

64th Report of the High Representative for Implementation of the Peace Agreement on BiH to the Secretary-General of the United Nations

Summary

This report covers the period from 16 April through 15 October 2023.

1. The reporting period was characterized by progress towards integration into the European Union (EU) and greater institutional functionality, but also by an unprecedented level of attacks against the General Framework Agreement for Peace (GFAP) which has been able to stabilize the situation in Bosnia and Herzegovina since late 1995.

2. The ruling coalition in Republika Srpska (RS), led by SNSD, continued with pursuing a dangerous policy of unilaterally imposing a misleading interpretation of the GFAP and the constitutional framework of Bosnia and Herzegovina (BiH) around the hypothetical concept of “original Dayton”. This concept negates the continuity between the Republic of Bosnia and Herzegovina and BiH as contained in Article I.1. of the BiH Constitution and presents the State of Bosnia and Herzegovina as a union of states or confederation of two “state-forming” entities which delegated only limited powers to the BiH State.

3. Let me emphasize that the State of BiH is not a union of states or confederation, there is only one state on the

territory of Bosnia and Herzegovina, and that is Bosnia and Herzegovina itself. The RS is not a state, but an entity which is part of the sovereign state of Bosnia and Herzegovina. Under the Constitution of BiH as set forth in Annex 4 to the GFAP, the Republic of Bosnia and Herzegovina continued its legal existence as a state with its internal structure modified. While the Constitution of BiH legally establishes that Bosnia and Herzegovina shall consist of two entities: the Federation of Bosnia and Herzegovina and the Republika Srpska, it does not leave room for "sovereignty" of the Entities in accordance with international law, and the Entities' powers are in no way an expression of statehood but are derived from the allocation of powers through the Constitution of BiH. This is also the position of the Constitutional Court of BiH whose decisions are final and binding.

4. Furthermore, these assertions present Republika Srpska as the Entity (or State) of Serb people which should have a right to self-determination. Such policies serve to legitimize the adoption of policy and legal acts challenging or violating fundamental aspects of the GFAP in particular to justify their rejection of the authority of the Constitutional Court as well as to block the decision-making and operations of key authorities of the State. Ultimately such policies serve the proclaimed aim to directly promote the concept of "peaceful separation" of the three constituent peoples or dissolution of BiH.

5. Republika Srpska is not the "State of Serb people", but a multi-ethnic entity, where in accordance with Article 1 of the Constitution of RS, "the Serbs, Bosniaks, Croats, as constituent peoples, Others and citizens shall participate in executing the functions of authority in the Republic equally and without discrimination." The Constitution of Bosnia and Herzegovina does not provide any right of secession to Entities but instead underlines in its preamble the commitment to the sovereignty, territorial integrity, and political

independence of Bosnia and Herzegovina and clearly recognizes that BiH has the competencies that are necessary to preserve its territorial integrity. The re-direction, suspension or conditioning of funding are tools which international partners have at hand to respond to this problematic development, and which must remain on the table.

6. Commitments to reform the Constitution and the institutions of Bosnia and Herzegovina, which includes the implementation of the Decisions of the ECHR in the Sejdic-Finci group of cases, have shown no results so far, although they were part of the *Political agreement on principles for ensuring a functional BiH* signed by BiH political leaders and facilitated by the President of the European Council, Charles Michel, on 12 June 2022 in Brussels, after the failure to amend the constitution and the election law by consent in the so-called "Neum talks". Public debates on these reforms often end with simply exposing diverging views among the constituent peoples. Nevertheless, in the long run, this unsolved question challenges the democratic basis of the country and points to the need to readjust the current system of ethnic power-sharing with the principles of democratic equality and non-discrimination.

7. On 28 April 2023, the Federation House of Representatives finally elected a new Federation Government, thereby replacing the previous government which had been in a technical mandate since 2018. My Decision of 27 April 2023 created the legal basis for a vote on a government proposal submitted to the Parliament by the President and one of the Vice-Presidents of the Federation.

8. All post-election governments and parliaments on all levels are established and operational, with the exception of two cantons. At the state level, the BiH Council of Ministers under the leadership of Chairwoman Borjana Krišto, and the BiH Parliamentary Assembly accelerated the pace of adoption of legislation relevant to the fulfilment of the so-called 14 key

priorities required for EU integration.

9. These initiatives have shown some results but are far from being completed. When it comes to the rule of law, progress is particularly limited. Much remains to be done in strengthening the rule of law in many aspects, in particular regarding public administration, the judiciary and law enforcement in general. These reforms will be crucial in order for the institutions of the country to be able to respond to challenges related to adaptation to European and international standards including in the economic, financial, legal and social field.

10. The promise of increased functionality is now also at stake due to the blockage of legislative activity at the state level by the ruling party from Republika Srpska. Instead of a clear commitment to reforms, especially in the context of EU integration, the RS President limits negotiations often to tactical concessions. The troika partners within the coalition government, with their very committed approach towards EU integration, try to manage this delicate situation.

11. The course of action undertaken by the Government of Republika Srpska represents an unprecedented attack against the General Framework Agreement for Peace in Bosnia and Herzegovina. The ruling coalition of Republika Srpska, led by RS President Milorad Dodik, started to implement steps creating the preconditions for a potential future secession of Republika Srpska from BiH, which were outlined in a joint statement signed by the ruling parties of Republika Srpska on 24 April 2023. They include: Non-implementation of Decisions by the BiH Constitutional Court, readiness to withdraw Republika Srpska representatives from the state institutions, non-replacement of the Serb judges on the BiH Constitutional Court, non-implementation of the Decisions of the High Representative, readiness to declare the independence of Republika Srpska if the High Representative imposes a Law on State Property, readiness to limit the competences of the BiH

Central Election Commission, readiness to re-examine all laws and decisions imposed by all High Representatives so far, and a termination of contact with the OHR as well as the U.S. and UK Embassies.

12. The High Representative and the BiH Constitutional Court are particularly under attack from Republika Srpska. The aim is to undermine their ability to safeguard the Dayton Peace Agreement and the constitutional and legal order of BiH. In addition to the non-recognition of the authority of the Court and the disregard for its final and binding decisions, the ability of the Court to properly operate is at threat due to the failure of both the Federation House of Representatives and the Republika Srpska National Assembly to appoint replacements for two vacancies on the BiH Constitutional Court. These vacancies have placed the Court in a position where the Grand Chamber cannot make decisions because it only has four members.

13. All the actions by the RS government were accompanied by divisive and inflammatory rhetoric and by demonstrations at the Inter-Entity Boundary Line staged by political supporters of the Republika Srpska President. Through this behavior, Mr. Dodik triggered, artificially and deliberately, two political crises within six months, interrupted by an offer to “de-escalate” the tensions created by Mr. Dodik himself. In his statements, he continued to challenge the sovereignty and territorial integrity of BiH and threatened to limit my access to the territory of Republika Srpska. He repeatedly called for the independence of Republika Srpska, for a referendum on its status by the end of 2023, and for its unification with Serbia. However, the Government of Serbia has reiterated its commitment to the territorial integrity of Bosnia and Herzegovina.

14. In response to these direct and massive threats to the Peace Agreement, on 1 July 2023, I enacted a Decision that prevented the entry into force of the *RS Law on Non-*

application of Decisions of the BiH Constitutional Court and the RS Law on Amendments to the RS Law on Publication of Laws and Other Regulations, which sought to prevent the implementation of Decisions by the High Representative in Republika Srpska. On the same day, I also enacted amendments to the BiH Criminal Code, expanding the criminal definition of “offenses against the constitutional order”, penalizing the non-application of Decisions by the BiH Constitutional Court, and adding an offense regarding the failure to implement the Decisions of the High Representative.

15. On 11 September 2023, the BiH Court confirmed an indictment against Republika Srpska President Milorad Dodik and the acting Director of the Republika Srpska Official Gazette, Miloš Lukić, for failing to implement Decisions of the High Representative.

16. To advance the implementation of the 5+2 Agenda, I have prioritized state property in the reporting period. A Technical Working Group, which I formed early in 2023, concluded its work in September. In the following weeks, the results of the work of these national and international experts will be introduced into the political process in BiH. The generally positive trend continued in the Brčko District, although there has been a slight slowdown in the pace of reforms, mostly because of the replacement of the District Mayor and changes to the executive in mid-March 2023.

17. To my deep regret, violent attacks against returnees increased in the reporting period. Discrimination based on gender and sexual orientation remains a major issue and still affects everyday life in BiH. Incidents of violence against women remain frequent, with a rising number of femicide cases. In August, two prominent cases of violence against women triggered mass protests in the country. The intimidation of journalists, especially in Republika Srpska, continues to be a major problem and must be seen in the context of new RS legislation shrinking space for civil society and independent

media.

18. Economic activity in BiH has slowed down. There were no problems in the execution of the 2023 State budget; this year's budget increase provided "breathing space" for the state institutions but is insufficient to mitigate the consequences of years of underfunding.

19. When it comes to the state of corruption, Bosnia and Herzegovina ranks by far lowest in the region and third worst in Europe according to Transparency International.

20. The toolboxes of the OHR and the European Union in Bosnia and Hercegovina are complementary and will be particularly successful if used in a coordinated manner. The executive measures for the civilian implementation of the General Framework Agreement for Peace remain part of the OHR's toolbox, but at the same time, international partners should counter the expectation, widely shared by the population, that external actors will provide solutions for all the problems of the country.

21. Structural weaknesses in decision-making tend to hinder or obscure the binding positioning of BiH in international bodies. Foreign policy is a competence of the BiH Presidency, but reaching a consensus or majority in the realm of foreign affairs within this three-member body is sometimes impossible. Therefore, BiH statements in international organizations sometimes only reflect the position of one of the three Members of the Presidency, as it happened for example with the address to the UN Security Council by Ms. Željka Cvijanović, then Chairwoman of the Presidency, on 10 May 2023 or with the address by Presidency Chairman Željko Komšić to the UN General Assembly on 20 September.

22. The lack of consent in foreign policy can also affect the ability to appoint BiH representatives to international bodies. For example, while the term of the judge from BiH to

the European Court for Human Rights came to an end in October 2021, BiH failed in its obligation to forward a list of candidates to the Parliamentary Assembly of the Council of Europe for election of a new judge from BiH (judges of the ECHR are elected for a non-renewable term of nine years). Other appointments are also pending such as the appointment of the BiH member of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

I. Introduction

23. This is my fifth regular report submitted to the United Nations Security Council since I assumed the position of High Representative for Bosnia and Herzegovina (BiH) in August 2021. My report is an impartial assessment of the implementation of the civilian aspects of the General Framework Agreement for Peace (GFAP) with information on developments and progress towards achieving previously established goals.

