

**Security Council**

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**Letter dated 3 May 2022 from the Secretary-General addressed to the President of the Security Council**

Pursuant to Security Council resolution [1031 \(1995\)](#), I have the honour to transmit herewith the sixty-first report on the implementation of the Peace Agreement on Bosnia and Herzegovina, covering the period from 16 October 2021 to 15 April 2022 (see annex). It should be noted that not all members of the Security Council acknowledge the High Representative for Bosnia and Herzegovina.

I would be grateful if you could bring the report to the attention of the members of the Security Council.

*(Signed)* António **Guterres**



## Annex

### **Letter dated 20 April 2022 from the High Representative for Bosnia and Herzegovina addressed to the Secretary-General**

Pursuant to Security Council Resolution [1031 \(1995\)](#), in which the Council requested the Secretary-General to submit to it reports from the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina, in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I transmit herewith the sixty-first report of the High Representative. I would kindly ask that the report be distributed to the members of the Council for their consideration.

This is my second regular report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina on 1 August 2021. The present report covers the period from 16 October 2021 to 15 April 2022.

Should you or any member of the Security Council require any information beyond what is provided in the report or have any questions regarding its contents, I would be pleased to provide you with that information.

*(Signed)* Christian **Schmidt**  
High Representative for Bosnia and Herzegovina

## **Sixty-first report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations**

### *Summary*

The present report covers the period from 16 October 2021 to 15 April 2022.

Systematic challenges to the architecture stemming from the General Framework Agreement for Peace of Bosnia and Herzegovina, in particular its constitutional order, have intensified during the reporting period. Since October 2021, the Republika Srpska authorities, headed by the Union of Independent Social Democrats (SNSD), which is led by Milorad Dodik, a member of the Presidency of Bosnia and Herzegovina, have intensified their activities aimed at unilaterally retaking State competences by the entity in the areas of defence, indirect taxes and the judiciary, among others.

The entity's legislature, the National Assembly of the Republika Srpska, has endorsed policy acts forcing the authorities of the Republika Srpska to implement them through various measures. These measures include the unilateral withdrawal from transfer agreements signed by the Republika Srpska and the Federation of Bosnia and Herzegovina and the adoption of comprehensive legislative undertakings, some of which have already materialized.

Those actions undermine the constitutional responsibilities of the State and the institutions established to carry out such responsibilities, representing rollbacks of key reforms carried out under the General Framework Agreement for Peace. The actions not only erode the fundamentals of the Agreement, but directly threaten to undo more than 25 years of progress in building up Bosnia and Herzegovina as a State firmly on the path towards European Union integration.

Such undertakings follow the wilfully erroneous interpretation by the Republika Srpska of the constitutional framework of Bosnia and Herzegovina, based on a hypothetical "original Dayton", and the assertion that most constitutional competences exercised by State-level institutions were "illegally usurped" from the Republika Srpska through decisions of the High Representative, decisions of the Bosnia and Herzegovina Constitutional Court, and other decisions of State-level institutions, and that the State institutions should return most competencies they assumed in accordance with their constitutional prerogative. It is deeply worrisome that Republika Srpska political leaders claim that these undertakings, which clearly violate the General Framework Agreement for Peace, are in fact pursued to uphold and protect the Agreement, particularly the constitutional order as established by the Constitution of Bosnia and Herzegovina.

As the Republika Srpska Government and the National Assembly of the Republika Srpska continued to adopt measures to fulfil their stated ambitions to return competences, including by creating a parallel legislative and institutional Republika Srpska framework to the existing framework of the State, chipping away at the State institutions, simultaneously representatives elected and appointed from the Republika Srpska to those institutions either do not participate in decision-making or block decisions deemed not be in the interests of the Republika Srpska. This has the effect of impeding the State's ability to function and exercise its constitutional responsibilities. As adopted legislative and other legal measures enter into force, they will one by one provide a legal basis to withdraw the Republika Srpska from the constitutional order established under annex 4 of the General Framework Agreement

for Peace and withdraw the Republika Srpska from civilian implementation of the Agreement as set forth under annex 10.

The danger lies in the Republika Srpska deconstructing the constitutional framework of Bosnia and Herzegovina, unchallenged, as the architecture of the State of Bosnia and Herzegovina, as set forth in the General Framework Agreement for Peace, gradually disintegrates.

As the final interpreter of the civilian aspects of the General Framework Agreement for Peace, I reiterate, as I did in my previous report in November 2021, that the Republika Srpska authorities are in grave violation of the Agreement and thus far appear undeterred from continuing to do so, despite the exhaustive efforts of my office and the international community to open dialogue and deescalate. Under these circumstances, shortly before finalizing this report, I decided that it was necessary under my authority as High Representative to issue two decisions aimed at supporting the institutional framework and upholding the rule of law. This may pave the way towards a constructive solution fully respecting the Agreement. The decisions are detailed later in this report.

There is turbulence not only in the Republika Srpska. The lack of agreement, mainly between Bosniak and Croat parties in the Federation on electoral reforms, has prompted Croat parties to cast doubt on the holding of the 2022 general elections, including by withholding financing for the elections. Conducting free and fair elections is a requirement of the General Framework Agreement for Peace, and the minimum expectation of any nation that aspires to membership of the European Union. Parties involved in the negotiations must back down from maximalist positions and redouble their efforts to find a way forward.

Moreover, this situation has contributed to the dysfunctionality in the Federation itself, where the Government from the 2014–2018 mandate is still sitting due to the failure to appoint a new one following the 2018 general elections. In a supposedly democratic society, non-implementation of election results is unacceptable.

The blockade at the State level has resulted in the poorest legislative output of any prior mandate and forced the institutions of Bosnia and Herzegovina to operate under temporary financing for 16 months, with no State-level budget adopted in 2021 and none adopted so far in 2022.

## I. Introduction

1. This is my second report to the Security Council since my assuming the post of High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina in August 2021. My report represents an impartial assessment of implementation of the civilian aspects of the General Framework Agreement for Peace, with factual information on developments and progress towards achieving previously established goals.

2. It is my duty to fulfil my mandate pursuant to annex 10 to the General Framework Agreement for Peace and relevant decisions of the Security Council. Meeting the five objectives and two conditions “5 plus 2”) agenda set in 2008 for Bosnia and Herzegovina to transition from international oversight, remain the obligation of the Bosnia and Herzegovina authorities to fulfil. As my report indicates, however, the ongoing political crises and deadlocks in Bosnia and Herzegovina, coupled in some cases with outright rejection of several of the objectives, have resulted in no progress in this regard – except Brčko District, where I recently visited to highlight such progress – and even some setbacks, despite my attempts to offer constructive solutions to all relevant stakeholders.

3. As previously noted, the 5 plus 2 agenda necessarily entails full compliance with the General Framework Agreement for Peace, and there are numerous shortcomings in that regard. I reiterate that the parties must fully comply with the Agreement, and I remain hopeful that they will take concrete steps on the path towards the European Union for Bosnia and Herzegovina, in their own interests, in the interests of all citizens of Bosnia and Herzegovina, and in the interest of regional peace and stability, which, as recent global developments have reminded us, are more important than ever.

