

# 62nd report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General

## *Summary*

The present report covers the period from 16 April to 15 October 2022.

The reporting period was dominated by the general elections on 2 October 2022. The political parties and relevant institutions focused on the preparations for and setting up of the elections, unfortunately partly by questioning their conduct and blocking their financing, as well as on the registration of parties and candidates and the election campaigns.

My activities had to be twofold: first, to guarantee that the citizens of Bosnia and Herzegovina could exercise their basic constitutional right to elect their representatives, and secondly, to ensure that the will of the voters would be implemented after the elections. Pursuant to the Election Law of Bosnia and Herzegovina, the responsible authorities were obliged to secure the funds needed for the conduct of the general elections within 15 days after the day of their announcement on 4 May 2022 by the Central Election Commission of Bosnia and Herzegovina. However, by early June, no agreement on funding for the elections had been found. A belated decision by the Council of Ministers of Bosnia and Herzegovina of 6 June did not allocate sufficient funding to

the Central Election Commission. I therefore enacted on 7 June a package of decisions enabling the financing of the general elections of 2022, as well as future elections. Without this intervention, it would not have been possible to prepare for and conduct the general elections on 2 October.

In the exercise of the powers vested in the High Representative by annex 10 of the General Framework Agreement for Peace and bearing in mind the prominent role that elections play for the future of Bosnia and Herzegovina, I enacted amendments to the Election Law of Bosnia and Herzegovina on 27 July to bring it more in line with international standards and good practices. My intervention was guided by the need to prevent election fraud and to improve election transparency and relied extensively on a pending legislative proposal before the Parliamentary Assembly of Bosnia and Herzegovina. I gave the Central Election Commission the means to sanction violations of the rules of conduct in the election campaign. As a result, the Commission was reinforced and the new rules were applied during the general elections.

On election day, a total of 90 parties, 38 coalitions and 17 independent candidates participated. Voter turnout was around 50 per cent, 4 per cent lower than in 2018. During the election campaign, which started on 2 September, the political debate focused on personalities and their affiliations and paid comparatively little attention to political platforms. Some parties and candidates continued to use nationalist and divisive rhetoric, although somewhat less than in previous campaigns. Whereas some parties were affiliated with a particular constituent people, others appealed to a mixed electorate.

In the Bosnia and Herzegovina entity of the Republika Srpska, the ruling Alliance of Independent Social Democrats created an atmosphere in which government critics and opposition politicians were often labelled as traitors and foreign

agents. Compromising video footage and documents were used against political opponents during the campaign. In the entity of the Federation of Bosnia and Herzegovina, the pre-election campaign was comparatively quiet, although polarization between Bosniak and Croat positions increased. As in previous elections, the media environment was fragmented along ethnic and political lines.

According to the preliminary results from the Central Election Commission, the opposition candidate Denis Bećirović (Social Democratic Party) was elected as the Bosniak member, the incumbent Željko Komšić (Democratic Front) was elected as the Croat member and Željka Cvijanović (Alliance of Independent Social Democrats) was elected as the Serb member of the three-member Presidency of Bosnia and Herzegovina. Many observers considered the defeat of Bakir Izetbegović, leader of the dominant Bosniak Party of Democratic Action, to be the biggest surprise of the elections. In the election for the President of the Republika Srpska, the preliminary results show a victory of incumbent Bosnia and Herzegovina Presidency member Milorad Dodik (Alliance of Independent Social Democrats) over opposition candidate Jelena Trivić (Party of Democratic Progress). However, on 10 October, based on a review of material evidence suggesting irregularities and mathematical inconsistencies, the Central Election Commission of Bosnia and Herzegovina issued an order to the main counting centre to conduct a control count of all ballots from all polling stations for the positions of President and Vice-Presidents of the Republika Srpska. The control count commenced on 13 October and had not been completed at the time of the submission of the present report.

On 2 October, the citizens of Bosnia and Herzegovina also elected new parliamentary bodies: the House of Representatives of Bosnia and Herzegovina, the House of Representatives of the Federation of Bosnia and Herzegovina, the National Assembly of the Republika Srpska and the 10 assemblies of the cantons of the Federation of Bosnia and Herzegovina. The preliminary

election results show some diversity, although no significant change. Parties with a clear ethnic affiliation were able to maintain their strong position in most parliaments of the country. In the three cantons with the largest Croat population, the Croat Democratic Union of Bosnia and Herzegovina kept its relative strength, while the Croat Democratic Union 1990 came in second among the Croat parties. According to the preliminary results, 11 parties passed the threshold to enter the National Assembly of the Republika Srpska, where Mr. Dodik's Alliance of Independent Social Democrats remains the strongest party, with more than 35 per cent of the votes.

I deeply regret to inform the Security Council that in the Federation of Bosnia and Herzegovina, the Government from the 2014–2018 mandate is still in place owing to the failure of political leaders to appoint new authorities following the 2018 general elections. In the weeks before the elections, I underlined that in a democratic society, the will of the voters must be implemented and that I would not allow the political deadlock of 2018 to be repeated.

Political parties engaged over several months in a dialogue on electoral reform aiming at unblocking political deadlocks in the Federation of Bosnia and Herzegovina, facilitated by the United States of America and the European Union. The process ended without reaching a compromise solution.

In view of the failure of the dialogue process and given the high risk that the formation of institutions after the elections would once again be blocked, I enacted on 2 October the Decision Enacting Amendments to the Constitution of the Federation of Bosnia and Herzegovina and the Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina. This so-called functionality package contains a set of measures that allow the rapid establishment of legislative, executive and judicial bodies after the elections. In order to respect the decision of the voters, I

published these decisions after the closure of the polling stations and before the announcement of the first preliminary election results. Neither decision affects the counting of the votes.

I increased the size of the House of Peoples of the Federation of Bosnia and Herzegovina to allow a distribution of seats that corrects the overrepresentation of all three constituent peoples in some cantons, but also to allow, for the first time, Others (i.e. those who are not from the three constituent peoples) from all cantons to be represented in the House of Peoples. An element of this measure is the timely election of delegates to the House of Peoples by the cantonal assemblies. I also introduced measures to improve the expediency of the process for the nomination of the President and Vice-Presidents of the Federation of Bosnia and Herzegovina.

Apart from addressing the formation of the legislative and executive authorities, I introduced unblocking mechanisms to safeguard the functioning of the Federation of Bosnia and Herzegovina by simplifying procedures and by introducing deadlines and consequences for ignoring the deadlines. Specifically, I expedited parliamentary decision-making by obliging both houses to cooperate and consider acts within a deadline. For reasons of expediency and to prevent abuse, I limited the range of issues on which a vital national interest can be invoked. However, the implementation of the judgments by the European Court of Human Rights in the Sejdić-Finci group of cases and the functional discrepancy of the House of Peoples of the Federation (being at the same time a general legislative second chamber and a representative body of the three constituent peoples and the Others) are beyond the scope of this decision and must be addressed by national actors in a political process.

Furthermore, my measures facilitate the appointment of judges to the Constitutional Court of the Federation of Bosnia and

Herzegovina and its Vital National Interest Panel, including those currently pending, but also limit the representation of constituent peoples in key executive and legislative positions in the Federation of Bosnia and Herzegovina. Lastly, I obliged the parliamentary bodies of the Federation to solicit citizen participation, including from youth, to encourage a more responsive and accessible legislative process.

In the reporting period, the authorities of the Republika Srpska continued to undermine the State institutions of Bosnia and Herzegovina by obstructing their work and decision-making, as well as by claiming constitutional and legal competences of the State for the Republika Srpska. These actions were often accompanied by secessionist rhetoric. Bosnia and Herzegovina Presidency member and leader of the Alliance of Independent Social Democrats, Milorad Dodik, in particular continued to challenge the fundamentals of the General Framework Agreement for Peace.

Apart from the positive developments in the Brčko District and an important decision taken by the Constitutional Court of Bosnia and Herzegovina on 22 September to repeal the Law on Immovable Property Used for the Functioning of the Public Authority of the Republika Srpska, little progress has been made in the implementation of the 5 plus 2 agenda. When it comes to the fiscal sustainability of the State, I wish to highlight that the Republika Srpska continued to use the uncertainty and inadequacy of the financing of State institutions as an instrument to undermine the functionality of the State of Bosnia and Herzegovina. With regard to state and defence property, the rule of law and fiscal sustainability, Bosnia and Herzegovina still faces considerable challenges.

As for the economy, the preliminary indicators for 2022 show some positive trends, although they do not necessarily imply improved levels of economic and social development. The registered unemployment level is close to 30 per cent, while

the share of unemployed youth in total unemployment is over 18 per cent. The average salary and pension are significantly below the average price of the basket of goods, suggesting that even those with steady incomes struggle to make ends meet. Pensioners are particularly vulnerable: about 60 per cent, or about 421,000 persons, receive the minimum pensions and survive on between 8 and 14 marka (KM) a day.

Economic and social challenges and widespread nepotism and corruption have had serious consequences for Bosnia and Herzegovina. The outflow of youth is among the most serious of the problems. Although there is no precise data on how many young people have left the country in recent years, there are estimates that nearly half a million people have left Bosnia and Herzegovina in the past 10 years. About 170,000 persons left Bosnia and Herzegovina in 2021, while 350,000 persons are expected to leave in 2022.

It remains to be seen if the general elections of 2 October have brought a fundamental change in the participation of women in political life in Bosnia and Herzegovina. According to some estimates, women made up less than 25 per cent of the membership of parliaments at the State and entity levels in the previous mandate, while their number in the executive authorities was even more discouraging. At the local level, of all mayors elected in the local elections in 2020, only 4 per cent were women. Gender equality remains generally a significant challenge.

A clear majority of the population continues to support the European Union integration of Bosnia and Herzegovina. I welcome the recommendation of the European Commission to the European Council that Bosnia and Herzegovina be granted candidate status in the European Union. This clear signal of prospective European Union integration for Bosnia and Herzegovina is especially important now, when international law is being trampled and principles such as sovereignty and territorial integrity are being questioned or violated. I am

committed to working with the authorities, institutions and citizens to set the country on the irreversible path of progress that would turn this vision into a reality.

Given the current political situation, I recommend increased engagement by the international community to ensure full compliance with the General Framework Agreement for Peace and allow for critical reforms. In this regard, the European Union military operation in Bosnia and Herzegovina (EUFOR-Althea) continues to play a vital role in safeguarding peace and security in Bosnia and Herzegovina, enabling my Office and many other international organizations to fulfil our respective mandates. The presence of EUFOR-Althea in Bosnia and Herzegovina remains indispensable.