24. I am fulfilling my mandate pursuant to Annex 10 of the GFAP, in accordance with relevant decisions of the UN Security Council and with paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997. Progress on the five objectives and two conditions (5+2 Agenda), set in 2008 as the agenda for BiH to transition from international oversight, remains the obligation of the BiH authorities to fulfill.

25. In the reporting period, I have witnessed an unprecedented level of attacks against the GFAP, including against my mandate, mainly coming from Milorad Dodik, President of Republika Srpska (RS). These attacks, inter-ethnic tensions, and an increase in violence against returnees have further hindered progress on the 5+2 Agenda. Despite this very difficult political environment, the establishment of post-election authorities has been completed in the reporting

period, except for two cantons. Following the granting of the EU candidate status on 15 December 2022, the BiH Council of Ministers and the BiH Parliamentary Assembly managed to adopt several pieces of legislation required for EU integration, from the list of the so-called 14 key priorities.

26. I urge all political actors in BiH to fully comply with the GFAP and focus on critical political and economic reforms. The international community must continue to support Bosnia and Herzegovina in the implementation of the GFAP and must not hesitate to counter attacks on the Peace Agreement and on the sovereignty and territorial integrity of BiH with decisiveness and determination.

II. Political Update

A. General Political Environment and Challenges to the GFAP

Anti-Dayton Activities

27. Throughout this reporting period, Milorad Dodik, President of Republika Srpska, deliberately triggered and then exacerbated two major political crises in BiH to undermine the GFAP, including the constitutional and legal order and institutional framework of the State, and delegitimize my mandate. In a joint statement signed on 24 April, the leaders of the ruling parties in Republika Srpska agreed to implement a series of steps to create the preconditions for future secession. Among other conditions, the signatories sought to oblige representatives from the RS in BiH institutions to suspend decision-making at the state level until the RS Government and responsible committees of the National Assembly of Republika Srpska (RSNA) give their approval.

28. To implement the first steps of this program, the RSNA decided in June not to appoint a new judge to the BiH Constitutional Court to fill a vacancy. On 21 June, the RSNA amended the *Law on Publication of Laws and Other Regulations of Republika Srpska* to omit the obligation to publish the High

Representative's Decisions in the "Official Gazette of Republika Srpska", a condition for the entry into force of legal acts in the RS. This refusal to cooperate with the High Representative violates Annex 10 of the GFAP. Furthermore, on 27 June, the RSNA adopted a law to prevent the implementation and enforcement of decisions from the BiH Constitutional Court on the territory of the RS. RS authorities publicly justified this unconstitutional decision with the absence of "Serb judges" in the BiH Constitutional Court, even though the RS ruling coalition itself had requested the departure of these judges from the Court.

29. At the same time, within the state-level coalition, the RS President sought to remove international judges from the BiH Constitutional Court. These attacks by the RS authorities systematically targeted the two authorities with the mandate and means to uphold the BiH Constitution as set forth in Annex 4 of the GFAP and prevent secessionism: The High Representative and the BiH Constitutional Court.

30. RS efforts to limit the jurisdiction of the BiH Constitutional Court to only one part of the country are unlawful attempts to change the constitutional order of BiH. They also constitute serious violations of the GFAP that threaten peace and stability in the country and the region.

31. Therefore, on 1 July, I enacted a Decision that prevented the entry into force of the *RS Law on Non-application of Decisions of the BiH Constitutional Court* and the *RS Law on amendments to the RS Law on Publication of Laws and Other Regulations*, annulling all steps taken in the legislative process concerning these laws and terminating the legislative procedure for the adoption of the laws. On the same day, I also enacted amendments to the BiH Criminal Code to extend the criminal definitions of "offenses against the constitutional order" and the non-application of Decisions by the BiH Constitutional Court. Furthermore, I added a new offense regarding the failure to implement the Decisions of the High

Representative.

32. In August, the Prosecutor's Office of BiH opened a case against the RS President, Milorad Dodik, and the acting Director of the RS Official Gazette, Miloš Lukić, for committing a criminal offense prescribed by the BiH Criminal Code regarding the failure to implement Decisions of the High Representative. On 11 September, the BiH Court confirmed the indictment.

33. Another crisis was sparked on 6 September when the RS President declared that he would arrest and expel me if I entered the territory of the RS. He claimed that the RS police would deny me protection and that RS institutions would ban my entry. By so doing, the RS continues its pattern of obstruction of the institution responsible for the civilian implementation of the GFAP. The RS Government first stopped sharing information with the OHR. Then the OHR was denied entry to RSNA sessions. Police escorts within the RS are no longer provided, and now the RS authorities refuse to publish and implement the Decisions of the High Representative.

34. Because of these attacks on and misinterpretations of the GFAP, on 22 September, the Ambassadors of the Peace Implementation Council's Steering Board (PIC SB) stated in a joint declaration: "Any attempt to restrict the ability of the High Representative to execute his mandate *under Annex 10 of the GFAP* on the entire territory of the country is an act of non-compliance with the GFAP. The High Representative will continue to fulfill his mandate throughout the whole territory of Bosnia and Herzegovina. The PIC SB urges RS President Dodik to immediately stop his policy of non-recognition of and non-cooperation with the High Representative which is detrimental to the interests of Republika Srpska."

35. Despite these grave attacks on the GFAP and the OHR by the RS President and his allies, as well as his threats against me, I continue to work in the entire territory of BiH. Since

the announcement of 6 September, I made several visits to the RS which all took place without incidents and were organized with prudence. I will inform the UN Security Council immediately if the RS President prevents my future work and that of my staff, including in the OHR field offices. Such a policy would have far-reaching consequences and would make the full civilian implementation of the Peace Agreement in BiH impossible.

36. The RS President continues to call for the dissolution of BiH or for the “peaceful separation” of the two entities of BiH, which he presented as his goal and an official party objective at the SNSD Congress on 30 September. Additionally, he has denied the existence of the Brčko District in official electronic and printed maps.

37. All post-election governments and parliaments on state and entity levels are now established and operational. Despite the fraught political environment, the BiH Council of Ministers, under the leadership of Chairwoman Borjana Krišto, adopted several decisions relevant to EU integration. The state-level coalition agreed on contested legislation, such as the Law on Amendments to the Law on the High Judicial and Prosecutorial Council of BiH (HJPC), albeit a diluted version that deviates from the original draft law, which the EU, OSCE, CoE, and OHR, along with the Embassies of the United States, United Kingdom, Switzerland, and Sweden, had supported in a joint letter dated 2 June.

38. The tensions triggered by the RS President and other political fights created distractions from crucial reforms, particularly those aiming to enhance election integrity. Reports on widespread electoral fraud in October 2022 reaffirmed the need for reforms. New and stricter regulations to strengthen election integrity receive little support beyond lip service; they remain necessary and must be enacted on time. Their pending adoption contradicts, in particular, the commitments made in the *Political agreement on principles for*

ensuring a functional Bosnia and Herzegovina that advances on the European path facilitated by the President of the European Council, Charles Michel, and signed by the leaders of all parliamentary parties and the Members of the BiH Presidency on 12 June 2022 in Brussels. These legal adjustments, including the introduction of electronic election technologies, are essential to ensuring the integrity and transparency of elections. I regret that these amendments have not yet entered the parliamentary process. To be applicable during the October 2024 municipal elections, amended legislation on election integrity must be in place by no later than the end of 2023.

39. Amid the current climate defined by hate speech and widespread nationalistic propaganda, the number of attacks on returnees and other acts of inter-ethnic violence has increased during the reporting period, especially in the RS (cf. chapter D).

40. Additionally, rising tensions in Kosovo have brought to the fore questions of possible spillover effects in BiH. Although these effects remain limited thus far, the situation runs the risk of deteriorating and may prove to be detrimental if it continues for a sustained period.

41. The structures and oversight mechanisms established by the GFAP – including the OHR and the EUFOR-Althea mission – remain crucial for safeguarding peace and security in the country, especially amid increased political tensions in the region.

Decisions by the European Court of Human Rights

42. As previously reported, judgments of the European Court on Human Rights (ECHR) in the Sejdić-Finci group of cases remain unimplemented. These judgments established discriminatory patterns in the constitutional framework of BiH and the BiH Election Law applying to the possibility for citizens who do not belong to constituent peoples to be elected to those institutions. Although these judgments touch upon essential

issues related to the Constitution, their implementation remains critical to ensure a proper balance between the rights of the constituent peoples and individual rights. These rights can be reconciled to the benefit of all, and the issue of implementation of these judgments, as well as of the decisions of the Constitutional Court, should be addressed in the shortest possible timeframe.

43. In this context, on 29 August, the European Court of Human Rights ruled on an application brought by Slaven Kovačević that complained about discrimination in his right to vote in the elections for the members of the BiH Presidency and the members of the BiH House of Peoples (HoP). As mentioned in the previous paragraph, the Court had already, in previous judgments (the Sejdić-Finci group of cases), established discrimination in the right to be elected to these bodies which link territory and ethnicity. This new judgment has triggered sharp reactions throughout the country, with some seeing it as the desirable end of the “ethnocracy” that prevails in BiH and others considering it a serious attack against the constitutional order established under the GFAP. The sensitivity of the issue was exacerbated by the fact that, for the first time in the history of the Court, the judgement, and specific elements of it were discussed publicly on a Sarajevo-based portal, making it clear that the content of the judgment was leaked before its official publication. BiH has since requested that the judgment be referred to the Grand Chamber for re-examination under Article 43 of the Convention. If confirmed, the judgement could further split BiH political parties on matters of reforming the Constitution, making the implementation of ECHR and Constitutional Court decisions even more challenging, as they require constitutional amendments. Implementation needs robust international commitment in facilitation and a lot of engagement within the society to make these amendments acceptable to all constituent peoples and the others, ensuring non-discrimination.

Decisions of the High Representative during the Reporting Period

In the reporting period, I enacted the following Decisions:

Decision on the Appointment of the Government of the Federation of BiH

44. On 27 April, I issued a Decision to unblock the Appointment of the Government of the Federation of Bosnia and Herzegovina (FBiH) to overcome the continual political stalemate at the entity level and allow BiH to engage meaningfully in reforms needed for the country to advance towards EU integration. I issued this Decision after all constitutional deadlines for Government formation in the FBiH expired in April. Although the FBiH President and the Vice-Presidents had a constitutional right and obligation to come together and appoint a Government, there was no consensus on the matter.