4. The international community in Bosnia and Herzegovina remains engaged and committed to advocating dialogue and compromise over discord and ultimatums.

## II. Political update

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

5. There have been persistent challenges to the General Framework Agreement for Peace throughout the reporting period, with rhetorical challenges from the Republika Srpska to the viability of Bosnia and Herzegovina as a State and its territorial integrity, predicting its dissolution.<sup>1</sup> In addition, with an agreement not yet reached on electoral reforms, Croat political representatives have suggested a “territorial reorganization” may be necessary, raising the spectre of the wartime drive for a “third entity.”<sup>2</sup> All such rhetoric is destabilizing as it seeps into society and poisons relations between communities.

<sup>1</sup> In an interview with Spanish newspaper *El Mundo*, Mr. Dodik stated “Bosnia and Herzegovina will not be able to survive for the same reason that Yugoslavia did not... We are talking about a different possibility, based on an evaluation that Bosnia and Herzegovina will not be successful as a State. If this is the case, the best option is to go different ways in a civilized manner”.

<sup>2</sup> The Croatian National Parliament and all its members will closely monitor the continuation of political negotiations on changes to the Election Law and limited constitutional reforms, as well as solutions to the overall political situation in Bosnia and Herzegovina. If the process of deconstitution of the Croatian people continues, the Croatian National Parliament will initiate all legal procedures and political steps for the new institutional and territorial organization of Bosnia and Herzegovina on the principles of federalism and consociational democracy, which will ensure full constitutional equality of all three constituent peoples in Bosnia and Herzegovina.

6. In this regard, I note that neighbouring Serbia and Croatia consistently reaffirm their full commitment to the sovereignty and territorial integrity of Bosnia and Herzegovina, in keeping with their obligations as signatories of the General Framework Agreement for Peace. In times of political instability, regional stability is crucial.

7. Genocide denial, the relativization of war crimes and the glorification of war criminals decreased after the July 2021 amendments to the criminal code of Bosnia and Herzegovina by my predecessor. However, such practices have continued, with new reports coming in since November 2021 in the Republika Srpska, and in neighbouring Serbia. Several new murals of convicted war criminal General Ratko Mladić, or graffiti in his support, appeared in communities in Republika Srpska and in Serbia's capital, Belgrade.

8. The Republika Srpska authorities still actively move to subvert the State of Bosnia and Herzegovina, its competences and institutions, and thus the General Framework Agreement for Peace. On the one hand, representatives elected and appointed from the Republika Srpska to the State institutions continued to paralyze those institutions by blocking their ability to work and decide. As a result, legislative output is non-existent, reforms – including those required to advance towards the European Union – are stalled, international agreements are on hold, and there is no adopted State-level budget for the second year in a row.

9. This has led to the State's inability to carry out its responsibilities and provides a pretext for the Republika Srpska leadership to portray the State as dysfunctional and impotent. In parallel, the Republika Srpska authorities have proceeded with unilaterally withdrawing the Republika Srpska from the constitutional, legal, and institutional order of the State and establishing a parallel Republika Srpska framework forcing a unilateral takeover of State responsibilities which they substitute with a parallel Republika Srpska framework. Both tactics serve the end goal of the de facto dissolution of the State of Bosnia and Herzegovina.

10. The State of Bosnia and Herzegovina alone is not equipped to respond to such attacks. The Constitutional Court of Bosnia and Herzegovina is seen as the logical response to such unconstitutional actions but, as pressure mounts on this institution, it will not represent a dissuasive response to a political crisis of such magnitude. The actions not only represent a direct attack against the constitutional order of Bosnia and Herzegovina but would also create a clear conflict of laws and jurisdictions seriously affecting the functioning of State institutions, particularly their ability to enforce decisions on the territory of Republika Srpska.

11. During the previous reporting period, the National Assembly of the Republika Srpska adopted the Law on Non-Applicability of the Decision of the High Representative Enacting the Law on Amendment to the Criminal Code of Bosnia and Herzegovina, which represents not only a challenge by the Republika Srpska authorities to the authority and powers of the High Representative under the General Framework Agreement for Peace, but also a rejection of the application of State-level legislation on Republika Srpska territory, overstepping entity competence to directly challenge the authority and sovereignty of the State and its institutions. A request for review of the constitutionality of this law was submitted to the Bosnia and Herzegovina Constitutional Court in late November.

12. Following the session of the SNSD Executive Board in Banja Luka on 8 October, after which SNSD President Milorad Dodik announced that teams of experts from the Republika Srpska would work on a new Republika Srpska Constitution and on defining new entity structures for defence, justice and finance matters and on a rejection of all "illegally" imposed decisions and laws of the High Representatives, on 18 October, the authorities of the Republika Srpska, with

Mr. Dodik present, discussed the constitutional position of the Republika Srpska and the return of competences to the RS, and followed through on that earlier announcement. The Republika Srpska government tasked expert teams to prepare a legislative package regarding the “constitutional protection of rights of the Republika Srpska guaranteed in Dayton”.

13. On 20 October, the National Assembly of the Republika Srpska adopted the Law on Pharmaceuticals and Medical Devices, which was published in the Official Gazette of the Republika Srpska on 28 December and will enter into force at the end of June 2022. This law challenges the competences and unimpeded functioning of the Bosnia and Herzegovina Agency for Pharmaceuticals and Medical Devices and may be viewed as a trial balloon for the ambitions of the authorities of the Republika Srpska to unilaterally take over the State’s constitutional responsibilities in other areas. Under the Constitution of Bosnia and Herzegovina, the entities are obliged to comply fully with the Constitution and decisions of the State institutions.

14. The Agency is the only institution in Bosnia and Herzegovina authorized to ensure the safety and efficacy of pharmaceuticals and medical devices in Bosnia and Herzegovina, and the only such agency established in accordance with European Union acquis as a requirement for Bosnia and Herzegovina in the European Union accession process. Rollback of this reform seriously threatens the internal market in Bosnia and Herzegovina, particularly the free movement of goods. It undermines the fulfilment of Bosnia and Herzegovina’s international obligations arising from international conventions relating to the trafficking of narcotic drugs and psychotropic substances and goes directly against public health safeguards and poses a dangerous and unnecessary risk to the lives and the wellbeing of all citizens of Bosnia and Herzegovina. The mandate of the director of the Bosnia and Herzegovina Agency expired on 26 March, and officials from the Republika Srpska in the State institutions have stated they would only support the appointment of a new director who would work towards implementation of the Republika Srpska Law and realization of the Republika Srpska Agency. This represents further interference in a State institution’s discharge of its obligations.