## **I. Introduction**

1. The present report is my third regular report submitted to the Security Council since I assumed the post of High Representative for Bosnia and Herzegovina in 2021. It represents an impartial assessment of the implementation of the civilian aspects of the General Framework Agreement for Peace, with information on developments and progress towards achieving previously established goals.

2. I am fulfilling my mandate pursuant to annex 10 to the General Framework Agreement and in accordance with relevant decisions of the Security Council. Meeting the five objectives and two conditions (the 5 plus 2 agenda) set in 2008 for Bosnia and Herzegovina to transition from international oversight remains the obligation of the Bosnia and Herzegovina authorities to fulfil. As my report indicates, however, the recent general elections were held in a climate of mistrust and political deadlock, coupled in some cases with outright rejection not only of the objectives of the 5 plus 2 agenda but of fundamental elements of the General Framework Agreement.



3. I reiterate that the parties must fully comply with the General Framework Agreement and overcome blockages at all levels of government so that Bosnia and Herzegovina can take the obligatory political and legal steps to advance on its path towards European Union integration. I welcome the recommendation of the European Commission to the European Council that Bosnia and Herzegovina be granted candidate status in the European Union. This clear signal of prospective European Union integration for Bosnia and Herzegovina is especially important now, when international law is being trampled and principles such as sovereignty and territorial integrity are being questioned or violated. I am committed to working with the authorities, institutions and citizens to set the country on the irreversible path of progress that would turn this vision into a reality.

4. In the reporting period, many of my national and international interlocutors emphasized the need to accelerate the integration of Bosnia and Herzegovina into the European Union. In order to advance such integration, the President of the European Council, Charles Michel, and the High Representative of the Union for Foreign Affairs and Security Policy, Josep Borrell, hosted a meeting on 12 June in Brussels with the members of the Presidency of Bosnia and Herzegovina and the leaders of the political parties represented in the Parliamentary Assembly. The political agreement signed by the political party leaders and the members of the Presidency on that occasion is a crucial, collective commitment to democratic principles, human rights, the General Framework Agreement for Peace and the implementation of the 14 key priorities set out in the Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union. The political leaders also committed to electoral reforms and "those limited constitutional reforms needed to ensure full compliance" with the judgements of the European Court of Human Rights and the Bosnia and Herzegovina Constitutional Court and the recommendations of the European

Commission for Democracy through Law (Venice Commission), the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) and the Group of States against Corruption. To my regret, the political parties did not reach a consensus on such reforms in the run-up to the elections. I therefore encourage them to address these questions as soon as legislative and executive institutions are established after the general elections of 2 October.

5. The international community in Bosnia and Herzegovina remains committed to easing tensions and advocating dialogue and compromise.

## **II. Political update**

### **A. General political environment and challenges to the General Framework Agreement for Peace**

6. The reporting period was, to a large extent, dominated by the general elections of 2 October. Voters elected the members of the Presidency of the State of Bosnia and Herzegovina, the Members of the House of Representatives of Bosnia and Herzegovina, the House of Representatives of the Federation of Bosnia and Herzegovina, the President and Vice-Presidents of the Republika Srpska, the delegates of the National Assembly of the Republika Srpska and the delegates of the 10 cantonal assemblies in the Federation of Bosnia and Herzegovina.

7. The Central Election Commission of Bosnia and Herzegovina registered a total of 3,368,666 voters, 69,966 of them abroad; 90 parties, 38 coalitions and 17 independent candidates were certified for participation in the elections. During the election campaign, which started on 2 September, nationalist and divisive rhetoric was used by some parties and candidates, although to a lesser extent than in previous campaigns. The amended legal preventative and repressive measures to avoid hate speech and electoral fraud seem to have contributed to

the reduction of such offenses. The campaign focused on personalities and affiliations and paid comparatively little attention to the substance of the party platforms.

8. As in previous elections, the media environment was fragmented and mainly divided along ethnic and political lines.

9. In the Republika Srpska, candidates and parties often used nationalistic and divisive rhetoric. The ruling coalition sometimes portrayed its critics and opponents as traitors and foreign agents, using the public broadcaster to promote its agenda. The campaign of the opposition focused on the fight against corruption.

10. In the Federation of Bosnia and Herzegovina, the campaign was relatively quiet, apart from disagreements about constitutional and electoral reforms. As in the Republika Srpska, some political actors sought to compromise their opponents through allegations of illegal actions or scandalous behaviour.

11. During the reporting period my priorities were: (a) to enable the conduct of the general elections, including through a decision on election financing taken on 7 June (Decision No. 2/22);[\[11\]](#) (b) to strengthen the integrity of the elections and address election fraud through a decision taken on 27 July (Decision No. 5/22);[\[21\]](#) and (c) to ensure a rapid establishment of institutions after the elections in accordance with the will of the voters.

12. My Decision No. 5/22 of 27 July contains the so-called integrity package, which is a set of amendments to the Election Law of Bosnia and Herzegovina. The package strengthens the integrity of elections and improves transparency by giving the Central Election Commission of Bosnia and Herzegovina the means to sanction violations of the rules of conduct in the election campaign. The Commission was

crucial in implementing these amendments and ensuring that the elections followed the relevant legislation. It introduced additional safeguards for the elections, such as a new system for sending supervisors to the municipal election commissions.

13. According to the Central Election Commission, opposition candidate Denis Bećirović (Social Democratic Party) secured the Bosniak seat in the three-member Presidency, incumbent Željko Komšić (Democratic Front) won the Croat seat and Željka Cvijanović (Alliance of Independent Social Democrats) took the Serb seat. Many observers consider the defeat of Bakir Izetbegović, leader of the dominant Bosniak Party of Democratic Action, as the biggest surprise of the elections. In the election for the President of the Republika Srpska, the preliminary results of the Commission show a victory of incumbent Bosnia and Herzegovina Presidency member Milorad Dodik (Alliance of Independent Social Democrats) over opposition candidate Jelena Trivić (Party of Democratic Progress). However, at the time of drafting the present report, Mrs. Trivić had disputed the result, claimed victory for herself and requested a repetition of the presidential elections due to alleged election fraud. On 10 October, based on a review of material evidence suggesting irregularities and mathematical inconsistencies, the Central Election Commission of Bosnia and Herzegovina issued an order to the main counting centre for a control count of all ballots from all polling stations for the positions of President and Vice-Presidents of the Republika Srpska. The control count commenced on 13 October and had not yet been completed when the present report was being written.

14. The elections of 2 October did not bring great changes to the composition of the various parliaments at the state, entity and cantonal levels. According to the uncertified results, the biggest winners were parties affiliated with one of the three constituent peoples, that is, the Bosniak Party of Democratic Action, the Serb Alliance of Independent Social

Democrats and the Croat Democratic Union of Bosnia and Herzegovina. Seven parties from the Federation of Bosnia and Herzegovina and nine from the Republika Srpska passed the threshold of 3 per cent and will enter the House of Representatives of Bosnia and Herzegovina.

15. In the Republika Srpska, 11 parties passed the threshold to enter the National Assembly. The Alliance of Independent Social Democrats remained the strongest party, with more than 35 per cent of the votes.

16. The 10 cantonal assemblies of the Federation of Bosnia and Herzegovina offer a diverse picture. In the three cantons with the biggest Croat population, the Croat Democratic Union of Bosnia and Herzegovina maintained its relative strength, while the Croat Democratic Union 1990 came in second among the Croat parties. In urban cantons of the Federation of Bosnia and Herzegovina, namely in Sarajevo and Tuzla, a coalition of three multi-ethnic civic parties, the Social Democratic Party, People and Justice (Narod i Pravda) and Our Party (Naša Stranka), achieved good results. The Central Election Commission has to certify all the election results by 1 November.

17. The certified final results will show whether the general elections of 2 October have brought a fundamental change in the participation of women in political life in Bosnia and Herzegovina. According to some estimates, women made up less than 25 per cent of the membership of parliaments at the State and entity levels in the previous mandate, while their number in the executive authorities was even more discouraging. At the local level, of all the mayors elected in the local elections in 2020, only 4 per cent were women. The Election Law of Bosnia and Herzegovina requires that male and female candidates be equally represented on every candidate list and stipulates that equal representation exists when one of the sexes is represented with a minimum of 40 per cent of the total number of candidates on the list. In the general

elections of 2 October, women were represented on the lists of candidates for all levels of authority but there is no official confirmation that the quantity met the legal requirement or of how many women were elected.

18. To my deep regret, blockages at various levels have characterized political life in Bosnia and Herzegovina in recent years. After the 2018 general elections, political leaders failed to agree on a new government in the Federation of Bosnia and Herzegovina. The 2014–2018 Government remained under a technical mandate through 2022. In an attempt to unblock this situation, political parties engaged in a dialogue on possible electoral reform in early 2022, facilitated by the United States of America and the European Union. The parties did not reach a compromise, risking the possibility that the will of the voters may once again be ignored after the elections on 2 October.

19. Against this backdrop and exercising the powers vested in the High Representative by the General Framework Agreement for Peace, I enacted on 2 October, after the closure of polling stations, the Decision Enacting Amendments to the Constitution of the Federation of Bosnia and Herzegovina (Decision No. 6/22) and the Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina (Decision No. 7/22). This so-called functionality package contains a set of measures that enable the rapid establishment of legislative, executive and judicial bodies after the elections.

20. Inflammatory rhetoric was not limited to the campaign period. The Serb member of the Bosnia and Herzegovina tripartite Presidency, Milorad Dodik, continued questioning the fundamental provisions of the General Framework Agreement for Peace and pursuing a secessionist policy. The Republika Srpska authorities are still subverting the State institutions of Bosnia and Herzegovina by declining to participate in decision-making at various levels. They often block decisions on budgets and appointments and claim constitutional and legal

competences of the State for the Republika Srpska entity. Profound differences in assessing the war of 1992–1995 remain a crucial stumbling block for reconciliation in Bosnia and Herzegovina.

21. I have also noted some divisive and aggressive rhetoric in the Federation of Bosnia and Herzegovina. On 27 July, for instance, Bakir Izetbegović, President of the Bosniak-dominated Party of Democratic Action, declared at a party meeting in Hadzici: “We have made a headcount – how many hunters we have, and how many young people, and how many drone instructors we have, and so on. I won’t go any further, but just so you know.”[\[3\]](#) A number of Croat politicians have called the State structure into question and threatened further territorial divisions. Those include Dragan Čović, President of the Croat Democratic Union of Bosnia and Herzegovina and the Croat National Assembly as an umbrella organization of Croat parties led by the Croat Democratic Union. In a letter addressed to numerous officials of the international community and published after the announcement of the general elections by the Central Election Commission, he stated: “In view of the further continuation of the process of abolishing the parity, equality and constitutionality of the Croat people, the [Croat National Assembly] will proceed with the implementation of all conclusions from the extraordinary session of the [Assembly] from 19 February 2022 and initiate all legal procedures and political steps for a new institutional and territorial organization in Bosnia and Herzegovina on the principles of federalism and consociational democracy, which will ensure the complete constitutional equality of the Croat constituent people in Bosnia and Herzegovina.”[\[4\]](#) While the secessionist rhetoric of Mr. Dodik shows no sign of decline and has even intensified, in the Federation of Bosnia and Herzegovina rhetoric that advocates division, creates distrust and gives rise to fear within the population has decreased in the aftermath of the general elections. However, on 10 October 2022, in a letter to the

international community, Mr. Čović affirmed that “The Croat National Assembly of Bosnia and Herzegovina remains committed to the sovereignty, territorial and institutional integrity as well as the Euro-Atlantic path of Bosnia and Herzegovina”.