45. Since the current FBiH Constitution offered no solution if the President and the Vice-Presidents did not agree, I enacted a Decision that allowed the newly elected Parliament of the FBiH to vote on a future Government on 28 April, based on the proposal of the President and one of the Vice-Presidents of the FBiH. The situation clearly showed the unwillingness or inability of the relevant political actors to compromise and accept their responsibility to the citizens. An integral part of this Decision was an Amendment to the FBiH Constitution that will enter into force in May 2024 if the FBiH Parliament itself does not amend the FBiH Constitution to solve this problem first. The Amendment that will enable the FBiH to overcome similar government formation blockages provides deadlines for the appointment of the Government and introduces new unblocking modalities in case this fails, including the dissolution of the Parliament of the Federation and the Cantonal Assemblies with subsequent early elections. The 12-month period between the Decision and the Amendment's entry

into force is sufficient for the FBiH Parliament to agree on constitutional changes regarding this issue.

The Decisions Enacting Amendments to the Criminal Code of Bosnia and Herzegovina, the Criminal Code of the Federation of Bosnia and Herzegovina, and the Criminal Code of Republika Srpska

46. Regarding election integrity in BiH, on 27 April, I adopted three Decisions enacting amendments to the BiH Criminal Code, the FBiH Criminal Code, and the RS Criminal Code. The Decisions introduced comprehensive new provisions sanctioning any form of bribery of officials, especially in the context of elections, in all three criminal codes. They are meant to fight systemic political corruption, a fundamental stumbling block that continues to cause serious damage to the national economy and citizens' daily lives. They aim to strengthen election integrity by sanctioning bribery of elected officials.

Decisions on the Prevention of the Entry into Force of Laws Adopted by the National Assembly of Republika Srpska and consequent Amendments to the Criminal Code of Bosnia and Herzegovina

47. The package of Decisions that I adopted on 1 July was in response to attempts by the RS ruling coalition to undermine the constitutional order and integrity of BiH and to hamstring its key institutions. The two RS laws adopted in June, namely the *Law of Non-application of Decisions of the Constitutional Court of Bosnia and Herzegovina* and the *Law on Amendments to the Law on Publication of Laws and Other Regulations of Republika Srpska*, were an unlawful change to the constitutional order of the country and a refusal of the constitutional obligation to publish the Decisions of the High Representative in the *Official Gazette of Republika Srpska*. Therefore, I decided that the Law to remove the obligation to publish Decisions of the High Representative in the *Official*

Gazette of Republika Srpska and the Law on the non-implementation of the Decisions of the BiH Constitutional Court on the territory of the RS would not enter into force, annulled all steps taken in the legislative process concerning said laws, and terminated the legislative procedure for their adoption.

48. Furthermore, I issued a Decision enacting the Law on Amendments to the BiH Criminal Code, whereby I extended the criminal definition of the offenses against the constitutional order and the non-application of the Court's decisions and added an offense regarding the failure to implement the Decisions of the High Representative, effectively ensuring that such future events are adequately criminalized and addressed by the judiciary system.

49. On 27 June, the RSNA further adopted the *Conclusion in relation to the Law on Non-application of the Decisions of the Constitutional Court of Bosnia and Herzegovina*, containing instructions for future legislative actions, which are in clear violation of the BiH Constitution and the GFAP. In response, I issued a *Notice on the Conclusion* that contained my legal assessment of this document and qualified all attempts to adopt the laws referred to in the Conclusion as unconstitutional.

50. This package of Decisions was necessary to protect the sovereignty and territorial integrity of BiH, strengthen the rule of law, advance legal certainty, and defend the independence of judicial bodies.

Decision on Srebrenica-Potočari Memorial Center

51. On 20 September, I issued the *Decision Enacting the Law on Amendments to the Law on the Center for the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide*, thereby expanding the existing mandate of the Memorial Center in areas of research and education, allowing

the Memorial Center to establish a department for research and education, an expert commission, and an Honorary Board. Conscious of the crucial role that the work of the Memorial Center has had in providing closure to victims, promoting reconciliation in BiH, protecting remembrance of the genocide and preventing denial and revisionism, this Decision enables the Center to further develop and expand its activities. This Decision contributes to truth, justice, and trust building as the key ingredients of enduring peace, stability, and progress in the country. Additionally, this Decision specifically includes youth in future research and education department projects.

C. Five Objectives and Two Conditions for the Closure of the OHR

52. No major breakthrough in the implementation of the 5+2 Agenda was reached in the reporting period. However, in September, a Technical Experts' Group on state property, which was formed by the OHR, concluded its work. In the following months, the results of the work of these national and international experts will be introduced into the political process in BiH. In the Brčko District, the generally positive trend continues, although there has been a slight slowdown in the pace of reforms.

State and Defense Property

53. The OHR has intensified its engagement on state property since my previous report. In this period, a Technical Experts' Group was formed by the OHR with the support of several PIC Steering Board Member States, consisting of national and international legal experts in the fields of constitutional law and property law. The Experts' Group met regularly to discuss legal and technical issues related to the ownership, management, and usage of several categories of state and public property (agricultural land; forests and forestland; waters; roads and railways; government buildings; and other

public facilities, as well as other categories of public goods and goods of general interest). The members of the Experts' Group are generally aware of the complexity of the subject and that the assets that constitute state property are in general use, of specific public interest, and of special importance to public health, environmental protection, and economic development.

54. The work of the Technical Experts' Group was accompanied by a robust public information campaign to debunk existing myths and misunderstandings on state property launched by the OHR in April. Between 1 July and 31 July, numerous advertisements appeared on television and online, including on seven TV stations in BiH and on selected web portals. Additionally, the OHR initiated a myth-busting campaign on social media this summer, with an overall reach of over 1.5 million accounts that saw one of the posts at least once.

55. The outcome of the work of the Technical Experts' Group will be summarized in a technical report that will constitute an important input and starting point for a subsequent political process aimed at achieving a state-level agreement on future state property legislation in the BiH Parliament.

56. I wish to highlight that this technical process took place in a particularly polarized political environment. During the reporting period, political stakeholders continued to issue public statements containing conflicting views and sometimes misleading interpretations of the subject.

57. Following the interim decision by the BiH Constitutional Court of 2 March 2023 that rendered the new *RS Law on Immovable Property Used for the Functioning of Public Authority by Republika Srpska* ineffective, the RS President continued his rhetorical campaign around the issue of state property. During an official visit to Belgrade, RS President Dodik called state property a "red line" and declared that the RS is seriously considering declaring independence over state

property.

58. On the other side of the political spectrum, on 19 April, a Joint Statement on State Property was signed by two members of the BiH Presidency, Denis Bećirović and Željko Komšić, together with the presidents of six parliamentary parties (SDA, SDP, NiP, NS, NES, and SBiH). This Joint Statement called on all political actors in BiH to consistently respect the GFAP and the decisions of the BiH Constitutional Court which “include the following final and binding legal positions: The state of BiH is the heir to the state property of the (Socialist) Republic of Bosnia and Herzegovina, and the property that belonged to the former Socialist Federal Republic of Yugoslavia. In the description of state property, given by the BiH Constitutional Court, it is clearly stated that state property does not only imply a set of real estate that serves the public authority to carry out its responsibilities. State property is also a ‘public good’ (seawater, seabed, river water, riverbeds, lakes, mountains and other natural resources, public and transport network, transport infrastructure), which primarily serves all people in the country.”

59. The Joint Statement immediately drew harsh responses from RS authorities and RS parties. BiH Presidency Member Željka Cvijanović stated that the decisions of the BiH Constitutional Court were not a constitutional basis for anything but proved that those put in charge to protect the BiH Constitution were violating it. RSNA Speaker Nenad Stevandić reiterated that “state property was the red line for us and if they want to threaten us, they will threaten the survival of BiH”. Leaders of the main opposition parties in the RS issued similar statements.

60. In parallel, further transfers and disposals of state property assets are taking place not only in the RS but throughout the country – in violation of the State Property Disposal Ban and contrary to the relevant decisions of the BiH

Constitutional Court. For example, the RS Government has been regularly adopting decisions allocating, i.e., transferring the right of ownership, of agricultural land and other categories of state property. At the same time, a review of relevant cadastral records in numerous individual cases shows that a systematic re-registration of state property, particularly of forests and agricultural land, in the name of the RS has already happened.

61. Additionally, laws regulating public assets at all levels of authority, including in the FBiH, cantons, and the RS, contain problematic provisions whose implementation often leads to disposal of state property assets, thus raising the issue of conformity with the State Property Disposal Ban and the decisions of the BiH Constitutional Court. This current situation makes the need to reach an agreement on state property that respects the laws and the Court decisions even more pressing.

62. On 3 October, two members of the BiH Presidency, Željko Komšić and Denis Bećirović, submitted a draft law on state property into procedure in the BiH Presidency. BiH Presidency member Bećirović said that, under this draft law, the State of BiH is the titleholder of the ownership right over all state property, whereas the entities and other levels of government are entitled to use and manage the properties needed for the exercise of their competencies to the extent authorized by this or another law adopted by the BiH Parliamentary Assembly.

Completion of the Brčko Final Award

63. In this reporting period, the pace of reforms in good governance, economic growth, infrastructure development, and anti-corruption in the Brčko District decreased. The slowdown is related to the replacement of the District Mayor, and accompanying changes to the executive in mid-March, as reported in the previous period. The new coalition of Bosniak parties, reflecting the new FBiH coalition, is composed of the

parties SBB, SBiH, SDP, and NiP. It pushed the SDA, which still has the largest number of seats in the Brčko District Assembly (“the Assembly”), into the opposition. The Assembly elected a new mayor from SBiH, consistent with the newly formed coalition.

64. Additional political turmoil that slowed down the work of the executive and legislative authorities occurred in August when two SBiH delegates defected to support SDA efforts to dismiss the new mayor and reestablish their former parliamentary majority. The attempt failed at the first post-summer recess Assembly session in September.

65. Despite the governmental reshuffle, the focus remained on the implementation of reform legislation adopted in the previous period, including the timely preparation of the District Budget for 2024. To improve fiscal discipline, transparency, and accountability, in July, the Assembly adopted amendments to the *Law on Budget* to allocate certain percentages of the annual budget to capital projects, infrastructure development, and public service improvement.