15. In its communiqué dated 8 December 2021, the Peace Implementation Council Steering Board (minus the Russian Federation) deplored “the actions taken by the Republika Srpska ruling coalition, which seriously challenge the Dayton framework and damage stability in Bosnia and Herzegovina and the region,” also stating that the announced measures – if followed through – would roll back 26 years of peace implementation reforms, also important for the European Union accession process. Regarding the announcement of measures to unilaterally withdraw the Republika Srpska from agreements on the transfer of competences to the State in the fields of defence, indirect taxation and the judiciary, among others, the Peace Implementation Council Steering Board underlined that there could be no unilateral withdrawal from transfer agreements from the entities to the State.<sup>3</sup>

16. On 10 December, the National Assembly of the Republika Srpska adopted the Declaration on Constitutional Principles and four sets of conclusions, each endorsing submitted policy acts, including the information on the transfer of responsibilities from the Republika Srpska to the State of Bosnia and Herzegovina, which contends that over the past 25 years, Republika Srpska responsibilities have been transferred to the State through decisions of the High Representative, Constitutional Court of Bosnia and Herzegovina decisions, Parliamentary Assembly of Bosnia and Herzegovina laws and bylaws by the Bosnia and Herzegovina Council of Ministers and other State-level bodies, through conditionality exerted by international organizations and European Union bodies, and through entity agreements. The

<sup>3</sup> See <http://www.ohr.int/communique-of-the-steering-board-of-the-peace-implementation-council-30/>.

information contains an analysis and presents an overview of the legislative activities which, since 1997, have led to the “transfer of responsibilities from Republika Srpska to the State level” and contains two charts illustrating such “transfers,” including 128 State-level laws and 112 bylaws and decisions of the Bosnia and Herzegovina Council of Ministers.

17. By virtue of the 10 December conclusions, the National Assembly of the Republika Srpska not only endorsed the policies in the relevant Information acts but also determined the obligation for the Government of the Republika Srpska to prepare for adoption by the National Assembly a comprehensive set of laws in the relevant areas within next six months, each with provisions to render the corresponding State-level laws as non-applicable in the Republika Srpska on the day of their entry into force. The adoption of the National Assembly conclusions on the unilateral withdrawal of the Republika Srpska from transfer agreements on the High Judicial and Prosecutorial Council, the Indirect Taxation Administration and defence, signed by both entities between 2003 and 2005, confirmed the intent of the authorities of the Republika Srpska under SNSD to unilaterally opt out of these three reforms, effectively withdrawing from the General Framework Agreement for Peace and the constitutional and legal order of the State.

18. In February, members of the Bosnia and Herzegovina House of Representatives submitted five requests to the Constitutional Court of Bosnia and Herzegovina requesting the resolution of constitutional disputes between Bosnia and Herzegovina and the Republika Srpska, caused by the adoption of acts adopted by the National Assembly of the Republika Srpska on 10 December. It is unclear when the Court will consider those requests.

19. On 10 February, the National Assembly of the Republika Srpska adopted the Law on Immovable Property used for Functioning of Public Authority and the draft Law on the High Judicial and Prosecutorial Council of the Republika Srpska. The latter item was adopted in the first reading and was put to public debate for a period of 60 days. The adopted Draft Law currently envisages that it will enter into force one year following its publication in the Official Gazette of the Republika Srpska. It remains to be seen whether this provision would remain when the proposal of the Law is put into procedure for final adoption.

20. The same day, Ambassadors of the Peace Implementation Council Steering Board (minus the Russian Federation) issued a joint statement underlining that the moves by the authorities of the Republika Srpska to introduce a Law creating a parallel High Judicial and Prosecutorial Council represented a clear attempt by the entity to unilaterally assume the constitutional responsibilities of the State, which would represent a violation of the constitution and legal order of Bosnia and Herzegovina. The Ambassadors also noted, that the adoption of an Republika Srpska Law on the High Judicial and Prosecutorial Council would be incompatible with the European integration process of Bosnia and Herzegovina, constituting an unacceptable interference in the independence of the judiciary and signalling a backsliding of the whole country on European standards on the rule of law.<sup>4</sup>

21. The Republika Srpska Law on Immovable Property used for Functioning of Public Authority entered into force on 14 April. The Law represents the unilateral attempt of the Republika Srpska to regulate ownership rights over State property assets and is unconstitutional. It violates relevant decisions of the Constitutional Court and precludes an acceptable and sustainable resolution of the issue of State Property – a key requirement of the “5 plus 2” agenda. Additionally, it violates the

<sup>4</sup> <http://www.ohr.int/joint-statement-by-the-ambassadors-of-the-peace-implementation-council-steering-board-3/>.



Law on the Temporary Prohibition of Disposal of State Property (State Property Disposal Ban), pursuant to which any legal instrument disposing of State property contrary to these Laws shall be null and void. Upon entry into force, the Law would create legal chaos and uncertainty in property relations, including vis-à-vis future investments in the Republika Srpska.

22. The continuously escalating political crisis, the most serious in the post-war period, has undoubtedly raised tensions in the country and poisoned the atmosphere, as evidenced by the multitude of interethnic incidents that occurred around the Orthodox holidays celebrated in January and the repeated decisions of Republika Srpska authorities to observe “Republika Srpska Day” on 9 January. I have publicly deplored the continued disregard by Republika Srpska authorities for the final and binding decisions of the Constitutional Court of Bosnia and Herzegovina, which established that the designation of 9 January as Republika Srpska Day is incompatible with the Constitution of Bosnia and Herzegovina.

23. From 6 to 9 January, incidents of hate speech and threats against Bosniaks were registered in Bijeljina, Doboj, Višegrad, Prijedor, Foča and Nevesinje in the Republika Srpska, and in Brčko District. At the Republika Srpska main event in Banja Luka, Milorad Dodik stood with convicted war criminal Vinko Pandurević. The day after the 9 January event, hundreds of protestors gathered in front of the Office of the High Representative in Sarajevo and thousands more gathered in capitals around the world to call upon the international community to react to the continued destructive behaviour of the authorities of the Republika Srpska. I addressed the protestors and spoke with some of them, who were scared and frustrated. They know from history that in the current dynamic the potential for a political crisis to become a security crisis is very real, and the international community must respond appropriately.

24. In that regard, I welcomed the introduction in January of sanctions by the Treasury Department of the United States of America against Mr. Dodik for his “destabilizing and corrupt activities” and against Republika Srpska media outlet “Alternativna TV” as Mr. Dodik’s “personal media station.”<sup>5</sup> Likewise, I welcome the decision by the European Union to postpone disbursement of the second tranche of its macro financial assistance to Bosnia and Herzegovina owing to the failure of the authorities of Bosnia and Herzegovina to deliver on the commitments they took on when signing the macro financial assistance agreement. Further, I commend the adoption by the Parliament of the European Union in February of amendments to the its annual report on the Foreign Affairs Committee calling for targeted sanctions against Dodik and his associates for “his corrupt practices, continued destabilization of the country and undermining of Bosnia and Herzegovina’s sovereignty and territorial integrity.”<sup>6</sup> Lastly, I applaud the recent introduction by the United Kingdom of Great Britain and Northern Ireland of sanctions against Mr. Dodik and Republika Srpska President Željka Cvijanović (SNSD) for their “attempts to undermine the legitimacy and functionality of the State” and “undermining the hard-won peace” in Bosnia and Herzegovina.<sup>7</sup>

25. I must express my disappointment and alarm, however, at recent comments by the Russian Ambassador to Bosnia and Herzegovina, who appeared to threaten the sovereignty of Bosnia and Herzegovina. In a local media interview on 17 March, the Ambassador said, “If [Bosnia and Herzegovina] decides to be a member of any alliance, that is an internal matter. Our response is a different matter. Ukraine’s

<sup>5</sup> See <https://home.treasury.gov/news/press-releases/jy0549>.