22. Secessionism, political deadlocks and weak rule of law remain crucial challenges for comprehensive implementation of the civilian aspects of the General Framework Agreement, the completion of the 5 plus 2 agenda and the advancement of Bosnia and Herzegovina on its path towards European Union integration. It remains essential to maintain international attention on the situation in Bosnia and Herzegovina.

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

### **Decisions on election financing**

23. On 7 June, I adopted a package of decisions enabling the financing of the general elections on 2 October.[\[5\]](#) These decisions remedied the failure of the responsible authorities of Bosnia and Herzegovina to meet their obligations under the Election Law of Bosnia and Herzegovina to secure the funds needed for the conduct of the general elections within 15 days of the day of their announcement by the Central Election Commission on 4 May. A decision of the Council of Ministers of Bosnia and Herzegovina of 6 June by which funds were allocated to the Central Election Commission was both overdue and insufficient, as it did not ensure that the Commission could fulfil its obligations concerning the general elections.

24. With the aim of ensuring that the citizens could exercise their basic constitutional right to elect their representatives, my decisions established a system that applies to both general and local elections and enables the financing of elections in periods of temporary financing, that is, in situations in which the budget for the respective year has not been adopted.



25. The package provides a systemic solution for the financing of future elections and continuous financing of all State institutions in case the competent bodies fail to adopt a budget on time. If an annual budget is not adopted in a timely fashion in the future, temporary financing of the State institutions will automatically take effect, based on the last adopted budget. These measures enable the Ministry of Finance and Treasury of Bosnia and Herzegovina to proceed with payments without an additional decision by the Council of Ministers. They also bring the Law on Financing of the Institutions of Bosnia and Herzegovina into compliance with the Constitution of Bosnia and Herzegovina. The objective is to safeguard the uninterrupted financing and continuous functioning of State institutions.

### **Decision on the integrity of elections**

26. Regrettably, the political parties were unable to reach an agreement on electoral reform addressing the rulings of the European Court of Human Rights and the Constitutional Court of Bosnia and Herzegovina. Deficiencies related to the integrity of the electoral process identified by international institutions, including the Office for Democratic Institutions and Human Rights of OSCE and the Venice Commission, were not addressed either. A proposal for amendments to the Election Law of Bosnia and Herzegovina introduced by a group of delegates from six political parties failed in the House of Representatives of Bosnia and Herzegovina.

26. I commend the tireless efforts of the European Union and United States facilitators to broker an agreement among the parties on this issue.

27. Bearing in mind the prominent place that elections have under the General Framework Agreement for Peace, I enacted the Law on Amendments to the Election Law of Bosnia and Herzegovina on 27 July to bring the Election Law more in line with international standards and good practices for democratic

elections, as recommended by the Office for Democratic Institutions and Human Rights of OSCE and underlined by the European Commission in its Opinion on Bosnia and Herzegovina's application for membership of the European Union.

28. My intervention was guided by the need to help prevent election fraud and guarantee that the elections of 2 October would be held applying international standards. These measures improve transparency in the election process and give the Central Election Commission the means to sanction violations of the rules of conduct in the election campaign and irregularities during the conduct of the elections.

### **Decisions related to the functionality of the Federation**

30. Bearing in mind the need to guarantee that the results of the elections held on 2 October will be implemented shortly thereafter regardless of the outcome, which is an essential element for elections to be considered free, fair and democratic, and mindful of the need to ensure that guarantees and safeguards built into the Constitution of the Federation of Bosnia and Herzegovina and the Election Law of Bosnia and Herzegovina are not used to the detriment of good governance and the functionality of institutions, on 2 October I enacted the Amendments to the Constitution of the Federation of Bosnia and Herzegovina and the Law on Amendments to the Election Law of Bosnia and Herzegovina.

31. My interventions, which affect only the post-election establishment of indirectly elected bodies, are aimed at improving the functionality of the Federation of Bosnia and Herzegovina and ensuring timely implementation of the results of the 2 October elections. I increased the size of the House of Peoples of the Federation of Bosnia and Herzegovina to allow a distribution of seats that corrects the overrepresentation of all three constituent peoples in some cantons, but also to allow, for the first time, Others from all cantons to be represented in the House of Peoples. An

element of this measure is the timely election of delegates of the House of Peoples by the cantonal assemblies. Moreover, I introduced measures to improve the expediency of the process for the nomination of the President and Vice-Presidents of the Federation of Bosnia and Herzegovina.

32. In addition to addressing the formation of the legislative and executive authorities, I introduced unblocking mechanisms to safeguard the functioning of the Federation of Bosnia and Herzegovina by simplifying procedures and by introducing deadlines and consequences for ignoring the deadlines. Specifically, I expedited parliamentary decision-making by obliging both parliamentary houses to cooperate and consider acts within a deadline. For reasons of expediency and to prevent abuse, I limited the range of issues on which a vital national interest can be invoked.

33. Furthermore, my measures facilitate the appointment of judges to the Constitutional Court of the Federation of Bosnia and Herzegovina and its Vital National Interest Panel, including those currently pending, but also limit the representation of constituent peoples in key executive and legislative positions in the Federation of Bosnia and Herzegovina. Lastly, I obliged the parliamentary bodies of the Federation to solicit citizen, participation, including from youth, to encourage a more responsive and accessible legislative process.

34. My decisions do not prejudge any solution that would be part of post-election electoral reform and do not affect the need for and the urgency of implementing the European Court of Human Rights judgments in the Sejdić and Finci group of cases.

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

### **Progress on objectives**

35. Apart from the continued positive developments in the

Brčko District and an important decision taken by the Constitutional Court of Bosnia and Herzegovina on 22 September that abrogated the Law on Immovable Property Used for Functioning of Public Authority of the Republika Srpska, little progress has been made in the implementation of the 5 plus 2 agenda. Namely, with regard to state and defence property, the rule of law and fiscal sustainability, Bosnia and Herzegovina still faces considerable challenges. The Office of the High Representative continues to work towards constructive solutions in close cooperation with national and international partners.

### **State and defence property**

36. As stated in my previous report ([S/2022/374](#)), on 12 April I enacted two decisions related to the issue of State property. The first one, the Order Suspending the Application of the Republika Srpska Law on Immovable Property Used for Functioning of Public Authority, was aimed at preventing negative legal effects until the Constitutional Court of Bosnia and Herzegovina reached a final decision on the compatibility of this law with the State Constitution. The second decision, the Decision Enacting the Law on Amendments to the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina, was imposed to update and harmonize the ban imposed in 2005 with relevant decisions of the Constitutional Court and extend the scope of protection of public assets.

37. On 22 September, ruling at the request of six delegates of the House of Peoples of Bosnia and Herzegovina, the Constitutional Court of Bosnia and Herzegovina decided that the Republika Srpska did not have the constitutional authority to regulate matters subject to the Law on Immovable Property, as that is the jurisdiction of Bosnia and Herzegovina. The Republika Srpska Law was put out of force. This ruling affirmed my Decision of 12 April and is fully consistent with the previous jurisdiction on matters of state property.

38. After the enactment of my Decisions in April, officials from the Republika Srpska publicly expressed their intent to ignore them and implement the suspended Republika Srpska Law on Immovable Property. Milorad Dodik, member of the Presidency of Bosnia and Herzegovina, stated, "the property is ours and the law will be implemented, as it is written". The President of the Republika Srpska, Željka Cvijanović, declared "it is necessary to ensure the law's implementation in the upcoming period", implying that this involved "clerical activities, i.e., activities of different bodies at different levels". Mr. Dodik reaffirmed his position by stating "there is no giving up on enforcement of the law, the property we have at our disposal is registered as the property of the Republika Srpska. They can pressure and persecute us, we are not ready to give the property."

39. At its thirty-fifth special session, held on 14 September, the National Assembly of the Republika Srpska adopted new changes and amendments to two property-related laws: the Republika Srpska Law on Legalization of Illegally Constructed Buildings and the Republika Srpska Law on Agricultural Land. The main goal of these amendments was to extend the deadline for the "legalization" of illegally constructed buildings and to simplify the entire "legalization procedure". Regarding state property, the amendments to the Republika Srpska Law on Agricultural Land raise particular concern, as any unilateral transfer, disposal or re-registration of agricultural land violates the State Property Disposal Ban and the relevant decisions of the Constitutional Court of Bosnia and Herzegovina.

40. After the ruling of the Constitutional Court of 22 September, fierce reactions by Republika Srpska politicians suggest that non-compliance with the new court decision must be expected.

41. In reaction to these negative developments in the Republika Srpska, there have been public calls on the High

Representative to enact an order to register all state property throughout the country in favour of its legal titleholder, the State of Bosnia and Herzegovina.

42. Let me underline that the existing decisions of the Constitutional Court of Bosnia and Herzegovina result from a review of the constitutionality of several property laws of the Republika Srpska. Unlike the said Republika Srpska laws, for which final decisions of the Constitutional Court of Bosnia and Herzegovina exist, relevant property legislation in the Federation has not been subject to a review of constitutionality. In principle, the legislation of the Federation does not provide for systemic and comprehensive re-registration of agricultural or forest land, such as in the cases of the previously challenged Republika Srpska legislation. However, all relevant laws throughout the country require attention and review in the light of the existing jurisprudence of the Constitutional Court of Bosnia and Herzegovina. In addition, every potential case of (illegal) disposal of state property must be investigated and processed by the competent authorities.

43. Following this reasoning, on 5 May 2022 I sent a letter to the Prime Ministers of the Federation and of all 10 cantons and the Mayor of Brčko District, with a request to initiate a review of existing laws in the Federation of Bosnia and Herzegovina and Brčko District regulating various categories of state and public property and, if necessary, to amend them following the principles contained in the relevant decisions of the Constitutional Court of Bosnia and Herzegovina. Several prime ministers and governments reacted positively and proactively to this request and established working groups to conduct the required review and harmonization.