66. The *Draft Law Establishing an Anti-Corruption Office* underwent the necessary procedure of examination by the responsible institutions in the Brčko District. The law was prepared with expert assistance from the OHR, the U.S. Embassy, the EU Delegation, and the OSCE. It is expected to be adopted by the Assembly this fall.

67. The Brčko District has continued to work to strengthen energy security by improving conditions for energy sector investments. Currently, a group of laws on concessions, water, environment protection, spatial planning, and construction are drafted, and its adoption is expected by the end of the year.

68. The drafting of legislation on civil service and public administration reform has reached its final phase. The IMF and World Bank have reported noticeable progress in strengthening

the efficiency and integrity of public companies in the District.

69. In the previous reporting period, the Republic of Croatia and BiH agreed to share the costs of reconstructing the Brčko-Gunja Bridge connecting the District to the commercially crucial Zagreb-Belgrade highway in Croatia. The ratification process of this agreement is pending at the state level.

70. As stated in the previous report, the construction of the District's first business zone commenced based on an agreement signed with an Austrian-based consortium. However, progress on providing the necessary infrastructure in the zone has been moderate during the reporting period because of the slowdown in the government's work. The consortium is working to meet technical requirements for four additional investment projects in the District with a total value of BAM 100 million.

71. The project to completely demine the Brčko District by the end of 2024 has been progressing in the reporting period according to plans.

Fiscal Sustainability

72. Certainty and adequacy of financing are key elements affecting the ability of the institutions of BiH to carry out their constitutional and legal obligations. Yet, no steps have been taken to provide assurances to that end regarding the 2024 budget.

73. The BiH Fiscal Council ("the Council") held no sessions over the last six months. The official reason for this lack of activity is that Zoran Tegeltija (SNSD) resigned from the post of Minister of Finance and Treasury in June to take up the post of Director of the Indirect Taxation Authority (ITA). Three reasons cast doubt on this explanation: the Council could have been convened any time before Mr. Tegeltija's resignation; the Council could have been convened any time after Mr. Tegeltija's resignation as the absence of one member

does not affect its quorum for work and decision-making; and the Council could have been convened any time after the appointment of Srđan Amidžić (SNSD) as the new Minister of Finance and Treasury on 22 August.

74. Consequently, the Global Framework of Fiscal Balance and Policies for 2024-2026 has not yet been adopted. This is a serious impediment as this document is the first substantive and procedural step in the preparation and adoption of a 2024 State budget. The BiH Fiscal Council should have adopted it by the end of May.

75. Certainty and adequacy of financing of the State and all other levels of government in BiH are directly dependent on the stability and functionality of the single indirect tax system and its institutional structure: the BiH Indirect Taxation Authority (ITA) and the Governing Board. The Governing Board met four times in the reporting period. Three sessions were regular (6 June, 14 June, 4 September), while one session (4 September) was constituent due to the new BiH Minister of Finance and Treasury Srđan Amidžić taking over as new Board Chairman. Adopted decisions include the revenue allocation coefficients for the third quarter of 2023, which show an increase for the RS and a corresponding decrease for the Federation, and the inter-entity debt settlement for the first half of 2023, which commits the Federation to settle a debt of BAM 14.5 million to the RS. However, there was no progress on at least two longstanding issues with financial implications.

76. The Board has not yet identified an alternative enforcement source for the outstanding BAM 30 million debt of the ITA to the RS based on a 2015 BiH Court decision. The attempted debt enforcement by the RS in 2018 from public revenue accounts of the ITA caused financial damage to all indirect tax revenue beneficiaries, including both entities and the Brčko District, as well as recipients of value-added tax refunds and customs insurance depositors. The suspension

of the enforcement by the BiH Court expires in June 2024.

77. The Board has not yet agreed on a model of distribution of road toll revenue reserves, which have now accumulated to about BAM 220 million. The absence of an agreement prevents the use of these funds for highway and road construction. It also damages the ITA financially, as it must pay charges on the deposit accounts.

78. Addressing the issues pertaining to certainty and adequacy of the financing of BiH institutions, as well as the stability and functionality of the single indirect tax system, is crucial to strengthening the fiscal sustainability of BiH and thereby its political stability. Another important element is the BiH Central Bank as the guardian of BiH's monetary and financial sector stability. During the reporting period, the BiH Central Bank carried out its constitutional and legal responsibilities professionally and efficiently despite facing continued challenges. Its Governing Council has operated in a caretaker capacity for more than two years, as the BiH Presidency has not appointed a new Council.

Rule of Law Issues

79. The rule of law, a crucial tenet of the GFAP is being seriously undermined. BiH judicial institutions are subject to unprecedented levels of political pressure, with constant attacks by RS officials on the BiH Prosecutor's Office, the BiH State Court and the BiH Constitutional Court. Republika Srpska directly rejects the authority and applicability of decisions by the BiH state judicial institutions, thereby effectively opting-out of the judicial system of the BiH State and thus fundamentally rejecting the sovereignty of BiH. RS authorities also reject the authority of the High Representative disregarding their legal commitments under Annex 10 of the GFAP. The current course of action cannot remain unchecked without an increased risk that BiH will slide further towards legal anarchy.

80. Corruption remains one of the most pressing challenges in BiH. According to the 2022 Corruption Perception Index by Transparency International, BiH ranks by far the lowest in the region and third worst in Europe in terms of perceptions of corruption in the country's public sector.

81. While the rule of law altogether is questioned, BiH needs serious reforms, many of which were already identified in the Priebe Report of 2019. Much needs to be done to guarantee judicial independence and impartiality, especially in light of the ongoing challenges to the judiciary by public authorities. As a priority, rollbacks of previously achieved results must be halted.

82. One of the needed reforms is the long-overdue improvements in the High Judicial and Prosecutorial Council (HJPC), the body that appoints and oversees all judges and prosecutors. A small package of technical but essential amendments to the BiH Law on the HJPC, which is part of the 14 key priorities from the European Commission's Opinion on BiH's application for EU membership, was finally adopted in September. While the amendments initially envisaged a rigorous system of asset declarations and their control to prevent and sanction possible conflicts of interest and irregularities of judges and prosecutors, the SNSD introduced changes to the legal text that dilute the obligations of the authorities to deliver the information required to investigate the truthfulness of asset declarations. The law is thus insufficient, as it makes the application of the state-level law dependent on entity and District legislation. The entity and District legislation may directly contradict state obligations, and thus render the state law void, creating the possibility of a different legislative treatment of judges and prosecutors depending on their entity background.

83. Another piece of legislation that forms part of the EU's key priorities, the *Draft Law on the Courts of BiH*, is being finalized and has not yet been presented to the CoM. The new

law is needed to establish a new separate high court at the state level that would consider legal remedies against BiH Court decisions. The new law is also intended to clarify rules on state-level jurisdiction in criminal matters, which besides the BiH Criminal Code extends to the adjudication of crimes prescribed by the Criminal Codes of the entities and Brčko District when those crimes are of inter-entity character or otherwise bear consequences for the entire state. This criminal jurisdiction is essential for the state to defend its constitutional values.

Criminal Records on War Crimes

84. Criminal records in BiH do not contain information on convictions of Bosnian and Herzegovinian citizens by international judicial bodies. No judgment of the International Criminal Tribunal for Former Yugoslavia or its successor has entered the domestic criminal records of BiH. Persons internationally convicted of genocide, crimes against humanity, or war crimes can obtain a clean certificate in BiH. After they serve their sentence, they could immediately run in elections or be employed in public office. Regrettably, the international judgments for the most serious violations of international humanitarian law are being disregarded in the political, professional, and social life, to the detriment of reconciliation and social cohesion while different parts of the country still glorify war criminals.

85. In October, the BiH Ministry of Justice agreed to conclude a memorandum of understanding with the International Residual Mechanism for Criminal Tribunals, which should serve as a basis for the entry of their judgments into the criminal records in BiH. This requires, in addition, a national legal basis.

86. Reconciliation is paramount to any true progress in BiH. It cannot be achieved without the understanding and acceptance of the established facts and without the acceptance of

responsibility for the events that resulted in a large number of victims and countless adverse consequences.

D. Further Specific Challenges to the GFAP

87. Besides the non-compliance of the RS authorities led by the RS President, which I described in Chapter II and which constitutes the most serious current threat to the GFAP, I wish to inform the Security Council about several additional challenges.

Developments Related to Annex 7 on Return of Refugees and Displaced Persons

88. Annex 7 of the GFAP obliges the authorities in BiH “to create in their territories the political, economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group.” Political rhetoric that creates an atmosphere of hostility is fertile ground for the hate crimes that I am currently observing. Threats, intimidations, and provocative behavior towards returnees are unacceptable and must be addressed decisively at all levels and in the entire country. A full and updated picture, such as that provided by the 2013 census, is not available and population movement figures are largely estimations.

89. The reporting period has seen a relative increase in violent incidents directed against returnees. The number of inter-ethnic incidents not directed at returnees has also grown. According to the OSCE, 14 hate crimes and/or bias-motivated incidents were reported in 2022, and 19 already at this point in 2023. The increase in such incidents has caused anxiety among not only the returnee population but the general public. Because some of these attacks resulted in grave bodily injuries and have targeted particularly vulnerable groups, such as the elderly and youth, this problem requires more

careful and consistent engagement to restore a sense of security and deescalate tensions.

90. Examples are the recent physical attack against a Bosniak returnee near Zvornik (RS) and a violent assault on a young Bosniak returnee in Bratunac (RS) in June. A Serb returnee woman was found at her home tied up, while another elderly woman went missing near Lukavac (FBiH) in August. A young Bosniak was unlawfully detained and suffered bodily injuries from police officers during an interrogation in Osmaci (RS) in late August. On 12 October, a Croat returnee was severely beaten near Derventa (RS) and was transported to a hospital with grave injuries.

91. Other kinds of incidents involve threats and provocations, property damage, damage to and desecration of religious facilities and graveyards, and the use of offensive symbols. They have been reported by several communities in both entities and send negative signals to the respective returnee communities. A juvenile in Bijeljina recorded himself walking around Bosniak suburbs shouting threats against Bosniaks and then published these videos on social networks. Members of the clergy or representatives of religious communities were targets of harassment in Kakanj (FBiH) and Bijeljina (RS), while cases of desecration or damage to religious facilities were, among others, reported near Mostar and Kladanj (FBiH).