<sup>6</sup> See [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0039\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0039_EN.html).

<sup>7</sup> See <https://www.gov.uk/government/news/uk-announces-sanctions-under-bosnia-and-herzegovina-sanctions-regime-11-april-2021>.

example shows what we expect.”<sup>8</sup> It is unacceptable for an ambassador and a member of the Peace Implementation Council Steering Board to use the example of a war being perpetrated in another country as a “warning” to his host country. Recent developments in Ukraine are stark reminders of the importance of preserving peace and stability. I must also report that, following its announcement on 28 July 2021 to suspend its participation in Peace Implementation Council Steering Board meetings, the Russian Federation announced, on 17 February, to suspend its mandated contribution to the budget of my Office.

26. The destabilizing Republika Srpska policies have impacted the functionality of the State-level authorities, as intended. Bosnia and Herzegovina went through the whole of 2021 without an adopted budget and 2022 does not look to be any different, as the institutions of Bosnia and Herzegovina remain on temporary financing in the first quarter and so far in the second quarter. The legislative output of the Council of Ministers of Bosnia and Herzegovina and the Parliamentary Assembly remains the lowest of any previous mandate of those institutions.

27. In October, I addressed the House of Representatives of Bosnia and Herzegovina and encouraged the elected members to work towards solutions to the crisis. I have also submitted proposals to resolve the issues of State property and the issue of genocide denial, but to no avail yet.

28. The efforts to reform several aspects of the electoral rules through amendments to the Election Law of Bosnia and Herzegovina and limited constitutional changes have unfortunately failed to yield results and remain an issue of contention primarily between the main Croat party, the Croatian Democratic Union of Bosnia and Herzegovina (HDZ Bosnia and Herzegovina) and the main Bosniak party, the Party of Democratic Action (SDA), although the outcome is of concern to all parties. I commend the tireless efforts of the European Union and United States facilitators to broker an agreement between parties on this issue. I believe that the efforts will not be in vain as the obligation of Bosnia and Herzegovina to bring its constitutional and legal framework in line with the European Charter for Human Rights, the relevant Constitutional Court decisions and the recommendations of Office for Democratic Institutions and Human Rights and Council of Europe’s Group of States against Corruption remains, and this issue will need to be addressed in the future.

29. The failure to reach an agreement is another missed opportunity, as it could have created a new dynamic as Bosnia and Herzegovina endures serious challenges to its constitutional order. It also could have ensured the removal of discrimination from the election to the Bosnia and Herzegovina Presidency and the Bosnia and Herzegovina House of Peoples and on the adoption of rules to better combat electoral fraud, through the so-called integrity package. Discussions also focused on the functionality of the Federation, considering the need to ensure that authorities can be formed in an entity which has yet to appoint its executive three and a half years since the last general elections. Indeed, the parties came close to an agreement on several issues discussed but the political courage to take the extra step needed to reach a compromise so close to the elections was not found. As of the time of this report, there is still sufficient time for the parties to agree on a package and adopt it through the Bosnia and Herzegovina Parliament. It is, however, unlikely that the entire package of necessary reforms will be adopted without pressure by the international community, which now strongly encourages the parties to adopt the integrity package.

30. The absence of an agreement does not call into question in any way the 2022 general elections, which will be held in the first week of October under the same rules

<sup>8</sup> See [https://www.euractiv.com/section/politics/short\\_news/russian-ambassador-says-bih-can-join-nato-but-moscow-will-react/](https://www.euractiv.com/section/politics/short_news/russian-ambassador-says-bih-can-join-nato-but-moscow-will-react/).

as in 2018. However, the lack of agreement on electoral reform will make the organization of the elections more challenging. Most Croat parties continue to condition their participation in these elections on changes in the manner of electing the members of the Bosnia and Herzegovina Presidency. These parties have long requested the adoption of a rule that ensures that one of the members of the tripartite Presidency “legitimately” represents the Croat constituent people.

31. In this context, the Bosnia and Herzegovina Central Election Commission, tasked with organizing elections, has been thus far unable to secure the funds needed to conduct preparatory activities, owing to the failure to adopt the 2022 budget for the Bosnia and Herzegovina institutions. In the absence of an adopted budget, the Bosnia and Herzegovina Council of Ministers may adopt a special decision to provide requisite funds to the Central Election Commission to hold the 2022 General Elections. In early April, the Peace Implementation Council Steering Board Ambassadors (minus the Russian Ambassador), the Organization for Security and Cooperation in Europe and I signed a letter to the Chair and Deputy Chairs of the Bosnia and Herzegovina Council of Ministers urging them to do so without further delay.

32. As noted, the Federation Government from the 2014–2018 mandate remains in place, with no new Government appointed following the 2018 general elections. The Government is reduced from 16 to 13 ministers, due to the deaths of two and the resignation of another. There is no agreement on appointing a new Government or replacing the missing ministers due to the stated position of Croatian Democratic Union of Bosnia and Herzegovina to not approve any appointments until an agreement on electoral reform is reached. Similarly, the 2018 general election results have not been implemented in the Herzegovina-Neretva Canton, where the same Government from the 2014–2018 remains.

33. The perceived lack of rule of law in Bosnia and Herzegovina, among other factors such as political instability, corruption and nepotism, continues to drive young people in particular to leave the country for opportunities abroad. An estimated 170,000 persons left Bosnia and Herzegovina in 2021. Reversing this trend must be a priority or Bosnia and Herzegovina will lose its competitive capacity.

34. There have been some positive developments. In November, the Sarajevo City Administration opened a memorial at Kazani commemorating 17 mostly Serb residents of Sarajevo who were murdered by Bosniak members of the Army of the Republic of Bosnia and Herzegovina in 1992–93.

35. In December, the Posavina Canton Assembly amended the Canton’s constitution affirming the constituent status of Serb people, Serbian and Bosnian as official languages and Cyrillic as an official script, consistent with the Federation Constitution. This follows a similar move by Herzegovina-Neretva Canton in the previous reporting period. Both Cantons acted to implement the 2018 judgment of the Federation Constitutional Court, which found that the constitutions of three cantons did not conform with the Federation Constitution. Necessary changes remain pending in West Herzegovina Canton.

36. In Brčko, the District authorities agreed on the construction of a joint memorial for all civilian war victims later this year. The fact that it would only be the second such joint memorial in Bosnia and Herzegovina underscores the neglected imperative for a meaningful effort at reconciliation in the country. To address this need, in December, I wrote to the Joint Collegium of the Bosnia and Herzegovina Parliamentary Assembly to encourage parliamentarians to engage in a process involving civil society to take up the issue as a priority. Regrettably, the addressees have taken no substantial steps in this regard, but I will continue to press this issue in the forthcoming period.