44. According to a public statement issued by the Administration for Geodetic and Property-related Affairs of the Republika Srpska in May, 100 per cent of all forests and forestland in the Republika Srpska previously registered as

socially owned property is now registered as property of the Republika Srpska. In addition, 50 per cent of the agricultural land previously registered as socially owned property is now, by law, registered as property of the Republika Srpska. These registrations were conducted under provisions of Republika Srpska laws declared unconstitutional by the Constitutional Court of Bosnia and Herzegovina. These registrations of various categories of public assets as Republika Srpska property leave no room for any agreement on the distribution or apportionment of state property following the relevant decisions of the Constitutional Court and in the context of the 5 plus 2 agenda.

### **Implementation of the Brčko final decision**

45. In the present reporting period, Brčko District institutions continued to focus on reforms promoting fiscal discipline and transparency in public spending, infrastructure development and economic growth, while strengthening anti-corruption measures and launching reform of public administration. Success in these sectors ensures a functional, sustainable and resilient Brčko District.

46. The Brčko District Supervisor and the Office of the High Representative continued to promote sustainable reforms and advance Brčko District towards completing the terms of the Final Award.

47. The authorities of Brčko District focused on the practical implementation of the reform legislation adopted in the previous period, including the timely preparation of the District budget for 2023. Authorities worked on transparency measures, including allocating a certain percentage of the annual budget for capital projects, infrastructure development and advancing public services.

48. Good public services and strong anti-corruption measures are vital for the prosperity of the Brčko District. The Anti-

Corruption Office is currently preparing the necessary documentation for the inspection of the diplomas of all appointees and public servants, in cooperation with the Brčko District Inspectorate and under the supervision of the United States Bureau of International Narcotics and Law Enforcement Affairs, which operates within the United States Embassy in Bosnia and Herzegovina. This requires amending the Law Establishing the Anti-Corruption Office, which is currently being done with assistance from legal experts within the Office of the High Representative and the United States Bureau.

49. During the reporting period, authorities continued programmes established in 2021 to improve fiscal transparency and good governance standards, such as: (a) civil service reform, including a new Law on Civil Service and a Law on Public Employees to establish transparent and merit-based hiring practices; (b) public administration reform to ensure coordinated, accountable and transparent resource management; and (c) improved financial oversight of publicly owned enterprises in the Brčko District.

50. To further align Brčko District legislation with European Union standards, amendments to the Law on Police and the Law on Police Officers were completed and sent to the Assembly for final adoption.

51. Brčko District also took further steps to strengthen its energy security and drafted legislation to stimulate investment in renewable energy. In addition to the Law on Electricity adopted in the previous reporting period, two complementary laws (the Law on Renewable Energy Sources and the Law on Energy Efficiency) were adopted in June and July, respectively. An Energy Working Group was established to identify additional legislative barriers to investment in these new energy sectors. In line with the Sustainable Energy and Climate Action Plan adopted last October, the District has continued to invest in retrofitting public buildings for



better energy efficiency.

52. As infrastructure development is vital for increased investment, the authorities in Brčko District are prioritizing the modernization of Brčko Port. Preparatory work is also under way to ensure a sustainable and clean water supply for all communities in urban and suburban areas. The District succeeded in securing funding from the World Bank's Sava and Drina Rivers Corridors Integrated Development Programme for five additional infrastructure projects.

53. An agroprocessing economic zone in Brčko District was launched in June based on an agreement signed in 2021 with an Austrian-based consortium, with an investment of €10 million. The investments will generate 4,000 new private sector jobs, which will help to break patronage networks established through dependency on party-controlled public sector jobs.

54. In the reporting period, preliminary discussions were held on reconstructing the Brčko-Gunja bridge connecting Brčko Port with the commercially crucial Zagreb-Belgrade highway in Croatia. Croatia and Bosnia and Herzegovina concluded a draft agreement, which is now awaiting initialling by the respective national ministries before its ratification.

55. On 6 September, Brčko District authorities and the two entities of Bosnia and Herzegovina agreed on routes for the planned Belgrade-Sarajevo and Belgrade-Banja Luka highways through the District. The Brčko Port modernization project, the bridge renovation and construction of highways will transform Brčko into a multi-modal hub connecting Brčko to the markets of the Western Balkans and the European Union.

56. The Brčko District has adopted a plan to be mine-free by the end of 2024 to increase public safety and promote tourism. Two of the seven areas where mines were suspected to be present have been cleared. The third is expected to be cleared by the end of October. International donors and District

authorities have entered into a cost-sharing agreement to implement the project.

57. To make progress beyond multi-ethnic coexistence, the Brčko District authorities have agreed to erect a joint memorial for civilian war victims. Technical preparations have been completed, budgeted funds allotted and the construction of the monument and surrounding area commenced in early September. The monument is expected to be completed by the end of the year.

58. In order to further advance reconciliation, policymakers of the Brčko District created a new beneficiary category in the Law on the Protection of Civilian War Victims for children of wartime rape victims. The District Assembly adopted an amendment to the law formalizing their status and providing much overdue acknowledgment, setting an important precedent in Bosnia and Herzegovina.

### **Fiscal sustainability**

59. Uncertain and inadequate financing affects the ability of the institutions of Bosnia and Herzegovina to carry out their constitutional and legal obligations. The adoption on 8 June of a budget for the institutions and international obligations of Bosnia and Herzegovina for 2022 was a crucial (although long overdue) step forward, but it did not resolve the problem. The trend observed in the reporting period, including regarding the indirect taxation system and the National Fiscal Council of Bosnia and Herzegovina, suggests that there are continued attempts to weaken the State through imposing financial constraints on its institutions.

60. The Global Framework of Fiscal Balance and Policies for 2023–2025 would be the first step towards the preparation and adoption of a State-level budget for 2023, but it has not been adopted to date. The single attempt by the Bosnia and Herzegovina National Fiscal Council to meet this obligation

failed because of a lack of support for the proposed document by the representatives of the Republika Srpska in the Council. The failure blocks the 2023 budget preparation process at the State level, which should have been well advanced by now.

61. The Bosnia and Herzegovina system of indirect taxation remains vital for the fiscal stability of all levels of government in Bosnia and Herzegovina, but it is negatively affected by the inability of the Governing Board of the Indirect Taxation Authority to hold regular meetings and decide on issues within its competence. The Board has held only three sessions in the past six months, all by electronic means, adopting quarterly revenue allocations for the remainder of the year and approving the inter-entity debt settlement for the first half of 2022. There was no attempt to address longstanding issues, including the outstanding debt of KM 30 million of the Indirect Taxation Authority of Bosnia and Herzegovina to the Republika Srpska based on a Bosnia and Herzegovina court decision from 2015. The attempted debt enforcement by the Republika Srpska from the Indirect Taxation Authority public revenue accounts caused financial damage to all indirect tax revenue beneficiaries, including both entities and Brčko District, recipients of value-added tax refunds and customs insurance depositors, prompting the Court of Bosnia and Herzegovina to suspend enforcement until 11 June 2023 to allow time to identify an alternative source of funds. No solution has been identified thus far. Another longstanding dispute concerns the manner of distribution of accumulated road toll revenue reserves of about KM 200 million intended for highway and road construction. The lack of an agreement not only blocks the intended use of the funds for highway and road construction, but also financially damages the Indirect Taxation Authority as a State-level institution that neither decides on this matter nor benefits from these funds, owing to charges on deposit accounts by the Central Bank of Bosnia and Herzegovina.

62. The failure to address those issues and similar ones with financial implications, affects the functioning of the single indirect tax system and confidence in its institutional structure. By extension, this provides a pretext for the Republika Srpska to challenge the competence of the State for indirect taxation and advocate the return of this competence to the entities, as demonstrated on 10 December 2021, when the National Assembly of the Republika Srpska adopted the Conclusion Concerning the Information on the Transfer of Responsibilities in the Field of Indirect Taxation. If pursued, this would roll back one of the most important reforms of the post-war period, which safeguards the macroeconomic and overall political stability of Bosnia and Herzegovina.

63. My Office continued to follow other developments relevant to the fiscal stability of Bosnia and Herzegovina, including the adoption of budgets at all levels of government. Particular attention was paid to developments related to the Central Bank of Bosnia and Herzegovina, which is the guardian of stability in the monetary and financial sector of Bosnia and Herzegovina. During the reporting period, the Central Bank carried out its constitutional and legal responsibilities professionally and efficiently, despite being faced with continued challenges. The Governing Council of the Central Bank continues to operate in a caretaker capacity, because the Presidency of Bosnia and Herzegovina has still not appointed a new Council. Presidency member Milorad Dodik has renewed his calls to free up foreign currency reserves for entity budget purposes and has put forward a legislative amendment to that end. If pursued, the proposal would compromise the currency of Bosnia and Herzegovina and threaten the country's monetary and financial stability, with further negative socioeconomic and political implications.

### **Rule of law issues**

64. Bearing in mind that enforcement of the rule of law relies

on the judiciary and that a professional judiciary free from undue political pressure and influence is key to the functioning of a state of law, I strongly support essential and long overdue improvements in the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, which appoints and disciplines all judges and prosecutors. A small package of technical amendments to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina remains unadopted after it was rejected in the Parliament and sent back to the Council of Ministers of Bosnia and Herzegovina for further legislative procedures. The amendments envision fundamental changes that would ensure the integrity of judicial functionaries and address issues of conflict of interest, disciplinary responsibilities and the legality and transparency of decisions on appointments. Since the amendments are technical, their rejection in the Parliament is due to the politically motivated pursuit of weakening State-level institutions and the judiciary.

65. Meanwhile, inconsistent practices in judicial appointments continued and on 30 June the Head of the European Union Delegation and European Union Special Representative, the Ambassador of the United States of America, the Head of the OSCE Mission to Bosnia and Herzegovina and I sent a letter to the High Judicial and Prosecutorial Council reminding it that judicial appointments should be the result of an objective and merit-based qualification process. Decisions on individual appointments must be reasoned and contain a concrete explanation for each appointment. The Council's response suggests that it is prepared to address this problem and to take further steps to promote the rule of law.

66. The Court of Bosnia and Herzegovina, the only State-level court of ordinary jurisdiction and the authority vested with competency to decide legal issues and conflict of jurisdictions between the State, the entities and the Brčko District, as well as the most serious corruption and organized

crime cases, is still not fully accepted. In the context of yet another challenge before the Constitutional Court of Bosnia and Herzegovina, on 19 August I submitted a legal opinion in the capacity of a friend of the court (*amicus curiae*), as the Law on the Court was initially enacted by the High Representative. The challenge relates to legal provisions that were recognized years ago as ready to be updated and the new draft of the legislation was considered to be a priority. The work progressed slowly, but the draft was finalized and in September was sent for an opinion to the Council of Europe's Venice Commission.