92. Another specific situation involved public attacks against the employees of the Srebrenica Memorial Centre after the release of their periodical report on genocide denial. Some of their staff who participated in the drafting were called out in public by Serb critics, which was perceived as intimidation and met with a wave of condemnations.

93. The response of the responsible authorities to most of these incidents has been inadequate. I rarely see a just and efficient judicial outcome, and cases remain in the investigative phase for too long. On the political level, the

BiH House of Representatives (HoR) adopted two conclusions in an urgent session on 21 September: One condemning all attacks against returnees in BiH and one establishing a working body tasked with developing further protective measures.

94. One of the reasons these incidents received more attention and contributed to an increasingly tense atmosphere this year is the lack of conclusions in the investigation of a case from March in which an elderly Bosniak couple was brutally beaten in their home near Višegrad (RS). The RS Ministry of Interior described the steps they took to resolve criminal acts committed against returnees in a 6 September press release. Some local communities organized security forum meetings to facilitate dialogue between different community representatives.

95. The nature of the problems faced by returnees often depends on the location. For example, Serb returnees in the FBiH most commonly flag problems with infrastructure, while the bulk of the complaints by the returnees in the RS pertains to problems with education, free access to public employment, and – increasingly – security. Security concerns are often shared by the returnees across the country, particularly in the current political climate, which is dominated by inflammatory ethnic rhetoric and provocation.

96. The readiness of many politicians to abuse security incidents for their political agendas only aggravates the situation. In this context, some appropriate responses and reasonable public appeals are often overlooked. Positive examples of appropriate reactions by the local authorities, such as the Mayors of Lukavac (FBiH) or Zvornik (RS), do not get sufficient public attention and are overshadowed by more aggressive reactions.

97. Likewise, occasional attempts to work toward the improvement of inter-ethnic relations on the local level do not get sufficient public attention. They are sometimes even

criticized and attacked from within the communities. Examples such as the cooperation between the Mufti of Mostar and the Bishop of Mostar regarding the start of the reconstruction of a mosque near Nevesinje (RS) show that some actors still have the courage and motivation to improve community relations.

98. Residents of the communities where isolated incidents happened, such as Kamenica near Zvornik (RS), are increasingly anxious about their future. Even potentially appropriate reactions, condemnations, and personal contact with victims by RS President Dodik are often perceived as dishonest or cynical by the public because they come from a person who has poisoned BiH politics with inflammatory rhetoric for many years.

99. In late August, BiH Presidency Member Denis Bećirović, several victims' Associations, Head of the Islamic Community Reisu-l-ulema Husein ef. Kavazović, as well as the SDA, requested in letters that I increase the number of Bosniaks and Croats in the RS Ministry of the Interior and the RS police. The senders reported that non-Serbs in the RS have no confidence in the current police structure in which Bosniaks and Croats are underrepresented, although the RS Constitution foresees proportional representation. I replied that I would not lower the bar in the implementation of the GFAP and that the RS authorities must fully comply with their obligations under Annex 7 of the Agreement.

100. The current increase in inter-ethnic violence is primarily a consequence of constant exposure to heated rhetoric by leading politicians and ethnocentric media. Interethnic tensions, incidents against returnees, rhetoric related to war crimes trials, disrespect for the suffering of the other, relativization, denial of genocide and war crimes, and the glorification of war criminals are still powerful political tools for irresponsible politicians who seek to strengthen their positions by perpetuating interethnic distrust.

Discrimination against religious communities

101. Minority groups often face discrimination in their religious practices. In the reporting period, there were several examples of attacks on religious authorities and buildings, such as the looting of a Serb-Orthodox temple in the Ortiješ settlement in Mostar (FBiH) and a mosque in the village of Šurmanci in Čapljina (FBiH).

102. On 26 October 2022, the three BiH Ombudsmen for Human Rights qualified the repeated municipal refusal to permit the renovation and expansion of the small mosque of Rabrani, a village in the Municipality of Neum in the FBiH, as a violation of religious rights and freedoms. Though the cantonal administration of Herzegovina-Neretva approved all Islamic Community appeals against the municipal prohibition, the municipal government did not reconsider its decisions. Consequently, municipal inspectors tried to halt the expansion effort and declared it illegal. The Cantonal Prosecutor's Office has opened an investigation into several construction workers in connection with this renovation. I'm closely monitoring these developments and expect a resolution to this case that allows the Muslim believers to exercise their religious rights.

Genocide Denial, Glorification of War Criminals, and Commemoration

103. Although the criminalization of genocide denial in 2021 had a general preventive effect, genocide denial and glorification of war criminals still occur, particularly in the political arena. They create further pain and offense to victims and society at large, sabotaging reconciliation efforts. Several dozen instances of genocide denial and glorification of war criminals were reported to the BiH Prosecutor's Office. Still, reports are being dismissed and prosecutors have not yet issued indictments.

104. On a positive note, the rules of criminal procedure in BiH envision the possibility of restarting prosecution, even if prosecutors dismiss potential criminal cases. Decisions not to investigate are non-public prosecutorial decisions. Therefore, the public learns about them only through a specific request.

105. The Chief Prosecutor of BiH requested domestic judicial training centers and asked the international community to raise understanding of hate crimes and required prosecutorial evidence among prosecutors in BiH. In July, the Bavarian Prosecutors' Office held capacity-building meetings with the BiH prosecutors to share successes in such prosecutions. Plans for further international training of both prosecutors and judges are forthcoming.

106. To my deep regret, commemorative events are sometimes scenes of provocation, adding to a general sense of tension. The most recent commemoration of the Srebrenica genocide has again been the target of relativizations and attacks. The commemoration and burial of 30 identified victims took place on 11 July, in the presence of around 10,000 attendees (according to the police). A statement by Srebrenica Mayor Mladen Grujičić, in which he called the mothers of Srebrenica "an engine of hatred", sparked strong reactions and did not contribute to the spirit of dignity. The small nationalistic party *Eastern Alternative* provoked tensions by marking the "liberation of Srebrenica" in central Bratunac on the evening of 11 July. On the very same evening, some Serbs celebrated St. Peter's Day at the Srebrenica churchyard and played loud music, some of which had nationalistic content. Though marking St. Peter's Day is a long-standing tradition, the way it is observed casts doubt on the intentions of the organizers. Local Serbs again complained about participants of the Peace March carrying so-called war flags (BiH Army flags with lilies and crossed swords), which they perceived as intimidation.

107. In Sarajevo, two young Serb students who had been

glorifying war criminal Ratko Mladić were expelled from the University of Sarajevo. Their subsequent prompt admission to the University of Belgrade at the initiative of political leaders triggered harsh public reactions in BiH.

108. A positive development is the renaming of certain streets in the Herzegovina-Neretva Canton that had previously borne the names of officials in the Croat Ustasha regime from World War II: In May 2023, the Mostar city administration completed the implementation of a 2022 decision by the Mostar City Council and placed plates with new names on six streets of the city. On 15 May, the City Council of Čapljina renamed the street named after Mile Budak – a minister of the Ustasha regime – with the explanation that no member of the Ustasha or the communist regime should be commemorated with a street name in Čapljina. On 14 July, the Čapljina City Council unanimously decided to rename one of its streets “the Street of the Victims of the Srebrenica Genocide.” I subsequently commended this decision in a letter to the Čapljina city councilors and the Mayor.

Trust-building and Dealing with the Past

109. According to the verified and updated list of the Missing Persons Institute (MPI), 7,608 people are still unaccounted for from the 1992-1995 conflict, as of August 2023. The issue of missing persons continues to haunt their families and places a heavy strain on relations between the affected communities. Despite challenges, progress has been achieved in the first six months of 2023, with 48 new identifications in addition to the 21 exhumations of human remains, according to the MPI.

110. The lack of reliable information on potential gravesite locations continues to be the main obstacle in the tracing process, coupled with a lack of local capacity to process available information. The International Committee of the Red Cross (ICRC) has continued with its intensive search for new

information in relevant international and national archives. Direct ICRC access to domestic military archives granted by the BiH Ministry of Defense is a positive step forward.

111. The deteriorating political situation in the country has adversely impacted the work of the MPI. Insufficient funds from the state-level budget prevented the MPI from increasing human resources and improving technical equipment needed to adequately fulfill its mandate. In addition, RS authorities have increased their challenges against the existence of the MPI and the work of its Board of Directors.

112. There is no progress on the full implementation of the *Law on Missing Persons*, including establishing a fund for the families, as well as the harmonization of the entities' legislation with the state-level law.

113. In the field of compensation for civilian victims of war, the Federation of BiH achieved progress by adopting the *Law on the Protection of Civilian Victims of War* in late July, recognizing the children born of wartime rape as a special category with equal social rights. In addition, the rights of civilian victims of war, including victims of conflict-related sexual violence, have been defined and bolstered. The law enters into force on 1 January 2024 in the FBiH.

114. However, following the war, victims in BiH faced a short statute of limitations within which to seek compensation in civil processes. This restriction resulted in a lack of reparations for many categories of civilian victims of war. I addressed this problem in my speech at the Srebrenica genocide commemoration ceremony on 11 July.

115. In many locations, families of victims and survivors still cannot memorialize places of suffering even with a simple plaque. Depending on which ethnic group is in control, municipal authorities will permit some war victims to install memorials but deny others. I am convinced that the adoption of

state legislation regarding memorialization processes is instrumental to honoring victims' memories.

116. The country also still lacks a comprehensive program 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 for all victim categories. A 2019 decision from the UN Committee against Torture ordering the State to ensure applicants receive adequate compensation has not been implemented.

117. According to the NGO Trial International, about 20,000 female survivors of conflict-related sexual violence continue to suffer from the physical and psychological consequences of their experience and live under displacement conditions with limited access to housing, employment, health, and psychosocial support benefits.

118. In general, political leaders do not use the *educational system* as an instrument to overcome ethnic tensions and to develop a sense of supra-ethnic BiH. On the contrary, historical education remains politicized and continues to fuel mistrust between communities and younger generations. There is a common understanding among experts that the goal is not to have one narrative and one joint textbook in BiH. Rather, the aim is to encourage critical thinking and introduce multi-perspectivity. Such an approach can foster mutual understanding and respect, and it can help nurture democratic values.