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

37. Notwithstanding repeated calls by the Peace Implementation Council Steering Board to all authorities in Bosnia and Herzegovina to refrain from taking unilateral actions that undermine the resolution of State Property, on 10 February the National Assembly of the Republika Srpska adopted the Law on Immovable Property Used for Functioning of Public Authority. The Law disregards several final and binding decisions of the Bosnia and Herzegovina Constitutional Court and precludes an acceptable and sustainable resolution of the issue of State Property. Following exhaustive efforts by my office and our international community partners to appeal to the RS leadership to withdraw the legislation and participate in an institutional process to resolve the issue in a legal manner, without success, on 12 April, prior to its entry into force, I issued an Order suspending application of the Republika Srpska Law on Immovable Property Used for the Functioning of Authorities,<sup>9</sup> with the aim of protecting the property interests of all stakeholders and avoid any negative legal repercussions, until the Bosnia and Herzegovina Constitutional Court reaches a final decision on this matter.

38. Also on 12 April, I issued a Decision Amending the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina,<sup>10</sup> better known as the State Property Disposal Ban. The Decision takes into account that pursuant to the Constitution of Bosnia and Herzegovina, as interpreted by the decisions of the Bosnia and Herzegovina Constitutional Court, the State of Bosnia and Herzegovina is the titleholder of entire State property and has the exclusive responsibility to regulate the issue of State property, including to enact legislation establishing a disposal ban applicable to all levels of authority in Bosnia and Herzegovina. The purpose of these amendments is to include the principles and contents of relevant decisions of the Bosnia and Herzegovina Constitutional Court.

39. The reaction to those decisions by Mr. Dodik suggests that the Republika Srpska would not respect them.<sup>11</sup> Failure to respect these decisions would further violate the General Framework Agreement for Peace. On the day of completion of this report, SNSD promoted a rally to be held in Banja Luka on 20 April to oppose these decisions and “fight for the Republika Srpska”. As I noted in my remarks announcing these decisions, they do not diminish the status of the Republika Srpska. Both entities have their place in the General Framework Agreement for Peace and will remain so, but that does not provide a basis for acting against the Constitution of Bosnia and Herzegovina.

## III. European Union military mission in Bosnia and Herzegovina

40. The European Union military operation in Bosnia and Herzegovina (EUFOR-ALTHEA) continues to play a vital role in safeguarding peace and security in Bosnia and Herzegovina, enabling my office and other international organizations to fulfil our respective mandates. I welcome the adoption by the Security Council of resolution [2604 \(2021\)](#), on 3 November 2021, extending the operation’s mandate for 12 months.

41. I also commend EUFOR-ALTHEA on its 2022 reserve activation, which in February saw the deployment of an additional 500 reserve personnel to Bosnia and

<sup>9</sup> See <http://www.ohr.int/order-suspending-the-application-of-the-law-on-immovable-property-used-for-functioning-of-public-authority/>.

<sup>10</sup> See <http://www.ohr.int/decision-enacting-the-law-on-amendments-to-the-law-on-the-temporary-prohibition-of-disposal-of-state-property-of-bosnia-and-herzegovina/>.

<sup>11</sup> In an interview published on 13 April 2022, Mr. Dodik stated: “Our Official Gazette will publish [the Law]. It takes effect. All bodies in the Republika Srpska are obliged to act accordingly. No decision of an individual, especially one like Schmidt, can stop it and will not stop it.”

Herzegovina as a precautionary measure, in the context of a deteriorated global security situation, as a demonstration of its commitment to preserving stability in Bosnia and Herzegovina.

42. While the non-executive mandate of EUFOR (supporting the armed forces of Bosnia and Herzegovina collective and combined training) is vital, it is equally important that EUFOR retain its executive mandate and the capacity to deploy troops at short notice. The international military presence has significantly decreased owing to defence reforms and the establishment of a single Bosnia and Herzegovina armed forces, which enabled the country to take the lead in preserving peace and security. Persistent rhetoric suggesting the undoing of such reforms and the reestablishment of entity military forces warrant the vigilance of the international community.

#### **IV. Office of the High Representative**

43. The total budget amount for the Office of the High Representative has been frozen at the same level since 2017. The term “frozen budget” is misleading, as it does not account for annually increasing costs, which in turn reduce available revenue each year. There are also the issues of nonpayers and those donors that have reduced their contributions. As a result, operating revenues have decreases year over year by approximately 7 percent.

44. While the Office has faced substantial reductions to budgets and staff over time, the remaining tasks have not decreased proportionally. As the budgets decrease, it becomes exponentially more difficult to further reduce costs without cutting essential expertise. Staff reductions pose a great risk for the Office of the High Representative, which relies on its human capital, institutional memory, expertise and longstanding contact networks.

45. Moreover, as previously noted, in February the Russian Federation suspended its contribution to the budget for the Office of the High Representative (representing 1.2 percent of the total budget), placing additional constraints on operations. Given the current dynamic and the challenges ahead, the Office must retain effective capacity to move the country forward and to eventually end the international oversight. To achieve this, resources must follow the mandate and the organization must be supported politically and financially, with policy considerations regarding Bosnia and Herzegovina being the basis for assessing the future resource requirements of the Office. To achieve the goals of the organization, consideration should be given to a temporary increase in the budget.

#### **V. Reporting schedule**

46. The present report is submitted in accordance with the requirement contained in Security Council Resolution [1031 \(1995\)](#). I would be pleased to provide additional information or clarification at any time, should the Secretary-General or any member of the Council require. The next regular report is scheduled for October 2022.

## Enclosure

### **I. Developments related to the “5 plus 2” agenda**

#### **A. Progress on objectives**

1. Apart from the continued positive developments and reforms in Brčko District, the authorities of Bosnia and Herzegovina have made no effort, and consequently no progress in implementing the “5 plus 2” agenda, and as noted elsewhere in this report some have even worked against several of the objectives. My office remains engaged in offering constructive solutions and legislative paths towards fulfilling several objectives and invite all parties to contribute in this regard.

#### **B. State and defence property**

2. The Republika Srpska authorities and representatives continued to openly dismiss and deny the final and binding decisions of the Constitutional Court of Bosnia and Herzegovina regarding State property, which consistently reaffirm that Bosnia and Herzegovina is the titleholder of such property and has exclusive competence to regulate this matter. Asked about such decisions as they relate to agricultural land in an interview in 2021, the Minister for Agriculture, Forestry and Water Management of the Republika Srpska, Boris Pasalic (SNSD), said that nothing had fundamentally changed<sup>1</sup> and that agricultural land on Republika Srpska territory continues to be registered under ownership of the entity. This clearly violates the decision by the Constitutional Court of Bosnia and Herzegovina from February 2020 (case No. U-8/19), which explicitly established that a contested provision of the Republika Srpska Law proclaiming agricultural land in the Republika Srpska to be under ownership and possession of the Republika Srpska does not conform with the Constitution of Bosnia and Herzegovina and shall cease to apply. Several decisions of the Constitutional Court of Bosnia and Herzegovina establish that the Republika Srpska (or either entity) does not have the constitutional competence to regulate the issue of State property, including ownership over agricultural land, and it is the exclusive responsibility of the State of Bosnia and Herzegovina and the Parliamentary Assembly of Bosnia and Herzegovina.

