the Electricity Transmission Company adopted by the Parliamentary Assembly of Bosnia and Herzegovina in 2004, following the agreement of 2 June 2003 between the entities on the transmission company and an independent system operator, concluded on the basis of article III (5) (b) of the Constitution of Bosnia and Herzegovina.

VIII. Return of refugees and displaced persons

135. 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 for Peace. 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.
136. Earlier in 2020, tensions arose among the returnee population in Srebrenica, when a photograph of pupils wearing Serb folklore costumes appeared on one of the pupil's social network profiles, with the caption "Chetnik Brothers". Serb representatives stood in defence of the pupils, in some cases defending the Chetnik movement itself. Social media comments abounded with hate speech, which caused considerable commotion within the local population. Furthermore, on 20 February, a Bosniak parent in Srebrenica reported that a group of Serb boys verbally harassed her daughter for wearing a headscarf. Strong reactions to these incidents deepened the divide between Bosniak and Serb communities in Srebrenica. On 25 February, the Minister for Education and Culture of the Republika Srpska, Natalija Trivić (United Srpska party), and the Director of the Pedagogical Institute of the Republika Srpska, Predrag Damjanović, met with the Srebrenica school director, representatives of the parents, the Mayor and the Municipal Assembly Speaker in Banja Luka. The meeting resulted in an agreement on a number of measures, with a welcome statement by the Minister for Education and Culture that the Ministry stood behind each parent or child, regardless of their ethnicity.
137. The property laws and unilateral actions of the Republika Srpska, including those reported in section II. C above, affect not only the resolution and State-level regulation of the issue of State property but also the property rights of private citizens, in particular, displaced persons and returnees in the Republika Srpska. The Law on Usurpations and Volunteer Fighters' Competences of the Republika Srpska, which prescribes the conditions for legalizing illegal usurpations of publicly-owned land as well as the procedures for its allocation to volunteer fighters of the Serb and Montenegrin army in the wars between 1912 and 1918, is illustrative of this. Its adoption provoked reactions by Bosniak and Croat political representatives, who – particularly after the decision of the Constitutional Court of the Republika Srpska of 17 January establishing that the Law did not violate the national interest of Bosniaks and Croats – announced continued legal actions, including before the Constitutional Court of Bosnia and Herzegovina.

IX. Media developments

138. During the reporting period, the free media helpline of the Bosnia and Herzegovina Union of Journalists registered 23 cases of violations of the rights of journalists, including three death threats, three physical attacks and nine cases of political pressure and verbal threats. Death threats were aimed against the investigative work of the portals Žurnal, Capital and Radio Free Europe.
139. Instances of public officials verbally harassing media outlets and individual journalists occur frequently. At a press conference on 14 February, Mr. Dodik called the journalist Vladimir

Kovacevic and his media outlet and employer, BN TV, “traitors”. Mr. Kovacevic survived an attempted murder in 2018, with one assailant sentenced to jail and a second suspect surrendering to Republika Srpska police in November 2019. On 1 January, Mr. Kovacevic won in the court of first instance a defamation case against the Republika Srpska public broadcaster RTRS for its allegations that he had received \$80,000 from the United States Agency for International Development, with the aim to threaten the legal establishment and security of the Republika Srpska.

140. The Bosnia and Herzegovina Union of Journalists has documented the ineffectiveness of police and prosecutors in their investigations of attacks against journalists, and reports that courts rule in favour of journalists only in approximately 30 per cent of cases. There are additional concerns over the rise of gender-based violence and violations of the rights of female journalists.
141. On 30 October, the Communications Regulatory Agency of Bosnia and Herzegovina issued a licence to the commercial operator Multiplex service of Bosnia and Herzegovina for Multiplex C. The operator is obliged to establish a digital platform to offer broadcast television providers the possibility of digital broadcasts. The Agency provided the criteria for providers to apply and publicized a public call, which ended on 16 March. In total, 21 broadcast television providers applied. The Agency claims it entered the process of creating the Multiplex C as a result of the enormous delays that occurred with the establishment of the Multiplex A under the auspices of the Bosnia and Herzegovina Public Broadcasting System. The Agency is also in the final stages of issuing a new five-year licence to the Public Broadcasting System, as the current one ends on 26 April. On 10 December, the Agency advertised the position of its General Director, as the mandate of the current director expires on 26 April. The Agency’s Council shall select one of four applicants and propose the appointment to the Bosnia and Herzegovina Council of Ministers.
142. The Public Broadcasting System struggles financially and continues to experience difficulties in meeting its basic legal requirements. The COVID-19 pandemic poses additional challenges to the collection of radio and television tax, which affects all three public broadcasters (Bosnian-Herzegovinian Radio Television (BHRT), Radio Television of Bosnia and Herzegovina (RTFBiH) and Radio Television of the Republika Srpska (RTRS)). BHRT reported a significant decrease in revenues, which threatens its work and existence.
143. On 3 April, the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, warned that press freedoms must not be undermined by measures to counter disinformation about COVID-19. She stressed that in Bosnia and Herzegovina, decrees and legislative proposals aimed at punishing the circulation of information that may cause panic risk limiting the work of journalists and freedom of expression on social media platforms. On 9 April, the Bosnia and Herzegovina Union of Journalists asked that both entities provide unhindered and safe access to information about decisions related to the pandemic. According to the Union, several cases of criminal proceedings for allegedly spreading “fake news” have been initiated in both the Federation and the Republika Srpska.