119. The two judgments by the FBiH Supreme Court that found the practice of "two schools under one roof" discriminatory (in 2014 regarding Stolac and Čapljina in the Herzegovina-Neretva Canton and in 2021 regarding the Central Bosnia Canton) remain unimplemented. Instead of developing these schools into multi-ethnic, integrated, and inclusive

institutions, domestic authorities continue to move towards full separation by establishing mono-ethnic schools in mixed areas and transporting children to schools in areas where they are the ethnic majority.

120. The name of the Bosnian language in the RS remains contested: Bosniak parents from Liplje (Zvornik, RS, 2022) and Janja (Bijeljina, RS, 2023) submitted lawsuits to the first instance courts in Zvornik and Bijeljina respectively regarding the name of the Bosnian language. In the Liplje case, the Zvornik Basic Court ruled on 19 June that the plaintiffs were discriminated against on ethnic and language grounds because the defendants denied them the equal right to education in their mother tongue by not allowing them to call their mother tongue “Bosnian” in the education process and not using this name in official school documentation, which is not the case for Serb pupils. The defendants submitted an appeal.

121. Some positive developments occurred in the field of curriculum reform. With the support of the OSCE Mission to BiH, the cantons of Sarajevo, Zenica-Doboj, West Herzegovina, and Una-Sana advanced their educational work, allocating significant human and financial resources. This reform focuses on the outcomes of student learning (e.g., the development of analytical skills such as critical thinking and multi-perspectivity, instead of rote learning and memorization), seeking to improve the quality of education, curricula harmonization, and students’ mobility.

III. Developments Related to the State-Level Institutions of BiH

A. Presidency of BiH

122. BiH Presidency Member Željko Komšić took over the Chairmanship of the BiH Presidency from Željka Cvijanović on 16 July, after the first eight-month rotation.

123. The current severe political crisis was reflected in

certain uncoordinated actions taken unilaterally by the members of the BiH Presidency, Željka Cvijanović (SNSD), Željko Komšić (DF), and Denis Bećirović (SDP). The Presidency Members continue to hold and express diverging positions on the constitutional and legal order of BiH, the GFAP, the role of the High Representative, state property, Russia's war of aggression against Ukraine, NATO integration, the conduct of foreign policy, and many other issues.

124. BiH Presidency Member Bećirović continued to warn of blatant and unprecedented attacks by RS authorities led by the RS President on the constitutional and legal order of BiH, with unforeseeable consequences for peace and stability. He appealed to the international community to stop the destruction of the GFAP and to ensure peace, stability, and the territorial integrity of BiH. Similar statements were issued by BiH Presidency Chairman Komšić. BiH Presidency Member Cvijanović, on certain occasions, continued to challenge the functioning of the State, the GFAP, the international community, and the competencies vested in the High Representative.

125. BiH Presidency member Cvijanović invoked the vital entity interest procedure against several decisions adopted by the BiH Presidency without consensus, including one adopted on 21 June on the adoption of agreements stemming from the Berlin Process, namely those on freedom of movement with ID cards within the Western Balkans and the Action Plan to fulfill the 14 key priorities from the Opinion of the European Commission on BiH's application for EU membership. The RSNA confirmed both with a two-thirds majority.

B. Council of Ministers of BiH

126. During the reporting period, the BiH Council of Ministers (CoM) held a total of 16 regular sessions and nine urgent sessions under the leadership of Borjana Krišto, Chairwoman of the CoM.

127. In her work, Chairwoman Borjana Krišto has shown commitment, determination, and efficiency in advancing toward EU integration and fulfilling pending requirements from the European Commission Opinion. She has consistently reiterated that BiH's membership in the EU represents a strategic objective of the country that enjoys the consensus of all political actors and all levels of authority. On 17 May, Chairwoman Krišto co-chaired a high-level forum on European integrations of BiH together with European Commissioner for Neighborhood and Enlargement Olivér Várhelyi. The forum was attended by representatives of the legislative and executive branches of all levels.

128. The CoM increased its legislative output in August by adopting the Law on the Organization of the Wine Market in BiH and the Law on Changes and Amendments to the Law on Foreigners. In May, the CoM adopted the Law on Changes and Amendments to the Law on High Judicial and Prosecutorial Council (an EU requirement) as well as the long overdue Law on Foreign Affairs of BiH and the Law on Conclusion and Execution of International Agreements, of which the latter two are pending in the BiH HoR. Altogether, in the reporting period, the CoM adopted three new laws and two changes to the existing legislation, which is a modest achievement but continues the established practice of not proposing legislation to the BiH Parliamentary Assembly unless full political consensus is secured for adoption by both Houses.

129. In May, the CoM agreed on a pre-draft international agreement between BiH and Serbia on the construction of a gas pipeline called the New Eastern Interconnection between BiH and the Republic of Serbia. At the same time, the CoM extended its full support to a pre-draft international agreement between BiH and the Republic of Croatia on the construction of a gas pipeline called the Southern Interconnection between BiH and the Republic of Croatia while inviting the FBiH Government to urgently finalize the necessary legislative framework.

C. Parliamentary Assembly of BiH

130. During the reporting period, the BiH House of Representatives (HoR) held six regular and three urgent sessions, while the BiH House of Peoples (HoP) held seven regular sessions.

131. A collective walkout by RS parties at the 19 April HoR session to protest the Joint Statement by six FBiH parties on state property led to a blockage of more than five weeks in this legislative body. The session resumed only on 24 May.

132. The pace of adoption of the legislation required under the EU accession process increased in August and September because of an agreement reached within the State coalition. The BiH Parliamentary Assembly was then able to adopt five laws (two new laws and three amendments to existing legislation) required in the European Commission Opinion, namely the much-contested *Law on Changes and Amendments to the Law on High Judicial and Prosecutorial Council*, the *Law on the Organization of the Wine Market in BiH*, the *Law on Changes and Amendments to the Law on Foreigners*, the *Law on Free Access to Information at the Level of Institutions of BiH*, and the *Law on Changes and Amendments to the Law on Ombudsman for Human Rights*. In addition, the BiH Parliamentary Assembly adopted four laws amending the existing legislation proposed by the delegates. The publicly announced tactical move by the RS ruling coalition to condition the adoption of any new legislation with an agreement on the withdrawal of the international judges from the Constitutional Court threatens to hamper the capacity of the state parliament to legislate. This policy was effectively put into motion on 4 October when the Serb Caucus of the House of Peoples voted against all laws on the agenda.

D. Constitutional Court of BiH

133. The FBiH HoR and the RSNA have not yet fulfilled their

obligation to appoint replacements for Judge Mato Tadić and Judge Miodrag Simović, who retired in August and November 2022, respectively. The Selection and Appointment Committee of the FBiH HoR is currently finalizing its work. Still, there is no agreement among the members of the Committee on whether only the top-ranked candidate or the full list of the successful candidates will be proposed to the FBiH HoR for a final vote.

134. These vacancies have placed the Constitutional Court in a position where the Grand Chamber cannot make decisions because it only has four members. International judges agreed to deliberate and decide the cases normally assigned to the Grand Chamber in the Plenary of the Court.

135. The refusal by the RSNA to appoint replacements for the retired Simović and for Judge Zlatko Knežević, who is expected to leave the Court by the end of 2023, is part of a deliberate policy of non-cooperation with the BiH Constitutional Court outlined in the joint statement of 24 April by the RS ruling coalition.

136. After the BiH Constitutional Court granted a temporary interim measure prohibiting the application of the RS Law on Immovable Property on 2 March 2023, attacks and pressure on the Court from the RS have intensified.

137. The 24 April joint statement by the RS ruling coalition that called on the remaining RS-appointed judge (Zlatko Knežević) to withdraw from the Court made clear that the RS ruling coalition is obstructing the appointment of a judge to the Court. On 26 April, the RSNA adopted two decisions on the BiH Constitutional Court: (1) The RSNA called on the RS-appointed judges of the BiH Constitutional Court to resign and (2) the RSNA tasked the members from the RS in the BiH House of Representatives to propose a Law on the BiH Constitutional Court eliminating international judges from the Court.

138. On 19 June, the BiH Constitutional Court held an extraordinary session where it considered the “political pressure on Judge Zlatko Knežević”. In its statement issued on the same day, the Court strongly condemned “all political pressure on Vice President Knežević” and called “on everyone to refrain from it”, while underlining that: “No one, not a single legislative or executive body, has the constitutional authority to ‘remove’ a judge who has been elected as a judge of the Constitutional Court of Bosnia and Herzegovina. The term of office of a judge in the Constitutional Court can be terminated only in the manner prescribed by the Constitution of Bosnia and Herzegovina”. It further stated that the Court was facing the “biggest crisis in the last 28 years of its existence”.

139. I must emphasize that, under the BiH Constitution, international judges on the BiH Constitutional Court are appointed to serve until the age of 70, unless they resign or are removed for a cause by consensus of the other judges. Under the BiH Constitution, a law passed by the BiH Parliamentary Assembly may only change the method of appointment of international judges but cannot terminate their mandates with immediate effect to replace them with domestic judges. This process would require the prior adoption of a constitutional amendment.

140. The intensified efforts to terminate international presence in the Court require careful examination more than ever, as international judges are crucial for upholding the BiH Constitution and maintaining the Court’s ability to overcome political obstacles and continue its work. A change in the method of appointment may place unacceptable pressure on the current sitting international judges to resign.

IV. Developments Related to the Federation of Bosnia and Hercegovina (FBiH)

A. Executive and Legislative Authorities of the FBiH

141. One day after my 27 April Decision that created the legal basis for the transmission of a government proposal to the parliament by FBiH President Lidija Bradara and Vice-President Igor Stojanović, the FBiH House of Representatives (FBiH HoR) confirmed by a majority vote the formation of a new Government. The new FBiH Government consists of Prime Minister Nermin Nikšić (SDP) and 16 Ministers from the following parties: the HDZ BiH, the HDZ 1990, the SDP, NS, and NiP, the last three composing the so-called Troika.

142. Before the vote on the new Government of the FBiH, the representatives of the new opposition parties – the SDA and the DF – left the session.

143. In order to intervene only if indispensable, my Decision is valid only for this election cycle and calls on the FBiH Parliament to develop a long-term solution to prevent future blockages in the formation of the FBiH Government. Several parliamentary initiatives have already been taken in the institutions of the FBiH to identify such a long-term solution. I welcome these initiatives and hope that they will find the support of both Houses.