3. To reinvigorate the process of implementing the 5 plus 2 agenda, in particular the State and defence property objectives, on 3 December 2021 I sent a letter to the Joint Collegium of the Parliamentary Assembly Bosnia and Herzegovina inviting the Speakers and their Deputies to take ownership of the process and establish an expert working group to formulate options for an acceptable and sustainable resolution of the issues of State and defence property. I offered the full assistance of my Office to support this process and expressed hope that the Parliament would convene the working group as soon as possible.

4. Despite strong lobbying efforts by the international community, the proposed working group has not been established, owing primarily to the continued blockade by representatives from the Republika Srpska. At its session of 9 March, the Joint Collegium was to consider my proposal, but at the request of the speaker of the Bosnia and Herzegovina House of Representatives, Nebojsa Radmanovic (SNSD), the item

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<sup>1</sup> See [https://www.glassrpske.com/lat/novosti/vijesti\\_dana/boris-pasalic-ministar-poljoprivrede-sumarstva-i-vodoprivrede-republike-srpske-tihiceva-apelacija-jedini-argument-ustavnog-suda-bih/382018](https://www.glassrpske.com/lat/novosti/vijesti_dana/boris-pasalic-ministar-poljoprivrede-sumarstva-i-vodoprivrede-republike-srpske-tihiceva-apelacija-jedini-argument-ustavnog-suda-bih/382018).

was removed from the agenda, with the proposal it be taken up by the respective collegiums of each house. To date, neither collegium has discussed the proposal.

5. On 9 February 2022, the National Assembly of the Republika Srpska adopted the Republika Srpska Law on Immovable Property Used for Functioning of the Public Authority. On 23 March, the Constitutional Court of the Republika Srpska rejected the admissibility of the vital national interest request of the Bosniak Caucus, clearing the way for publication of the Law, which took place on 5 April, and the Law entered into force on 14 April. The adoption of the Republika Srpska Law followed public statements by Mr. Dodik, such as on 5 November 2021, in which he announced that the Republika Srpska has already prepared a law that refers to rejection of the State property disposal ban from March 2005. Dodik recalled that the Republika Srpska previously attempted to adopt such a law, but its implementation was suspended by the High Representative in 2011, and in 2012 the law was subsequently declared unconstitutional and put out of force by the Constitutional Court of Bosnia and Herzegovina.

6. The most important provision of the short and somewhat vague Republika Srpska Law is in article 3, pursuant to which “Immovable property, which is considered to be owned by subjects of public authority in the Republika Srpska, and which is used by those subjects for exercising their basic competences and functioning, shall, by virtue of law, be the property of these subjects.” The Law provides no definitions of specific categories of State or public property, but instead uses the vague descriptive term “immovable property.” While it does not mention State property or the disposal ban, the scope of “immovable property” as defined by the Law encompasses a considerable portion of State property assets covered by the disposal ban, i.e. subject to relevant decisions of the Constitutional Court of Bosnia and Herzegovina. Furthermore, the Law does not include the State of Bosnia and Herzegovina or any institutions of Bosnia and Herzegovina in its definition of “subjects of public authority,” which consequently means that the State and its institutions are excluded as titleholder or owner of any “immovable property” encompassed by the Law, which herewith becomes the property of the public authorities.

7. The accompanying explanation of the Law is based on flawed and erroneous interpretation of the Constitution of Bosnia and Herzegovina, including through selective use of elements of the relevant decisions of the Constitutional Court of Bosnia and Herzegovina. The explanatory note repeatedly refers to the erroneous interpretation concerning the division of constitutional competences between the State and the Republika Srpska, claiming that under existing provisions of the Constitution of the Republika Srpska, the Republika Srpska has the constitutional competence to regulate property relations, including the status of State property. However, the Constitutional Court of Bosnia and Herzegovina rejected this very argument in its 2012 decision.

8. The adopted Republika Srpska Law is not about regulating property relations (such as adoption of the Republika Srpska Law on Rights In Rem, for example), but about determining ownership of the Republika Srpska public authorities over immovable property, including State property. However, the Republika Srpska lacks the constitutional competence to regulate the legal subject matter of State property, including defence property, as the Constitutional Court of Bosnia and Herzegovina made clear in several decisions that the matter is an exclusive competence of the Parliamentary Assembly of Bosnia and Herzegovina. Consequently, the Republika Srpska Law conflicts with the Constitution of Bosnia and Herzegovina, as interpreted in numerous final and binding decisions of the Constitutional Court of Bosnia and Herzegovina concerning State property, and potentially violates the State property disposal ban.

9. In conclusion, the recently adopted Republika Srpska *Law on Immovable Property*, in conjunction with the consistent rejection by the Republika Srpska of all



relevant decisions of the Constitutional Court of Bosnia and Herzegovina and their refusal to participate in negotiating acceptable solutions create legal chaos and uncertainty in property relations in that entity. It represents another unilateral attempt by the Republika Srpska to regulate ownership rights over State property assets, which prevents an acceptable and sustainable resolution of the issue of State property.

10. Most recently, referring to the issue of State property, Mr. Dodik stated, “The Constitution of Bosnia and Herzegovina did not give the right of property to Bosnia and Herzegovina. That is the constitutional right of the entities”.<sup>2</sup>

11. On 19 February, SNSD published a video directed against the Constitutional Court of Bosnia and Herzegovina and its decisions concerning State Property. The narrator of the video says, “Harmful decisions for the Republika Srpska continue. The Constitutional Court of Bosnia and Herzegovina wants to seize the forests, rivers, and agricultural land of the Republika Srpska”, followed by the message that the Republika Srpska should not give these away.<sup>3</sup> The video represents a serious attack on the Constitutional Court of Bosnia and Herzegovina, as one of the central institutions of Bosnia and Herzegovina under annex 4 to the Dayton Peace Agreement, and an assault on the rule of law.

12. As the Republika Srpska Law on Immovable Property Used for Functioning of Public Authority disregards several final and binding decisions of the Constitutional Court of Bosnia and Herzegovina and precludes an acceptable and sustainable resolution of the issue of State property, on 12 April I issued an order suspending application of the Republika Srpska Law on Immovable Property Used for the Functioning of Authorities. The order aims to protect the property interests of all stakeholders and avoid any negative legal repercussions, until the Constitutional Court of Bosnia and Herzegovina reaches a final decision on this matter.

13. Simultaneously, I issued a Decision Amending the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina, the so-called State property disposal ban, to include the principles and contents of relevant decisions of the Constitutional Court of Bosnia and Herzegovina. The Decision takes into account that, pursuant to the Constitution of Bosnia and Herzegovina, as interpreted by the decisions of the Constitutional Court of Bosnia and Herzegovina, the State of Bosnia and Herzegovina is the titleholder of all State property and has the exclusive responsibility to regulate the issue, including enacting legislation establishing a disposal ban applicable to all levels of authority in Bosnia and Herzegovina.