X. European Union military mission in Bosnia and Herzegovina

144. The European Union military mission in Bosnia and Herzegovina (EUFOR), with its continued executive mandate, has a vital role in supporting the efforts of Bosnia and Herzegovina to maintain a safe and secure environment. In this context, I am concerned by 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.
145. The sole focus of all authorities in Bosnia and Herzegovina in terms of security should be on the professionalism, accountability and coordination of law enforcement agencies. Only in this way will the police be able to serve its citizens and provide them with personal safety and security.

Under such circumstances, 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

146. The political directors of the Steering Board of the Peace Implementation Council met in Sarajevo on 3 and 4 December 2019 to review the progress in implementing the General Framework Agreement for Peace, 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 (“5 plus 2” agenda). The next meeting of the Steering Board is planned for 2 and 3 June 2020.
147. Fundamentally, policy considerations regarding Bosnia and Herzegovina must be the basis for assessing the resource requirements of the Office of the High Representative. As the present report demonstrates, 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, Office of the High Representative budget was €25 million, with a staff of about 700, compared with the current €5.3 million budget and only 92 staff.
148. 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 in staff and funding, tasks have largely remained the same. As the budget decreases over time, it becomes exponentially more difficult to further reduce costs without cutting essential expertise and capacity. Given all the challenges, 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 the organization, 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.
149. 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 Steering Board of the Peace Implementation Council, 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

150. 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 October 2020.

Notes:

[1] “People often ask me: What are we waiting for? Why don’t we assert our right to self-determination? Many suggest that we should promote a process called ‘Republika Srpska-exit’, modelled on what we saw in the European Union. If they can part ways peacefully, so can we.” Mr. Dodik, *Prva*, 16 February 2020.

[2] "The occupational, or as they call it the Constitutional Court of Bosnia and Herzegovina, wants to take everything away from [the Republika Srpska]. How can we respect this monster?! If we gave in now, they would take our forests, waters, electricity generation, public goods... This was devised by their strategists as a way to smother the Republika Srpska. But that is in vain. It is more likely that Bosnia and Herzegovina will disappear before this will come true. They think in Sarajevo that Bosnia and Herzegovina is some sacred Indian cow that you can't even look at." Mr. Dodik, *Večernje Novosti*, 22 February 2020. "Bosnia and Herzegovina will implode by itself, no one needs to destroy it. There will come a time that the foreigners will tire of all this. As soon as they move away, there is no Bosnia. The only functioning thing will be what functions now, and that is the Republika Srpska. Probably, the Bosniaks and Croats will divide themselves into two territorial units." Mr. Dodik, *Večernje Novosti*, 22 February 2020.

[3] "I had said earlier [the church] should be relocated, now I think it should not. There you are. Until everything is solved, there is no solution. Until everything is clear, nothing should be done. I had said earlier publicly this should be done, as a human being, that is, but now as a responsible official I think it should not, until we resolve all open issues in our mutual relations, even if it concerns the European Court; let this European Court resolve the Sejdić-Finci issue." Mr. Dodik, National Assembly of the Republika Srpska, Republika Srpska News Agency (SRNA), 28 February 2020.

[4] "Bosnia and Herzegovina can only survive by returning to the original Dayton ... All that High Representatives have done in violation of the Dayton Peace Agreement will not be sustainable, which the international community must also know." Mr. Dodik, Banja Luka, 20 January 2020.

[5] "The National Assembly of the Republika Srpska will decide to cancel and withdraw all of our approvals, of which there are three. The National Assembly of the Republika Srpska may decide to enter the consent withdrawal process. If we decide on something like this, we will make it. Maybe we will make a decision to form the Republika Srpska Army." Mr. Dodik, N1 television news network, 12 February 2020.

[6] "I'll see you in 60 days. I believe I'll be more convinced when I address you then and be closer to what I said at the beginning - goodbye Bosnia and Herzegovina, welcome Republika Srpska exit." Mr. Dodik addressing National Assembly of the Republika Srpska on 17 February 2020.

[7] "Finally, the people will decide. We will ask that the status of the Republika Srpska be decided through a referendum. I have heard President Vučić present arguments for keeping the peace. That is all right. But a time comes when people cannot allow us to be stupid." Mr. Dodik, *Balkan Insight*, 15 February 2020.

[8] Available from www.ohr.int/statement-by-the-hr-valentin-inzko-state-officials-are-not-entityrepresentatives/.

[9] "Serbs in these areas know that there is no freedom for the Serb people without their own state. Serbs today have two states: Serbia and the Republika Srpska. The Republika Srpska is our life as a synonym for our freedom and our right to live here." Mr. Dodik, RTS television network, 9 January 2020.

[10] Ambassadors of France, Germany, Italy, the United Kingdom of Great Britain and Northern Ireland and the United States of America, joined by the European Union Special Representative in Bosnia and Herzegovina.