144. At the time of the writing of this report, the Government held 16 regular sessions and 19 extraordinary sessions.

145. The two Houses of the FBiH Parliament frequently met, with the HoR holding five regular and two extraordinary sessions and the HoP holding three regular sessions. After almost three decades, the FBiH Parliament adopted the *Law on Protection of Civilian Victims of War* to grant children born of wartime rape equal social rights. It also defined and bolstered the rights of civilian victims of war, including those of conflict-related sexual violence. The law enters into force in the FBiH on 1 January 2024. In the reporting period, Parliament increased its legislative output by adopting five new laws as well as six proposals amending the current laws and seven draft laws.

Request for the Removal of FBiH Minister Sanja Vlasisavljević

146. On 11 May, the opposition party DF requested the dismissal of Sanja Vlasisavljević (HDZ BiH), FBiH Minister of Culture and Sports, in response to her statement regarding the convicted Bosnian-Croat war criminal Dario Kordić that war criminals are no longer war criminals after serving their sentences and “must be rehabilitated”.

147. On 8 June, the association representing victims and witnesses of genocide sent a letter to the OHR to demand the removal of FBiH President Bradara, who had made similar statements in the previous reporting period, and Minister Vlasisavljević. The association also sent a request for the dismissal of Minister Vlasisavljević to FBiH Prime Minister Nikšić and demanded that he publicly distance himself from the Minister’s statements, which he did. On 6 July, the FBiH HoR declined to consider the proposed dismissal of and vote of non-confidence on Minister Vlasisavljević.

B. Cantonal Developments

148. Since the General Elections of October 2022, nine of ten Cantons completed the process of constituting their Cantonal Assemblies and eight of ten Cantons formed their governments.

149. In the reporting period, two Cantons achieved progress on the implementation of the 2022 General Election results. On 24 April, the Assembly of Canton 10 continued its inaugural session and appointed its leadership, thereby finalizing the process. In the Central Bosnia Canton, following lengthy political negotiations, the traditional partners the SDA and the HDZ BiH formed a Government on 29 May, thus completing the implementation of the 2022 General Election results in that Canton.

150. Herzegovina-Neretva is the one canton that failed to complete both the process of constituting its Cantonal Assembly and that of establishing its Government, because of a

lack of a clear parliamentary majority. Canton 10 also failed to establish a new Government according to election results and appears to be waiting for the outcome of negotiations on the majority in Hercegovina-Neretva.

151. On 11 October, in the Zenica-Doboj Canton, a new SDA-led parliamentary majority voted no confidence in the previous troika-led government. On 9 October, the Prime Minister of the Sarajevo Canton, Nihad Uk ("Our Party"), resigned, thereby initiating a government reshuffle that will reflect the changes within the Troika-led parliamentary majority.

V. Developments Related to Republika Srpska (RS)

A. Executive and Legislative Authorities of the RS

152. The reporting period has seen a further deterioration of the political climate because of various actions by RS authorities. RS authorities led by RS President Dodik have taken steps that threaten to paralyze the functionality of BiH as a state. These steps include non-implementation of the decisions of the BiH Constitutional Court; stated readiness to withdraw RS representatives from state institutions; non-implementation of the Decisions of the High Representative; stated readiness to declare the independence of the RS if the High Representative imposes a Law on State Property; stated willingness to limit the competencies of the BiH Central Election Commission; statements calling for the reexamination of all laws and Decisions imposed by every High Representative; and termination of contact with the OHR, U.S. Embassy, and UK Embassy representatives and staff. Most of these measures are concrete steps towards secession and were outlined in the joint statement of the RS ruling coalition of 24 April.

153. The reexamination of all Decisions enacted by High Representatives would not only represent a serious rollback of all reform processes but would also undermine the stability of

the country and reverse the achievements of GFAP implementation.

154. Furthermore, the RS authorities and political leaders started to organize weekly protests, temporarily blocking traffic on the Inter-Entity Boundary Line (IEBL) as of 1 September. The message that they send from these rallies is that the IEBL is the “border” between the two entities. The rallies on the IEBL not only create a divisive environment and promote inter-ethnic hatred but also lay fertile ground for potential future incidents. By staging these protests, the RS President tries to wield public support against the indictment for the non-implementation of High Representative Decisions that the BiH Prosecutor opened against him. The statement of BiH Presidency member Željka Cvijanović at one of these gatherings may represent a threat of force. Cvijanović told a local news portal: “This is just a rehearsal for what may follow if they continue to harass us. And they do harass us when they do not allow the National Assembly of the Republika Srpska to do its work, because it is the Assembly that passes laws, and that the President of the Republic cannot do his job, to sign decrees, promulgate laws.” Her quotes prompted me to call her to order in a letter and remind her of her “obligation to implement the General Framework Agreement for Peace and its annexes in their entirety.”

155. The RS Government held 24 regular sessions in the reporting period (by 5 October).

156. In the same period, the RSNA held four special and four regular sessions during which eleven laws were passed. Some of the passed legislation challenged the jurisdiction of the BiH Constitutional Court on the RS territory and terminated the publication of the High Representative’s Decisions in the RS Official Gazette, which the RS authorities misleadingly interpreted as if the High Representative’s Decisions were no longer valid in the RS.

157. In July 2023, the RSNA adopted a *Law Amending the Criminal Code of the RS*. It entered into force on 26 August, introducing new criminal offenses in the category of crimes against the freedom and rights of citizens, defining them as “unauthorized publication and display of other people’s files, portraits and recordings,” as well as a criminal offense against honor and reputation, namely “defamation, and disclosure of personal and family circumstances.” In an environment that does not guarantee an independent judiciary, the implementation of this law may have far-reaching consequences. It further limits the civic space in the RS and can easily be used to silence, discourage, threaten, and punish independent journalists, media, NGO activists, and RS citizens who express dissenting political opinions. It is a setback since defamation was already decriminalized nationwide in 2002 in BiH. On 25 July, in a public statement, Irene Khan, UN Special Rapporteur on the freedom of opinion and expression, Clément Nyaletsossi Voulé, UN Special Rapporteur on freedom of peaceful assembly and of association and Mary Lawlor, UN Special Rapporteur on human rights defenders called on the authorities of Republika Srpska to repeal these amendments.

158. Another highly problematic piece of legislation is the *Draft Law on Special Registry and Transparency of Work of Non-Profit Organizations* that limits the civic space for NGOs and media, resembling the so-called laws on foreign agents. The RSNA adopted this law on 28 September in its first reading. Initially, the parliament had also tabled yet another *Law on Immovable Property* similar to the one previously annulled by the BiH Constitutional Court, but this draft was later removed from the agenda of the RSNA session.

B. Anti-Dayton Rhetoric

159. All these actions were accompanied by divisive and inflammatory rhetoric primarily coming from the RS President. During the reporting period, the RS President continued to

call for RS independence, a referendum on the status of the RS by the end of 2023, and its unification with Serbia. In his statements, he continues to challenge the sovereignty of BiH as a state, insults me as the High Representative, and defies the authority of the OHR.

160. In an interview on 5 September, the RS President claimed, “[W]e’ll see whether he [the HR] will be able to enter RS, he will no longer have an escort, and when we find out that he entered the RS, he will be kicked out. As of next week, he will not be able to enter the RS. Let him try and see.” On 13 September, the RS President told public broadcaster RTRS, “We refuse any proposal to discuss the property issue because we believe that issue is resolved and that it will not be a matter of discussion. We reject any proposal to discuss property and accept an imposed law by a false High Representative. If he makes an imposition, a special session will be organized immediately, and the independent status of the RS will be declared.”

VI. Economic and social developments

A. Economic Trends

161. Economic activity in BiH has significantly slowed down. The growth rate in Q1 was 1.1%, substantially below the growth rate of 5.9% in Q1 2022. Economic indicators, such as foreign trade exchange and industrial production, confirm the slowdown of the economy. Compared to the same period last year, the first six months show a drop in BiH’s exports and imports of 4.5% and 0.6%, respectively. Industrial production also dropped by 4.5%. Inflation has been 9.3% on average. Foreign direct investments (FDI) in Q1 amounted to BAM 426.6 million (up by 79.5% compared to Q1 2022). In 2022, the United Nations Conference on Trade and Development registered a 13% increase in BiH’s FDI inflows compared to the previous year. However, the country still falls behind others in the region.

162. Social indicators improved but must be seen in correlation with inflation. The average net salary of BAM 1,267 and the average pension of BAM 567 increased 12.5% and 19.5%, respectively. Still, they remain significantly below the average price of the basket of goods for a four-member family of over BAM 2,800, suggesting that even those with steady incomes struggle to make ends meet. The number of unemployed people in June was 346,634. This is a 3.6% decrease compared to the same period in 2022. The registered unemployment rate is about 28.7%, while the real (labor survey-based) unemployment rate is about 13.3%. The number of employed persons is 855,640 (up by 1.2%).

163. Last year, BiH's GDP per capita was 65% below the EU average, while BiH's real individual consumption was 58% below the EU average.

164. According to the 2022 Corruption Perception Index by Transparency International, BiH ranks by far the lowest in the region and third worst in Europe in terms of perceptions of corruption in the country's public sector

165. The country's political, social, legal and economic problems particularly affect youth, hampering their professional and personal development. Consequently, the outflow of people has accelerated. The BiH Union for Sustainable Return estimated the number of those who left BiH in the period 2013-2023 to be 600,000. According to a 2021 UNFPA survey, about half of the country's population aged 18 to 29 is considering emigration. Frequently cited reasons for leaving the country are widespread corruption, nepotism, weak governance, segregated education, social divisions, lack of economic opportunities, healthcare, and poor air quality. This worrisome situation impedes socioeconomic progress in BiH.

166. Banks in BiH are liquid and profitable. The BiH Central Bank reports that the banking sector made a record profit in the first half of 2023, amounting to BAM 362.2 million. This

is a 42.9% increase over the same period in 2022.

167. The BiH Ministry of Finance and Treasury estimates BiH's overall public debt at the end of Q2 at BAM 12.67 billion, which is 26.72% of BiH's GDP. Out of this amount, foreign debt is BAM 9.09 billion (71.76%) and domestic debt is BAM 3.57 billion (28.24%). The Federation share in the overall debt is 50.97%, the RS share is 48.18%, and the share of the State institutions and Brčko District is 0.49% and 0.36%, respectively.

168. Against this backdrop, on 4 August, the credit rating agency Standard and Poor's (S&P) raised the rating of BiH from 'B' to 'B+', with a stable outlook. The upgrade reflects the S&P view of BiH's resilient economic performance despite challenges, although S&P still refers to frequent political volatility and confrontation.