### C. Brčko District

14. The Brčko District institutions have continued functioning, despite the political crisis and blockage of the Bosnia and Herzegovina institutions. In this context, the District Supervisor reminded representatives from the Republika Srpska in Bosnia and Herzegovina institutions of the obligations in the Final Award for the entities to respect and support Brčko District as a unit of self-government under the sovereignty of Bosnia and Herzegovina, subject to the responsibilities of the Bosnia and Herzegovina institutions as formalized in the sole amendment to the Constitution of Bosnia and Herzegovina. As a result, the Republika Srpska political blockade at the Bosnia and Herzegovina level has not applied to decisions by State institutions related to Brčko District. Furthermore, in a joint public statement in December, the Brčko District leadership, which is comprised of the same parties that constitute the Bosnia and Herzegovina authority, announced that Brčko would not be instrumentalized in

<sup>2</sup> See <https://ba.n1info.com/vijesti/dodik-nato-nema-mandat-bih-nema-imovinu/>.

<sup>3</sup> See <https://www.youtube.com/watch?v=HM4jSTyHQdU>.



the Bosnia and Herzegovina crisis but remain focused on its reform agenda. A few minor inter-ethnic incidents involving youth were successfully managed through close cooperation between the leadership of the executive and legislative authorities and police, serving as an example for Bosnia and Herzegovina of responsible governance and commitment to coexistence.

15. In order to make progress towards a joint recognition of suffering and pain sharing of all civilians in Brčko District regardless of ethnicity, as encouraged by the District Supervisor, the Brčko District authorities will construct a single memorial for all civilian war victims. The preparation of the central location has been completed and the selection of the design for the monument is the only remaining step, with placement expected in the third quarter of 2022. While a healthy step forward for Brčko District, this would be only the second joint memorial in Bosnia and Herzegovina.

16. The Brčko District Supervisor and the Office of the High Representative continued to promote reforms aimed at advancing infrastructure development, economic growth and the development of sustainable green energy sources while also strengthening good governance through improved fiscal discipline, accountability of public companies, anti-corruption measures, and public administration reform in order for Brčko District to meet the requirements of the Final Award.

17. Encouraged by the expert support from the Office of the High Representative and its international partners, Brčko District authorities focused on the practical implementation of reform legislation adopted in the previous period. The Law on Associations and Foundations will ensure transparent and merit-based financial support to the non-governmental organization sector, ending the misuse of this public funding element. The members of the Brčko District Council of National Minorities, established in 2021 under the Brčko District Law on the Protection of Rights of National Minorities, were appointed in March. With two Assembly seats allocated for national minorities, the political, economic and social participation of national minorities in Brčko District has improved.

18. As a precursor for the implementation of the Brčko District Law on Prevention of Conflict of Interest, the Commission for Deciding on Conflict of Interest in the Brčko District Institutions was accommodated with office space, staff and training, and began operations in February 2022. Its first action was to collect salary and asset declaration forms from public office holders that allowed for the establishment, on 8 April, of an online registry of elected and appointed public office holders' finances. The process will subject the political class to even more transparent criteria than that enacted through an online registry last year with the salaries of civil servants.

19. In October, the Brčko District Assembly appointed the director and two deputies of the Brčko District Anti-Corruption Office. The Anti-Corruption Office is in the final steps of establishing its office and training its recruited personnel and is scheduled to begin operations in May.

20. Fulfilling all legal and technical preconditions for the full implementation of discipline and transparency measures introduced in the new Law on Budget meant that the 2022 budget was adopted in December 2021, marking the first on-time adoption in a decade.

21. Acknowledging the importance of transparency, the Brčko District Assembly delegates from the parliamentary majority agreed to opposition parties having representation in Assembly committees. As of March, only 1 of the 18 Assembly committees has no opposition representative.

22. The Office of the High Representative engaged with Brčko District authorities and the international community to launch programmes to promote European Union-

aligned standards of good governance and fiscal transparency, such as: (a) civil service reform, including through drafting a Law on Civil Service and a Law on Public Employees to establish transparent and merit-based hiring practices, performance evaluations and promotion processes; (b) public administration reform to ensure coordinated, accountable, and transparent resources management and decision-making; and (c) improved financial oversight of public-owned enterprises in Brčko District through capacity-building and training.

23. In advancing its potential, Brčko District took steps to strengthen its energy security by preparing a Law on Electricity, which the Brčko District Assembly adopted in October. This established the framework for drafting legislation to stimulate investment in renewable energy sources and energy efficiency as core components of a modern, sustainable, green, European Union-compliant energy sector. As a complementary measure, in the same period Brčko District adopted a Sustainable Energy and Climate Action Plan. In compliance with the Plan, the District has already started to implement energy efficiency retrofitting of public buildings. On 12 April, the Brčko District Government signed an investment agreement with the European Bank for Reconstruction and Development to support greener municipal services.

24. Additionally, a draft agreement with the European Bank for Reconstruction and Development on a concessional loan for 6.5 million euros for a project to ensure a sustainable and clean water supply for all communities in urban and suburban areas was approved by the Council of Ministers of Bosnia and Herzegovina in mid-December, with construction of the infrastructure for clean water supply expected to commence in June. With the Supervisor's assistance, Brčko District has secured agreement to pursue negotiations for various infrastructure projects under the World Bank's Sava and Drina Rivers Corridors Integrated Development Programme with a funding ceiling of 25 million euros.

25. Through the prioritization of transportation infrastructure projects, in cooperation with the State and entities, Brčko District authorities are transforming the District into a multi-modal transportation hub that will connect Bosnia and Herzegovina to the markets of the European Union and Western Balkans and make the District a prime investment destination. The first of the three components of the hub, the 10 million euros modernization of Brčko's Sava River port, funded by the European Bank for Reconstruction and Development and the European Union, saw the construction of a new plateau completed in March and a contract signed for a new crane to triple the port's handling capacity. The new rail and road access spurs aligned with the planned new highways and bridge will be built in the next 18 months following an agreement reached on 11 April between the Government of the Brčko District and best bidder. On 30 March, an agreement to renovate the bridge connecting Bosnia and Herzegovina and Croatia through Brčko and its port was approved by the Bosnia and Herzegovina Council of Ministers. Also, an agreement brokered by the Supervisor between Brčko District, the two entities and the State saw the respective public highway and design companies begin work in April to define routes through the District for the two highways that will intersect in the District connecting it and its port to all major cities in Bosnia and Herzegovina, as well as to Belgrade and Zagreb.

26. In anticipation of the new transportation links, technical preparations to establish the first free economic zone in Brčko District were completed this spring. The focus is agroindustry and construction should begin in June. This is part of a public-private initiative to improve the business environment and private sector opportunities via 250 million euros in foreign direct investment over 10 years expected to create up to 4,000 private sector jobs. This is the first of nine projects by the investor. The next four projects, ecotourism and walnut and hazelnut farming, construction of two business-residential facilities, and a free economic zone for heavy industry, are in the phase of

technical preparations. Politically, the focus on growth of the private sector, along with civil service reform, will over time neutralize patronage as an election tool as public sector jobs will no longer be the primary source of livelihood.

27. While progress on reforms is accelerating, the continued engagement by the Brčko District Supervisor and the support from the Office of the High Representative, as well expert assistance in cooperation with the international community remain crucial to seeing reforms through in order to achieve the sustainable status mandated by the Final Award.