67. On 26 September, a second prosecutor in the Prosecutor's Office of Bosnia and Herzegovina, Diana Kajmaković, was sanctioned by the Office of Foreign Assets Control of the United States Department of the Treasury for being responsible for or complicit in corruption or the undermining of democratic processes or institutions in the Western Balkans. On 3 October, the United States Department also listed the incumbent Prime Minister of the Federation of Bosnia and Herzegovina, Fadil Novalić (Party of Democratic Action), as a specially designated national for actions in his official capacity. These international sanctions highlight the importance of the judicial outcome of domestic criminal processes in order to restore citizens' trust in their authorities.

## **Genocide commemoration and denial of war crimes**

### *Srebrenica genocide commemoration*

68. The period before the Srebrenica genocide commemoration on 11 July was again marked by heightened emotions and tensions in the area of Srebrenica, as well as by increasingly heated public debates about war crimes and commemorations.

69. During the reporting period, the local municipal authorities of Bratunac in the Republika Srpska refurbished

one of the sites of mass murder during the Srebrenica genocide in July 1995, located in Kravica where more than 1,300 Bosniak men and boys were executed. The refurbishment triggered a number of strong reactions, in particular among relatives of the victims, and brought the problem of preserving and marking places of mass suffering to the forefront. Requests to mark the places of mass executions in the wider Srebrenica area were subsequently followed by calls from other Bosniak representatives for similar action across the entire Republika Srpska (such as in Foča, Kalinovik and Prijedor).

70. These requests were accompanied by Serb complaints about the neglect of the fate of Serb victims and a lack of proper judicial responses to cases of Serb suffering. In this context, on 9 July Serb residents of Bratunac, supported by local authorities, placed photos of Serb victims from the area at the side of the road that leads to the Srebrenica Memorial Centre in Potočari. Although the message that “there is no justice for the Serb victims” was primarily addressed to international representatives coming to the Srebrenica commemoration ceremony, the victims’ families and genocide survivors perceived the installation as a provocation and a sign of disrespect for genocide victims. In a protest against the installation, all except one of the Bosniak councillors of the Srebrenica Municipal Assembly decided not to attend the commemorative session dedicated to all victims, which takes place on 10 July every year.

71. In this poisoned atmosphere, in early July Serbian Patriarch Porfirije conveyed a strong conciliatory message at a Serb commemoration in Bratunac. This and a few similar appeals remained exceptional and, to my regret, widely neglected in public.

### *Genocide denial and glorification of war criminals*

72. Reports from the Srebrenica Memorial Centre and the Balkan Investigative Reporting Network confirm that genocide denial

has decreased since the former High Representative, Valentin Inzko, enacted the Law on Amendment to the Criminal Code of Bosnia and Herzegovina incriminating genocide denial and glorification of war criminals. However, the Bosnia and Herzegovina Prosecutor's Office has not prosecuted any of the dozens of criminal reports received. These offences attack social cohesion and prolong suffering and they must receive swift and adequate judicial attention.

73. Unlike explicit genocide denial, cases of glorification of war criminals still occur regularly and stand in the way of reconciliation. They also have not been prosecuted by the Bosnia and Herzegovina Prosecutor's Office.

74. Many conflict-related traumas remain unaddressed. Despite several attempts, the country has not been able to implement an official countrywide truth and reconciliation mechanism. Dealing with the past is particularly challenging as nationalist rhetoric has led to diverging narratives about the conflict and the crimes committed between 1992 and 1995, which has had a direct and massive impact on the education system: divisive ethno-nationalist narratives are reflected in the various school curricula, in particular in history.

75. In numerous locations, the families of victims are not allowed to mark places of their suffering by placing a simple plaque on the wall. The adoption of State-wide legislation on memorialization processes could be instrumental in honouring the memory of victims and avoiding manipulation of narratives about the past.

76. There is also little progress on compensation for the victims of the war. The country still lacks a comprehensive programme for civilian victims of torture, including former camp detainees and survivors of conflict-related sexual violence, and for families of missing persons. Despite good practices at the entity level, a State-level law is needed to secure a non-discriminatory approach to all categories of



victims.

## **D. Further challenges to the General Framework Agreement for Peace**

### **Republika Srpska Law on Pharmaceuticals and Medical Devices**

77. After being adopted by the National Assembly of the Republika Srpska on 20 October 2021, the Law on Pharmaceuticals and Medical Devices of the Republika Srpska entered into force on 28 June 2022. This law challenges the competences and unimpeded functioning of the Agency for Pharmaceuticals and Medical Devices of Bosnia and Herzegovina as the only institution in Bosnia and Herzegovina authorized to ensure the safety and efficacy of pharmaceuticals and medical devices on the entire State territory and the only such agency established in accordance with the European Union acquis, as a requirement for Bosnia and Herzegovina in the European Union accession process. This would seriously threaten the internal pharmaceutical market, in particular the free movement of goods. It undermines the fulfilment of the international obligations of Bosnia and Herzegovina arising from international conventions related to the trafficking of narcotic drugs and psychotropic substances and goes against public health safeguards.

78. On 6 July, the Constitutional Court of Bosnia and Herzegovina granted the request of the Chair of the Presidency of Bosnia and Herzegovina, Šefik Džaferović, for an interim measure to put out of force the Republika Srpska Law on Pharmaceuticals and Medical Devices and the related Republika Srpska Law on Amendments to the Law on Republic Administration, pending a final decision of the Constitutional Court of Bosnia and Herzegovina on their constitutionality. On 27 June, the Office of the High Representative and the European Union published a joint legal memorandum on the Republika Srpska Law on Pharmaceuticals and Medical Devices, underlining the unconstitutional character of the law. The

adoption of the interim measure by the Constitutional Court made a more far-reaching intervention by the High Representative unnecessary.

79. In addition to the attempted usurpation of its competences, the Agency for Pharmaceuticals and Medical Devices of Bosnia and Herzegovina is faced, as are many other State institutions, with a chronic lack of funds and staff. This is due to the general policy of the Republika Srpska of financially weakening State institutions to impede their ability to fully meet their legal obligations, and it complements the concrete actions by the Republika Srpska to take over the State competence for pharmaceuticals and medical devices. The Agency of Bosnia and Herzegovina is not only denied the required funds and staff. In view of the expiry of the mandate of the director of the Agency on 26 March, officials from the Republika Srpska in the State institutions have stated that they would only support the appointment of a new director who would work towards the implementation of the Republika Srpska Law and help to establish a Republika Srpska agency.

### **Bosnia and Herzegovina Public Railways Corporation**

80. Financially, the Public Railways Corporation is fully dependent on entity financial transfers, which remain unreliable. The uncertainty of financing poses a risk to the sustainability of the Corporation, which is the only State-level corporation established under annex 9 of the General Framework Agreement for Peace. It also jeopardizes the only mechanism for a harmonized approach to the reconstruction of railway routes in Bosnia and Herzegovina, which would benefit the railway companies of both entities, all citizens and the country's economy.

### **III. Developments related to the State-level institutions of Bosnia and Herzegovina**

## **Presidency of Bosnia and Herzegovina**

81. The Bosnia and Herzegovina Presidency held four regular and nine urgent sessions. The Presidency maintained its regular protocol activities, receiving diplomatic delegations, making official visits abroad and participating in various international events, conferences and summits. The Presidency took decisions within its competences. Šefik Džaferović (Party of Democratic Action), serving as the Chair of the Presidency in the last rotation before the general elections, continued his active engagement in the international arena.

82. Divergences within the Presidency reflected the political crisis in Bosnia and Herzegovina. The diverging positions of Presidency member Milorad Dodik, on the one hand, and members Komšić and Džaferović, on the other hand, continued to be expressed frequently, including on the war in Ukraine, North Atlantic Treaty Organization integration and State functionality. Mr. Dodik continued to advocate the absolute neutrality of Bosnia and Herzegovina concerning the war in Ukraine and protested against Mr. Džaferović's participation in an online summit of Heads of State and Government on Ukraine at the invitation of Ukraine's Minister for Foreign Affairs. Mr. Dodik announced that he would file criminal charges against Mr. Džaferović for that participation, as well as against the Minister for Foreign Affairs of Bosnia and Herzegovina, Bisera Turković, for abuse of her position and acting against the Constitution of Bosnia and Herzegovina.

83. Mr. Dodik continued to challenge the functioning of the State of Bosnia and Herzegovina and its Presidency by voting against most agenda items. On certain occasions, he challenged the European Union integration process and criticized the European Union for not being sincere about that process and constantly setting conditions for Bosnia and Herzegovina.

84. Mr. Dodik invoked a vital entity interests procedure against several decisions adopted by the State Presidency

without consensus, including against according formal acceptance of the new Ambassador of Germany to Bosnia and Herzegovina. This invocation of vital entity interests did not obtain the necessary two-thirds majority in the National Assembly of the Republika Srpska, so the challenged decision of the Presidency entered into force.

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

85. The Council of Ministers of Bosnia and Herzegovina held 7 regular and 13 urgent sessions in the reporting period. In these sessions, the Council of Ministers adopted only two pieces of legislation, one of which was the overdue State budget for 2022 and the other concerned changes and amendments to the Law on Ombudsman for Human Rights. This limited outcome reflects the continuation of the Republika Srpska's policies challenging the ability of key State-level institutions to work and take decisions in the exercise of their constitutional responsibilities.

86. Besides these decisions, the Council of Ministers adopted further various documents within its competences: midterm strategies for managing debts and public finances, agreements on transborder cooperation, and financial and loan agreements at various stages of the negotiation and ratification process in the areas of infrastructure, transport, the environment, public health and civil protection.

87. The Council of Ministers took some steps to address the effects of the current global crisis by suspending or reducing customs tariffs on certain goods and introducing interim measures banning the export of certain products. The Council of Ministers also defined the conditions for the entry and stay of Ukrainian citizens who come to Bosnia and Herzegovina on humanitarian grounds.

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

88. The Parliamentary Assembly of Bosnia and Herzegovina

remained the institution most affected by the continuous political crisis that has characterized the period since the 2018 general elections. This crisis continued to be reflected in the Assembly's poor functionality and its limitations in exercising its legislative functions. The legislative output of the Parliamentary Assembly has never been more modest.

89. The House of Representatives of Bosnia and Herzegovina held only five regular sessions; its House of Peoples held only four regular and three urgent sessions.

90. Milorad Dodik's party, the Alliance of Independent Social Democrats, attended the debates in the two Houses of Bosnia and Herzegovina but restricted its voting participation to agenda items related to which its members had a particular interest.