B. Fiscal Issues

169. There were no delays in debt servicing and regular budget payments in the reporting period. This was foremost due to the continued growth of indirect tax revenue, which accounts for most budget revenue for all levels of government. In the first eight months of 2023, the BiH Indirect Taxation Authority collected BAM 6.93 billion. This is an increase of 7.69%, or BAM 495 million, over the same period in 2022, which is a record collection of indirect tax revenue. The regular execution of financial commitments should also be attributed to borrowing, which is particularly excessive in the RS.

170. There were no problems in the execution of the 2023 State budget. This year's budget increase provided some "breathing space" for the State institutions, mainly allowing them to improve the material status of their employees. Still, the increase was insufficient to mitigate the consequences of years of underfunding. The financing of the State institutions is still inadequate, especially because of EU and NATO reform

obligations. There is also uncertainty about 2024 as the Global Framework of Fiscal Balance and Policies for 2024-2026 – the first step in the preparation of a 2024 State budget – has not yet been adopted.

171. The FBiH maintained its budget stability, which must be attributed to the sustained growth of indirect tax revenues and the continued domestic borrowing, mainly through the issuance of treasury bills and bonds. On 4 July, the Federation Government proposed parliamentary adoption of a budget rebalance for 2023 in the amount of BAM 6.93 billion, an increase of 3.1%, or BAM 211.7 million, over the originally adopted budget. The proposal is still pending, as the FBiH HoR returned it to the Government for adjustments on 25 July.

172. The RS faces serious financial constraints, being burdened this year with high debt service amounting to almost BAM 1.2 billion. The highest debt was settled on 28 June with the repayment of the 2018 BAM 340 million five-year bond sale at the Vienna Stock Exchange. The high RS debt service level totaling BAM 3.7 billion will continue over the next three years. Debt servicing in 2024 will amount to BAM 1.04 billion, in 2025 to BAM 1.07 billion, and in 2026 to BAM 1.6 billion. The 2026 excessive debt payment is foremost due to the 2021 sale of the five-year bond of EUR 300 million at the London Stock Exchange. To service all its financial obligations in 2023, the RS Government continued borrowing domestically through the issuance of securities at the Banja Luka Stock Exchange, raising thus far a total of BAM 715 million. An additional BAM 60 million was raised in early September through a ten-year loan from the Hungarian Export/Import Bank. Maintaining the current level of salaries and pensions, regular debt servicing will likely also demand budget cuts, primarily in material expenditures.

173. Several branches of the RS Trade Union – representing, among others, workers in the health sector, police, education, and judiciary – threaten protests over the RS Government's

failure to increase salaries.

C. Specific International Obligations

174. BiH has not rectified its non-compliance with the Energy Community Treaty which is the reason for on-and-off sanctions by the Energy Community Ministerial Council since 2015. Despite the invitation extended to the country by the Council on 15 December 2022 to step up efforts towards full compliance, no progress has been made to date. The most serious breach concerns BiH's long-standing failure to establish a gas sector operator at the State level, which the RS persistently rejects. The next meeting of the Council, when the situation in BiH is likely to be reassessed, is scheduled for 15 December 2023.

D. Problems of Specific State Agencies

Public Railways Corporation of BiH

175. The Public Railways Corporation of BiH remains underfunded, despite being the only mechanism for a harmonized approach to reconstructing the country's railway routes. The cause of its financial vulnerability is the full dependence on entity financial transfers that have proven unreliable. In 2023, the Federation has respected its payment obligations and has already transferred the entire annual contribution to the Corporation. However, the RS budgeted for this purpose less than required and then paid only 85% of this reduced contribution. The downward trend in financing over the last years has already affected the work and stalled the development of the Corporation to the detriment of the country's economy and all its citizens. Should the financial uncertainty and restraints continue, there is even a risk to the sustainability of the Public Railways Corporation of BiH as the only corporation established under Annex 9 of the GFAP.

E. Gender-based violence and discrimination

176. Gender-based discrimination is widespread, reflected not least in the low representation of women in political bodies. In the General Elections of October 2022, the level of 40% of women on candidate lists, which is a legal requirement, has not been reached. As the legal framework has not been fully put in place, these low numbers of women in politics demotivate the female population. Women also remained underrepresented in the post-election governments.

177. Gender-based violence remains widespread. Incidents of violence against women are frequent, with a significant number of femicide cases.

178. In the reporting period, BiH witnessed several prominent cases of violence against women, most notably the beating of a hotel worker in Jablanica (FBiH) by her employer and the murder of a woman in Gradačac (FBiH) by her un-wedded husband who subsequently killed two more persons before committing suicide. Continuing this pattern, on 20 August, a femicide-suicide in Živinice (FBiH) and an attempted murder of a woman by her partner in Bijeljina (RS) occurred.

179. These heinous crimes sparked country-wide protests by women's associations. On 21 August, I met with female NGO activists from various cities of BiH to discuss the problems they face in their work with victims of domestic violence and abuse. They criticized the insufficient application of law and that law enforcement agencies often don't take complaints by female victims seriously. They also emphasized the importance of establishing a database of perpetrators and advocated for the strengthening of the prevention of crimes against women.

180. Following these crimes, different political initiatives were launched to amend the Criminal Codes, namely by including femicide and sexual violence in wartimes, as well as unauthorized publication and display of documents, portraits, and videos as specific crimes into the FBiH Criminal Code.

181. BiH's LGBTQ+ community continues to face discrimination frequently. Notably, in 2023, the RS authorities again forbade the organization of a pride parade in the RS, whereas Sarajevo's 4th Pride Parade took place on 24 June without incident. In Sarajevo, there was a counter-gathering of people protesting for "traditional values" and "normal family values" as in previous years.

VII. Media Developments

Intimidation of journalists

182. The intimidation of journalists continues to be a major problem, especially in the RS. Denying access to information and governmental institutions to journalists who are not aligned with the "right party" remains a frequent practice. Several pieces of new RS legislation risk curtailing media freedom, namely the *Law Amending the Criminal Code of RS* and the *Draft Law on Special Registry and Transparency of Work of Non-Profit Organizations*. I urge the international community to be more outspoken about infringements of freedom of expression and media freedom by way of legislation.

Financial Sustainability of the Public Broadcasting System

183. Despite the pressing need for reform within the Public Broadcasting System (PBS) of BiH to ensure its financial sustainability, which is part of the EU 14 key priorities, the BiH CoM so far failed to agree on the issue. This has left the PBS system in a state of financial disarray, exacerbated by the unilateral actions of the RS public broadcaster in 2017. The BiH Minister of Communications and Transport Edin Forto recently announced the establishment of a working group to draft the necessary legislation for reform, yet it remains to be seen whether reforms will enhance the financial sustainability of the PBS, make it inclusive and editorially independent, or further deepen ethnic divisions. Given the overall political situation and conflicting requests of

different parties regarding the contents of such legislation, the success of this effort is unclear.

Regulatory Changes

184. In August, the BiH CoM approved the establishment of an ad hoc Commission within the BiH Parliamentary Assembly to carry out the appointment procedure for members of the BiH Communications Regulatory Agency Governing Council. The Commission is to present a shortlist of 14 successful candidates to the BiH CoM, which will then propose seven to the BiH Parliamentary Assembly for appointment. The mandate of the current members of the Governing Council expired at the end of 2017, which raises questions about the legitimacy and capacity of this body for decision-making.

VIII. EU Military Mission in BiH

185. EUFOR-Althea is vital to safeguarding peace and security in BiH, enabling my office and other international organizations to fulfill their respective mandates. The presence of EUFOR-Althea in BiH remains indispensable.

186. The unanimous approval by the United Nations Security Council to extend EUFOR-Althea is of utmost importance for peace and stability in BiH. The international community cannot permit a security vacuum to develop in BiH.

187. The Armed Forces of BiH need to be strong, united, and well-equipped. They are an important success story as a multi-ethnic State institution. Resources to modernize its military equipment remain greatly insufficient.

IX. OHR Operations

188. While the OHR has faced substantial reductions to budgets and staff over the last few years, its remaining tasks have not decreased commensurately. The current annual operating budget of the organization is EUR 5.8 million. Collecting

budgeted funds is still challenging, with more than EUR 700,000 of the budget expected to be uncollected in the current operating period. As previously noted, the Russian Federation suspended its contribution to the OHR budget in February 2022. The OHR employs 73 national staff and 20 internationals, of which 16 are seconded in Sarajevo and its regional and field offices.

189. To achieve progress on the 5+2 Agenda, a robust and efficient Office of the High Representative is indispensable. Its capacity to fulfill the mandated responsibilities is restricted without the appropriate resources. This financial situation is counterproductive to the goals established by the Steering Board of the Peace Implementation Council and could threaten the core OHR mandate.

X. Reporting Schedule

190. I submit this report in accordance with the requirement in UN Security Council Resolution 1031 (1995) for the High Representative to submit regular reports to the Secretary-General for transmission to the Security 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 for May 2024.

Abbreviations

BAM – Bosnia and Herzegovina convertible mark

BiH – Bosnia and Herzegovina

CoE – Council of Europe

CoM – Council of Ministers of Bosnia and Herzegovina

DF – Democratic Front (political party)

EBRD – European Bank for Reconstruction and Development

ECHR – European Court for Human Rights

FBiH – Federation of Bosnia and Herzegovina

GFAP – General Framework Agreement for Peace in Bosnia and Herzegovina

HDZ BiH – Croatian Democratic Union of Bosnia and Herzegovina (political party)

HJPC – High Judicial and Prosecutorial Council of Bosnia and Herzegovina

HoR – House of Representatives of Bosnia and Herzegovina

IMF – International Monetary Fund

ITA – Indirect Taxation Authority of Bosnia and Herzegovina

NiP – People and Justice (political party)

NES – People's European Union of Bosnia and Herzegovina (political party)

NS – Our Party (political party)

OHR – Office of the High Representative in Bosnia and Herzegovina

OSCE – Organization for Security and Co-operation in Europe

PBS – Public Broadcasting System

PIC – Peace Implementation Council

RS – Republika Srpska

RSNA – National Assembly of Republika Srpska

SBB BiH – Union for a Better Future of BiH (political party)

SBiH – Party for Bosnia and Herzegovina

SDA – Party of Democratic Action

SDP – Social Democratic Party

SNSD – Alliance of Independent Social Democrats (political party)

WB – World Bank