91. Amendments to the Law on Value Added Tax and the Law on Excise Tax proposed in response to the global economic crisis were eventually adopted by both Houses, but in different versions so final endorsement remains pending. These laws foresee differential rates on value added tax and a reduction in the excise tax on fuel and its derivatives to zero for a period of six months.

92. In practical terms, little has been done to accelerate Bosnia and Herzegovina's path towards European Union candidate status. Of four required pieces of legislation from the European Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union of 29 May 2019, the Parliamentary Assembly succeeded on 29 August to adopt one: the Law on Amendments to the Law on Public Procurement. The adoption of the Law on Conflict of Interest and the amendments to the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and to the Law on the Court of Bosnia and Herzegovina remain outstanding as the first two were rejected by the House of Peoples on 16 May and the last was not even submitted into parliamentary

procedure.

93. Owing to the absence of support from the Republika Srpska parties, the Parliamentary Assembly was unable to come to a joint position on the aggression against Ukraine.

94. In the reporting period, the Parliamentary Assembly adopted in full only three laws and four sets of amendments to existing laws. It appointed three Ombudsmen for Human Rights and the leadership of the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption.

### **Constitutional Court of Bosnia and Herzegovina**

95. As reported in April, on 3 February, 15 members of the House of Representatives of Bosnia and Herzegovina filed requests with the Constitutional Court of Bosnia and Herzegovina for the resolution of a dispute between Bosnia and Herzegovina and the Republika Srpska over the Declaration on Constitutional Principles and four sets of conclusions adopted by the National Assembly of the Republika Srpska on 10 December 2021. On 26 May, the Constitutional Court adopted a decision in the case (Case No. U-2/22) establishing that there was a dispute over the contested provisions of the Declaration and the conclusions regarding the transfer of responsibilities from the Republika Srpska to the State level in the areas of justice, defence, security, indirect taxation and other issues. It was established that a number of the provisions of the contested acts were not compatible with article I (2) and article III (3)(b) of the Constitution of Bosnia and Herzegovina and the disputed provisions were rendered ineffective following the publication of the Court's decision on 1 July.

96. In its decision, the Constitutional Court concluded, inter alia, that when entity responsibility is transferred to the State level by consent (such as in the areas of defence and security, indirect taxation and the High Judicial and

Prosecutorial Council of Bosnia and Herzegovina), it becomes the exclusive responsibility of the State and, thus, in accordance with the rule of law principle under article I (2) of the Constitution of Bosnia and Herzegovina, the reinstatement of these previously transferred responsibilities can take place only on the basis of decisions made in the institutions of Bosnia and Herzegovina (i.e. the Parliamentary Assembly of Bosnia and Herzegovina). The Court further concluded that, as long as the laws and decisions of the institutions of Bosnia and Herzegovina are in effect, the entities are obliged to comply with them and cannot have the competence to adopt any legislative activities in these areas, including through the adoption of the disputed provisions of the Republika Srpska Declaration and the conclusions.

97. Mato Tadić, former President and Judge of the Constitutional Court of Bosnia and Herzegovina, reached the retirement age of 70 on 15 August, and Miodrag Simović, Judge of the Constitutional Court, will reach retirement age on 3 November. The House of Representatives of the Federation of Bosnia and Herzegovina has failed to appoint a judge to the Constitutional Court of Bosnia and Herzegovina to replace Judge Tadić. It remains to be seen whether the Republika Srpska National Assembly will appoint a judge to replace Judge Simović before 3 November. I wish to emphasize that it is the responsibility of the House of Representatives of the Federation of Bosnia and Herzegovina and/or the Republika Srpska National Assembly under the Constitution of Bosnia and Herzegovina to ensure timely appointment of judges to all vacant positions foreseen for domestic judges in the Constitutional Court of Bosnia and Herzegovina, such that the Court is able to exercise its jurisdiction. This issue relates directly to the implementation of the General Framework Agreement for Peace and I will take appropriate steps to ensure that the entity legislatures fully comply with their obligations arising under annex 4 to the General Framework Agreement.

## **IV. Developments related to the Federation of Bosnia and Herzegovina**

### **Government of the Federation of Bosnia and Herzegovina**

98. As previously reported, no new Government was appointed in the Federation following the 2018 general elections; the Government from the 2014–2018 mandate remains under a technical mandate. Following the death of two ministers and the resignation of one minister in previous reporting periods, 3 of 16 ministerial posts remain vacant. There was no agreement on appointing a new Government or replacing the missing ministers owing to the official position of the Croat Democratic Union of Bosnia and Herzegovina not to approve any appointments until political parties, mainly the Democratic Union of Bosnia and Herzegovina and the Bosniak-dominated Party of Democratic Action, reach an agreement on electoral reform. The situation is complicated by the fact that the Federation Prime Minister, Fadil Novalić (Party of Democratic Action), and the Deputy Prime Minister and Minister of Finance, Jelka Miličević (Democratic Union of Bosnia and Herzegovina), are currently on trial over the controversial procurement of 100 ventilators early in the coronavirus disease (COVID-19) pandemic worth KM 10.5 million.

99. In October 2021, the Prime Minister, Mr. Novalić, sent a letter to the President and Vice-Presidents of the Federation of Bosnia and Herzegovina in which he noted that it was necessary to fill the vacant ministerial positions in the Government, as it no longer had the composition foreseen for the three constituent peoples.

100. Nevertheless, the Federation Government met regularly and held 23 regular and 16 extraordinary sessions.

### **Parliament of the Federation of Bosnia and Herzegovina**

101. The two Houses of the Parliament of the Federation of Bosnia and Herzegovina met infrequently, with both the House



of Representatives and the House of Peoples holding only three regular and two extraordinary sessions each. In terms of legislative output, 4 new laws and 12 amendments to existing laws were adopted.

102. The leadership of both Houses of the Parliament remain incomplete. The House of Representatives has failed to appoint a new deputy speaker from the ranks of the Serb people following a reshuffling of the parliamentary majority in June 2019, while the House of Peoples has not appointed a deputy speaker from the ranks of the Serb people since its inaugural session following the 2018 general elections.

103. In July, a member of the House of Representatives from the Social Democratic Party, Irfan Čengić, proposed changes to the rules of procedure of the House of Representatives claiming that the changes would ensure the implementation of the election results in the entity and prevent all obstacles. No voting on the proposal took place, however, and the Constitutional Committee of the House of Representatives still has to give its opinion in this regard. In any case, my Decisions of 2 October address these concerns.

104. On 26 July, the House of Representatives adopted a Declaration on the Protection of the Multi-Ethnic Character of Bosnia and Herzegovina as a joint proposal of eight parliamentary parties, calling on my Office and the signatories to the General Framework Agreement for Peace, among others, to respect and immediately implement all five judgments of the European Court of Human Rights, as well to complete the implementation of annex 7 of the General Framework Agreement and to refrain from imposing decisions that would deepen ethnic divisions. As much as I share the sense of urgency to implement the referenced judgments, I could not execute this request myself as it would require amendments to the State Constitution, that is, annex IV of the General Framework Agreement. This would be ultra vires of the High Representative's mandate, which is to oversee and

implement the provisions of the Agreement, but not to change the Agreement itself. Amending the Constitution can, however, be a parliamentary endeavour of the elected representatives of the State.

## **Constitutional Court of the Federation of Bosnia and Herzegovina**

105. As reported earlier, the continued failure of the President of the Federation of Bosnia and Herzegovina, Marinko Čavara, to nominate four judges to the vacancies on the Constitutional Court of the Federation of Bosnia and Herzegovina, with the concurrence of the Vice-Presidents, Melika Mahmutbegović and Milan Dunović, severely hampers the ability of the Court and its Vital National Interest Panel to exercise their constitutional responsibilities. The Court is operating with only five sitting judges out of the nine required under the Federation Constitution. All five sitting judges must be present for a quorum to be reached and the adoption of decisions requires unanimity among these five. The Vital National Interest Panel is unable to function, as it presently has only four sitting judges, which does not meet the required quorum of five.

106. In the current post-election period when new cantonal and Federation of Bosnia and Herzegovina authorities need to be formed, the non-functioning Vital National Interest Panel of the Constitutional Court could be abused to indefinitely block adoption of legal acts by the Federation and cantonal legislatures, as well as block the formation of new authorities at the level of the State and the Federation of Bosnia and Herzegovina.

107. On 6 June, the United States Treasury Department imposed sanctions on the Federation President, Mr. Čavara, for blocking democratic processes and endangering the functioning of the Federation of Bosnia and Herzegovina, stating that since 2019, Mr. Čavara had refused to nominate judges from

lists of candidates provided by the High Judicial and Prosecutorial Council to fill vacancies on the Court. The Department stated that by refusing to proceed with these nominations, Mr. Čavara had blocked the functioning of the Court's Vital National Interest Panel. The Department noted that the Panel was intended to address key issues raised by delegates in the House of Peoples of the Federation, that it played a crucial role in the constitutional operation of the Federation and that its existence was necessary for the fulfilment of the democratic functions of the Federation. The Department stated that through his inaction, Mr. Čavara had held hostage the functioning of the Vital National Interest Panel to further his and his party's political interests.

108. On 8 August, I sent a letter to the President and the Vice-Presidents of the Federation of Bosnia and Herzegovina expressing my disappointment over the continued failure to appoint judges to the four positions and urging them to agree on nominations to the vacancies without further delay. The separate responses I received from the President and the two Vice-Presidents showed their continued disagreement on these appointments and the procedure. In his response of 12 August, Mr. Čavara listed several open questions and outstanding appointments that he believed needed to be solved with the appointment of the constitutional judges. On 24 August, at a press conference, he announced that he had selected four candidates and submitted his proposal to the Vice-Presidents for their concurrence. On 25 August, the two Vice-Presidents sent me a joint letter, in which they labelled the President's decision a unilateral act and a violation of legal procedure. In particular, they complained that Mr. Čavara had published his proposal at a press conference, without consulting them.

109. The amendments to the Constitution of the Federation of Bosnia and Herzegovina that I enacted on 2 October streamlined the appointment of judges to the Constitutional Court of the Federation by obliging the President and Vice-Presidents to

fulfil their part of the appointment process within a specified period or abdicate their responsibility in the process to the House of Peoples of the Parliament of the Federation. The measure would also streamline the appointment of members of the Vital National Interest Panel in the Constitutional Court by giving the authority to the Court itself to appoint the Panel from among its members.

110. On 5 October, shortly before the expiry of the deadline set in my Decision, the President, with the concurrence of two Vice-Presidents, nominated three judges to the Court and submitted the decision to the House of Peoples. The House of Peoples must now vote on these nominations, as well as select a fourth candidate directly from a list submitted by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. At the time of writing the present report, the session of the House of Peoples on this matter had not been scheduled.

111. To my regret, legislation already adopted in 2014 that would establish a special prosecutor and a department of the court for fighting corruption and organized crime remains unimplemented.

## **V. Developments related to the Republika Srpska**

### **Authorities of the Republika Srpska**

112. During the reporting period, the Government of the Republika Srpska has continued to meet regularly, thus holding 24 sessions. The National Assembly of the Republika Srpska has held one regular and five special sessions, during which 40 pieces of legislation were adopted, including the legislation that is at variance with the decisions of the Constitutional Court of Bosnia and Herzegovina on state property (see paras. 37 ff. above). During the reporting period, most legislative activities have been influenced by the general elections held in October. The National Assembly assisted the Government in tailoring the entity budget and public funds to serve certain

election purposes through several budget-rebalancing decisions.

### **Political rhetoric and relations between the ruling coalition and the opposition**

113. Even before the start of the election campaign, the relationship between the ruling coalition and the opposition was tense. To my regret, the ruling coalition in the Republika Srpska very frequently resorted to ethno-nationalistic rhetoric, creating a politically heated atmosphere. Constructive political dialogue between the ruling coalition and the opposition was barely possible.

114. Throughout the entire reporting period, the leader of the ruling Alliance of Independent Social Democrats, Milorad Dodik, repeatedly used inflammatory rhetoric that questioned the territorial integrity, sovereignty and multi-ethnic character of Bosnia and Herzegovina. Many of his statements are entirely incompatible with the letter and spirit of the General Framework Agreement for Peace in Bosnia and Herzegovina.

115. On 24 May, for instance, Mr. Dodik said in a public statement: "The time has come to try once again to activate the mechanism of a peaceful dissolution in Bosnia and Herzegovina." [\[6\]](#) On 29 August, Mr. Dodik declared in a television interview: "I only have one fear in politics, and that is that, once the conditions for our independence are created, I might sleep through that moment or not take advantage of it. That's why I'm constantly looking for it, I am always on the watch when it comes to that. I'm constantly searching. I always have in mind a constellation of relations which might coincide in the world, Europe and America. If that happens, I will declare independence at that very moment." [\[7\]](#) He made another secessionist statement on 18 September on Radio-Television Republika Srpska, saying that "Republika Srpska as an independent state is still our goal today. Republika Srpska

is only one thread in the continuity of the Serbian struggle for freedom and independence in these areas”.[\[8\]](#)

116. During the election campaign, the ruling Alliance of Independent Social Democrats created an atmosphere in which critics of the Government and opposition politicians were often labelled as traitors and foreign agents. The opposition focused on high-level corruption in their campaign and portrayed itself as defender of the true interests of the inhabitants of the Republika Srpska. To my regret, certain manipulated video footage and documents compromising political opponents were used during the campaign. As for the role of the public media, my conclusion is that the public broadcaster, Radio-Television Republika Srpska, mainly served the agenda of the ruling coalition.

### **Non-cooperation of the authorities of the Republika Srpska with the Office of the High Representative**

117. In addition to the longstanding practice of the Government of the Republika Srpska of refusing to deliver session materials to the Office of the High Representative, since October 2021 the National Assembly of the Republika Srpska has prevented staff of the Office from attending sessions. This recently established practice has continued in the reporting period, thus preventing my staff from carrying out the mandate of my Office in accordance with annex 10 to the General Framework Agreement for Peace.

118. In the Republika Srpska, the legality of the existence of the High Representative and the Office was publicly questioned on numerous occasions, in particular by Mr. Dodik.

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

### **Law enforcement**

119. The practice of inappropriate political interference in

operational policing has not diminished during the reporting period. Contested appointments of top police officials continue to plague Bosnia and Herzegovina. The Council of Ministers of Bosnia and Herzegovina has yet to appoint six top State-level police officials (Deputy Director of the State Investigation and Protection Agency, Director and Deputy Director of the Border Police, and Director and two Deputy Directors of the Directorate for Coordination of Police Bodies), despite receiving a list of successful candidates from the Independent Board of Bosnia and Herzegovina in August. The mandates of the six officials expired in May and those individuals continue to work under technical mandates.

120. In August, the Government of the Federation of Bosnia and Herzegovina failed to appoint a new Police Director of the Federation from a list of two names sent by the Independent Board of the Federation of Bosnia and Herzegovina in July. The Government's non-action effectively means that a new selection process by the Independent Board is needed, although the mandate of the Board expired in August. The Federation of Bosnia and Herzegovina has been without a duly appointed police director since 2019.

121. More positively, in June the authorities in Herzegovina-Neretva Canton unlocked years of stalemate by adopting changes to canton police legislation and appointing a new Independent Board for the Canton. The new police legislation, inter alia, created the position of deputy police commissioner as part of a political compromise to break the deadlock. In August, the Canton's Independent Board issued a public vacancy announcement for the positions of police commissioner and deputy police commissioner. The recruitment process is ongoing. The Herzegovina-Neretva Canton has not had a duly appointed police commissioner since 2018.

## **Intelligence**

122. The Council of Ministers of Bosnia and Herzegovina has

not appointed a new Director General of the Intelligence and Security Agency of Bosnia and Herzegovina. The mandate of the current Director General, who continues to serve under a technical mandate, expired in November 2019.

## **VII. Economy**

### **Economic trends**

123. In general, the preliminary indicators of economic activity in 2022 show some positive trends and recovery from the COVID-19-related slump. They do not necessarily reflect, however, an accurate level of economic and social development, as in certain areas statistical progress is based on a low base for comparison or external factors.

124. In the first six months of 2022 and compared with the same period in 2021, total exports and imports increased by 39.9 per cent and 42.5 per cent, respectively, while industrial production grew by 4.6 per cent. The inflation rate was 11.5 per cent. Foreign direct investment in the first quarter totalled KM 192 million, a decrease of 45.7 per cent compared with the same period in 2021. The banking sector was assessed as generally stable, liquid and profitable, suggesting a post-pandemic recovery. Initial spillovers to the banking sector from the war in Ukraine were contained, primarily owing to swift and appropriate action by the Central Bank of Bosnia and Herzegovina and the entity banking agencies.

125. At the end of June 2022, there were 359,607 unemployed persons, 8.7 per cent fewer than in the same month in 2021. The registered unemployment rate is 29.9 per cent; registered employment at the end of May 2022 totalled 844,800 persons, or 2.8 per cent more than in May 2021. [\[9\]](#)

126. The number of pensioners continued to increase, totalling 702,100 persons at the end of June, while the number of students continued to decline. According to preliminary data



of the Bosnia and Herzegovina Agency for Statistics, in the academic year 2021/22, there were 74,566 students enrolled in the winter semester of the first cycle of higher education, while the number of students who graduated in 2021 was 7.3 per cent lower over the previous year. The number of pupils enrolled in secondary schools decreased by 2,147 pupils, or 1.9 per cent, while the number of pupils enrolled in primary schools decreased by 3,257 pupils, or 1.2 per cent over the previous school year.

127. The average net salary of KM 1,126 and the average pension of KM 475 remain significantly below the average price of the basket of goods of over KM 2,700 for a four-member family, suggesting that even those with steady incomes struggle to make ends meet. Pensioners are particularly vulnerable. About 60 per cent of the pensioners in Bosnia and Herzegovina, or about 421,000 persons, receive the minimum pensions of KM 242 in the Republika Srpska and KM 424 in the Federation of Bosnia and Herzegovina and have to survive on KM 8–14 a day.

128. The multiple problems faced by Bosnia and Herzegovina, including economic and social challenges, have serious consequences. The outflow of youth is among the most serious impacts and impairs the ability of the country to move forward. Although there is no precise data on how many young people have left the country in recent years, research shows that about half of young people are considering leaving Bosnia and Herzegovina temporarily or permanently. A survey by the United Nations Population Fund indicates that 23,000 young people aged 19 to 29 will leave Bosnia and Herzegovina in the next 12 months, adding to the already worrisome population outflow. The Union for Sustainable Return and Integrations in Bosnia and Herzegovina estimates that nearly half a million people have left Bosnia and Herzegovina in the past 10 years. About 170,000 persons left Bosnia and Herzegovina in 2021, while 350,000 persons are expected to leave Bosnia and

Herzegovina in 2022. This trend may compromise the overall economic, political and social development of Bosnia and Herzegovina.

## **Fiscal issues**

129. In the reporting period, there were no delays in foreign debt servicing or in the regular monthly budget payments. This was mainly due to the continued growth of indirect tax revenue, the main source of budget revenue for all levels of government. In the first eight months of 2022, the Indirect Taxation Authority of Bosnia and Herzegovina collected KM 6.436 billion, an increase of 20 per cent, or KM 1.07 billion, over the same period in 2021. There were no international financial disbursements in the reporting period.

130. Based on preliminary data, the Ministry of Finance and Treasury of Bosnia and Herzegovina estimates that Bosnia and Herzegovina's overall public debt at the end of the second quarter at KM 12.80 billion, which is 32.35 per cent of Bosnia and Herzegovina's gross domestic product. Within that amount, foreign debt is KM 9.74 billion (76.05 per cent) and domestic debt is KM 3.06 billion (23.95 per cent). The share of the Federation of Bosnia and Herzegovina in the overall debt is 51.82 per cent, the share of the Republika Srpska is 47.32 per cent, and the share of the State institutions and Brčko District stand at 0.48 per cent and 0.38 per cent, respectively.

131. To my deep regret, the Republika Srpska continued to use uncertainty and inadequacy in the financing of State institutions as an instrument to undermine the functionality of the State. For 18 months, which is unprecedented in the post-war period, State institutions were forced to operate based on temporary financing, which limited not only the amount of funds available, but also the scope of their activities.

132. Owing to the blockage of the work and decision-making of the State-level executive and legislative authorities by representatives from the Republika Srpska, the budget of the institutions of Bosnia and Herzegovina and international obligations of Bosnia and Herzegovina for 2021 was never adopted, while the budget for 2022 was adopted only on 30 June 2022 in a total amount of KM 1,892 billion (of which KM 1,073 billion is for financing State institutions and KM 819.1 million is for servicing foreign debt).

133. The modest budget increase in 2022, compared with the last adopted budget (for 2020), is insufficient to remedy the impact of the underfunding of State institutions in the past 10 years. This chronic underfunding seriously undermines the ability of State institutions to fully meet their legal obligations, to keep and recruit qualified personnel and to finance vital operational and capital expenditures. The defence and security sectors are among those most affected by the chronic lack of funds.

134. In the Fiscal Council of Bosnia and Herzegovina, representatives from the Republika Srpska blocked the adoption of the Global Framework of Fiscal Balance and Policies for 2023–2025 and thus the 2023 budget preparation process at the State level, which gives reason to expect continued financial challenges for the State in 2023.

135. Between January and June, the different levels of government within the Federation of Bosnia and Herzegovina (i.e. central government of the Federation, cantons, municipalities and three extrabudgetary funds) achieved a budget surplus of approximately KM 860 million. The stability of budget payments in 2022 at the Federation level can primarily be attributed to the sustained growth of indirect tax revenues and continued domestic borrowing. Both factors remain crucial to maintaining budget stability, but are also potentially insufficient in view of the current continued absence of international disbursements.

136. The stability of budget payments in the Republika Srpska was also primarily due to the sustained growth of indirect tax revenues and continued domestic borrowing. In May, the National Assembly of the Republika Srpska adopted the first rebalanced budget for 2022, increasing the original budget by 7 per cent. In response to inflationary pressures, the revenue increase has been spent on additional support to citizens and the local economy. Up to the end of August, the Government of the Republika Srpska disbursed an additional KM 220 million to businesses and citizens.

### **Specific international obligations**

137. Since 2015, Bosnia and Herzegovina has been subject to sanctions by the Ministerial Council of the Energy Community, which comprises the 27 Member States of the European Union and 6 European States and territories in the Balkans. All the sanctions are due to serious breaches of the Energy Community Law. Nine breaches have not been rectified to date, while the latest and tenth breach, related to the intended replacement of a thermal power plant (Block 7) in Tuzla, was recently rectified. The Ministerial Council of the Energy Community had qualified the financing of this replacement as illicit State aid. On 29 June, the State Aid Council of Bosnia and Herzegovina, following the arguments presented by the Energy Community secretariat, annulled its July 2018 decision on a loan guarantee issued by the Finance Ministry of the Federation of Bosnia and Herzegovina in 2017, which had enabled the entity to borrow €614 million from the Export-Import Bank of China to finance Block 7. Instead, the State Aid Council took the view that the guarantee did constitute illegal state aid that the Ministry of Finance of the Federation of Bosnia and Herzegovina is obliged to recover.

138. Although the mandates of all members of the management and the management board of the Electricity Transmission Company of Bosnia and Herzegovina expired more than four years ago, the appointment of new members remains stalled. The

Government of the Federation of Bosnia and Herzegovina nominated its members to the Company's management board in December 2020, but the Council of Ministers of Bosnia and Herzegovina decided not to proceed with the appointments until the Republika Srpska submitted its nominees. Thus far, the Republika Srpska has taken no action to that end. Further delaying these appointments could complicate decision-making on issues of relevance for the company and electricity transmission in general. It could also provide a pretext for renewed challenges to the company, which was established by the Bosnia and Herzegovina Law Establishing the Electricity Transmission Company adopted by the Parliamentary Assembly of Bosnia and Herzegovina in 2004 and following the June 2003 agreement between the two entities regulating the issue of the establishment of a joint transmission company and independent system operator at the State level, based on article III (5) (b) of the Constitution of Bosnia and Herzegovina.

139. On the positive side, the case initiated by the Mostar-based power company against the Electricity Transmission Company of Bosnia and Herzegovina that had claimed compensation for the transmission facilities invested in the Company at the time of its establishment in 2006 was finally closed. On 17 May, the Supreme Court of the Republika Srpska rejected the requested revision of the case, which was dismissed in two instances already, thereby dismissing a threat to the financial stability and ownership structure of the Electricity Transmission Company of Bosnia and Herzegovina that could have had far-reaching consequences for the company.

#### **VIII. Developments related to annex 7 to the General Framework Agreement, on return of refugees and displaced persons**

140. Incidents and provocations targeting returnees have continued in the reporting period, albeit more sporadically than in the preceding one. Provocations on the verge of physical assault were reported in Bratunac in the Republika Srpska in May in a restaurant run and frequented mostly by

local Bosniaks. The Bosniak owner of a restaurant in the Old Town of Trebinje in the Republika Srpska was beaten up in July. Several other violent incidents or provocations were reported, including the murder of a Serb woman near Visoko in the Federation of Bosnia and Herzegovina in June. Although the motivation behind such incidents is often unclear, they can discourage returns and contribute to an atmosphere of ethnic tensions.

141. Regarding education, the situation has not changed since the last reporting period. The 23 June ruling of the Constitutional Court of Bosnia and Herzegovina regarding the use of the Bosnian language in the educational system, which I outlined in my previous report to the Security Council, remains unimplemented. In this context, no further physical protests in the Bosniak communities of the Republika Srpska were observed in the reporting period.

## **IX. Media developments**

142. In 2022, the free media helpline that operates within the Association of Bosnia and Herzegovina Journalists registered 51 new cases of violations of the rights of journalists and media freedoms, including several cases of defamation, political pressure and intimidation, death threats and several instances of online harassment, cyberattacks and hate speech.

143. When I amended the Election Law of Bosnia and Herzegovina on 27 July, I included definitions of electronic, online and print media, social networks and hate speech. The law prohibits hate speech and enables sanctions against it during the election campaign regardless of the means of communication.

144. The public broadcasting system, consisting of three public broadcasting services (Bosnia and Herzegovina Radio-Television, Radio-Television of the Federation of Bosnia and Herzegovina and Radio-Television Republika Srpska), still

fails to apply the relevant laws regarding their financing. The radio and television tax is not collected at the level of the public broadcasting system and Bosnia and Herzegovina Radio-Television faces serious financial problems. Specifically, contrary to the law, the public broadcaster of the Republika Srpska, Radio-Television Republika Srpska, has established its own collection of radio and television taxes and has stopped transferring the collected tax into a single account. By doing so, Radio-Television Republika Srpska deprives Bosnia and Herzegovina Radio-Television of its share from the Republika Srpska in the total collected radio and television tax revenues. As a result, Bosnia and Herzegovina Radio-Television, the only State-level public broadcaster, is struggling to survive instead of being able to focus on its main goal of providing viewers with quality programmes.

145. According to information provided by the Communications Regulatory Agency of Bosnia and Herzegovina, which coordinates closely with the Central Election Commission of Bosnia and Herzegovina, the monitoring of 257 licensed broadcasters covering the elections has so far revealed no violations of the election rules. A total of 11 complaints alleging violations of the election rules were filed. The Agency has so far decided on five complaints and found no breach, while six cases are still pending. Most of the complaints refer to premature campaigning and violations of the provisions of the Election Law of Bosnia and Herzegovina on fairness and impartial reporting.

146. There is no progress in the tendering for digital equipment by the Ministry of Communications and Transport of Bosnia and Herzegovina, and no steps were taken by the three public broadcasters to establish a joint legal entity. Given that the required time for the instalment and functioning of the digital system is approximately 500 days, it is unlikely that the process of digitalization will be finalized in the foreseeable future.

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

147. EUFOR-Althea continues to play a vital role in safeguarding peace and security in Bosnia and Herzegovina, enabling my Office and other international organizations to fulfil our respective mandates. The presence of EUFOR-Althea in Bosnia and Herzegovina remains indispensable.

148. I commend EUFOR-Althea on its reserve activation in 2022, which in February saw the deployment of an additional 500 reserve personnel to Bosnia and Herzegovina as a precautionary measure in the context of a deteriorating global security situation and as a demonstration of its commitment to preserving stability in Bosnia and Herzegovina. I also welcome Germany's decision to contribute to EUFOR-Althea from 15 August.

149. While the non-executive mandate of the European Force (supporting the collective and combined training of the Armed Forces of Bosnia and Herzegovina) is vital, it is equally important that EUFOR-Althea retain its executive mandate and the capacity to deploy troops at short notice. In recent years, the international military presence was significantly reduced due to defence reforms and the establishment of a single Armed Forces of Bosnia and Herzegovina, which enabled the country to take the lead in preserving peace and security. Persistent tensions and inflammatory rhetoric suggesting the undoing of such reforms and reestablishment of entity military forces require vigilance from the international community.

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

150. While the Office of the High Representative has faced substantial reductions to its budget and staff over the past few years, its remaining tasks have not decreased commensurately. The current annual operating budget of the organization remains at €5.3 million. The collection of budgeted funds is still challenging, with €4.8 million



remaining to be collected in the current operation period. As previously noted, the Russian Federation suspended its contribution to the budget of the Office in February 2022. The Office currently employs 95 persons in Sarajevo and its field offices, strengthened by seconded personnel.

151. In order to achieve progress on the 5 plus 2 agenda, a robust and efficient Office of the High Representative is indispensable. Without the appropriate level of resources, the capacity to fulfil the mandated responsibilities is restricted. This would be counterproductive to the goal established by the Steering Board of the Peace Implementation Council and could pose a threat to the core mandate of the High Representative.

## **XII. Reporting schedule**

152. I submit the present report in accordance with the requirement established by the Security Council in its resolution [1031 \(1995\)](#) for the High Representative to submit regular reports to the Secretary-General for transmission to the Council. Should the Secretary-General or any member of the Council require further information, I am at their disposal. The next regular report is scheduled to be issued in April 2023.

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[1] Decision Enacting the Decision on Approving the Allocation of Funds for the Purpose of Covering Expenditures Related to the 2022 General Elections in Bosnia and Herzegovina.

[2] Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina.

[3] See <https://avaz.ba/vijesti/bih/760833/izetbegovic-o-vojnoj-snazi-prebrojali-smo-se>.

[4] See [www.slobodnaevropa.org/a/%C4%8Dovi%C4%87-bih-hdz-izbori/31833819.html](http://www.slobodnaevropa.org/a/%C4%8Dovi%C4%87-bih-hdz-izbori/31833819.html).

[5] The package consists of three decisions: Decision Enacting the Decision on Approving the Allocation of Funds for the Purpose of Covering Expenditures Related to the 2022 General Elections in Bosnia and Herzegovina; Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina; and Decision Enacting the Law on Amendments to the Law on Financing of the Institutions of Bosnia and Herzegovina.

[6] See <https://6yka.com/bih/dodik-vrijeme-je-za-mehanizam-mirnog-razlaza-u-bih>.

[7] See [www.youtube.com/watch?v=EgdYLpRgfto](https://www.youtube.com/watch?v=EgdYLpRgfto).

[8] Radio-Television Republika Srpska, 18 September 2022. See [www.frontal.ba/novost/108871/dodik-republika-srpska-kao-nezavisna-drzava-i-danas-je-nas-cilj-video](http://www.frontal.ba/novost/108871/dodik-republika-srpska-kao-nezavisna-drzava-i-danas-je-nas-cilj-video).

[9] However, a labour survey conducted by the Bosnia and Herzegovina Agency for Statistics showed a significant discrepancy between registered and unregistered unemployment.