28. Regrettably, as in previous years, the commemoration of 9 January as “Republika Srpska Day” on 10 January was held at a public monument in Brčko District by officials from the Republika Srpska, organized on the basis of decision(s) by the Republika Srpska authorities as part of the overall commemoration activity for the Republika Srpska. Although no directives were given to Brčko District public officials nor were Brčko District public resources expended, the Republika Srpska initiative interferes with the Final Award and the obligation of both entities not to exercise any authority within the District boundaries.

#### **D. Fiscal sustainability**

29. My office continued to follow, analyse and report on developments and legislative actions relevant to fiscal sustainability, including monitoring and reporting to the Peace Implementation Council Steering Board on the activities of the Governing Board of the Indirect Taxation Authority of Bosnia and Herzegovina, in which a member of my staff is the only representative of the international community, and the Fiscal Council of Bosnia and Herzegovina. The trends in both institutions continue to raise concerns over the ability of governments at all levels, in particular at the State level, to ensure the unimpeded functioning of institutions and the discharge of their constitutional and legal obligations.

30. After several attempts, on 30 March the Fiscal Council of Bosnia and Herzegovina finally adopted the Global Framework of Fiscal Balance and Policies 2022–2024, as a prerequisite for the preparation and adoption of a State-level budget for 2022. Previous attempts failed, owing to a lack of support from the representatives of the Republika Srpska in the Council, blocking the 2022 State-level budget process, which should have been completed by 31 December. This has forced the State institutions into the second consecutive year of temporary financing, which restricts both the funds available to the institutions and their scope of operations and activities, further undermining their ability to meet their responsibilities. On 12 April, the Collegium of the Bosnia and Herzegovina Council of Ministers agreed to have the State budget prepared by 25 April. The budget was not adopted by the end of the present reporting period.

31. My office continued to follow developments related to the single indirect tax system and its institutional structure, including activities of the Governing Board of the Indirect Taxation Authority. The Board held only two regular and two telephone sessions, with modest output that includes the adoption of indirect tax revenue allocation coefficients for the first two quarters of 2022 and the inter-entity debt settlement for the second half of 2021 obliging the Republika Srpska to reimburse the Federation the amount of KM 9.2 million.

32. The inability of the Governing Board of the Indirect Taxation Authority to hold regular meetings and decide on issues within its competence has resulted in the accumulation of outstanding issues, including the outstanding debt of KM 30 million of the Indirect Taxation Authority to the Republika Srpska, based on a Bosnia and Herzegovina court decision from 2015. The attempted debt enforcement by the

Republika Srpska from the Indirect Taxation Authority public revenue accounts caused financial damage to all indirect tax revenue beneficiaries, including both entities and Brčko District, recipients of value added tax refunds and customs insurance depositors, prompting the Court of Bosnia and Herzegovina to suspend enforcement until June 2022 to allow time to identify an alternative source of funds. No solution has been identified thus far. Another long-standing dispute concerns the manner of distribution of accumulated road toll revenue reserves (over KM 200 million) intended for highway and road construction. The lack of an agreement not only blocks the intended use of the funds for highway and road construction, but also financially damages the Indirect Taxation Authority as a State-level institution that neither decides on this matter nor benefits from these funds, owing to charges on deposit accounts by the Central Bank of Bosnia and Herzegovina.

33. The failure to address those issues, and similar ones with financial implications, affects the unimpeded functioning of and confidence in the single indirect tax system and its State-level institutional structure. By extension, this provides a pretext for the Republika Srpska to challenge the competence of the State for indirect taxation and advocate the return of this competence to the entities, as demonstrated on 10 December, when the National Assembly of the Republika Srpska adopted the Conclusion Concerning the Information on the Transfer of Responsibilities in the Field of Indirect Taxation. If pursued, this would roll back one of the most important reforms of the past 25 years, which safeguards the macroeconomic stability of Bosnia and Herzegovina.

34. My office continued to follow other developments relevant to fiscal stability, including the adoption of budgets at all levels of Government. Particular attention was paid to developments related to the Central Bank of Bosnia and Herzegovina, the guardian of the monetary and financial sector stability of Bosnia and Herzegovina.

35. Despite the Central Bank of Bosnia and Herzegovina carrying out its constitutional and legal responsibilities professionally, efficiently, and effectively, challenges to the institution have intensified. Recently, Bosnia and Herzegovina Presidency member Milorad Dodik has renewed his calls to the Central Bank of Bosnia and Herzegovina to free up foreign currency reserves for entity budget purposes and put forward a legislative amendment to that end requesting its inclusion in the agenda of the 2 March Bosnia and Herzegovina Presidency session. The request was not supported by the other members. If pursued, the proposal would seriously compromise the monetary and financial stability of Bosnia and Herzegovina, with further negative socioeconomic and political implications.

36. I continued to follow closely and informed international partners on matters relevant to the Central Bank of Bosnia and Herzegovina and its ability to function in the best interests of the entire country.

## **E. Issues related to the Rule of Law**

37. A professional judiciary free from undue political pressure and influence is key to developing a fair and democratic society. Since the enforcement of rule of law relies on the judiciary, and respect for judicial decisions depend on the perception of professionalism and expertise of judiciary. Amendments to the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted by the Bosnia and Herzegovina House of Representatives on 9 March, envision fundamental changes in manner of ensuring the integrity of judicial functionaries, addressing issues of conflict of interest, disciplinary responsibility, and the legality and transparency of decisions on appointments. However, on 24 March, SNSD delegates in the Bosnia and Herzegovina House of Peoples voted against it, meaning that it

remains pending in the first reading thereby delaying the introduction of crucial improvements in the judiciary of Bosnia and Herzegovina.

38. The SNSD position is no surprise, considering the current policies of the Republika Srpska under its rule. On 10 December 2021, the National Assembly of the Republika Srpska adopted the Conclusions Concerning the Information on the Judicial Institutions of Bosnia and Herzegovina, envisaging the withdrawal of consent that the National Assembly of the Republika Srpska had given to the Republika Srpska authorities in 2004 to sign the Agreement on the Transfer of Certain Responsibilities of the Entities through the Establishment of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, pursuant to which the State-level single High Judicial and Prosecutorial Council was established by the law passed by the Parliamentary Assembly of Bosnia and Herzegovina. Furthermore, the National Assembly of the Republika Srpska tasked the Republika Srpska authorities to submit for adoption a new draft law on a Republika Srpska High Judicial and Prosecutorial Council. At the same time, the National Assembly of the Republika Srpska concluded that the State-level law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina shall cease to apply in the territory of the Republika Srpska as of the date of entry into force of the new Republika Srpska High Judicial and Prosecutorial Council Law. On 10 February 2022 the National Assembly of the Republika Srpska adopted the draft law on the Republika Srpska High Judicial and Prosecutorial Council of the Republika Srpska, with a 60-day public debate period, after which the Law should be considered again.

39. These recent moves by the Republika Srpska are a clear attempt by the entity to unilaterally assume constitutional responsibilities of the State. The establishment of a single, State-level High Judicial and Prosecutorial Council was a pivotal reform to modernize the judiciary in Bosnia and Herzegovina in accordance with European and international standards, fostering professionalism, transparency and efficiency in the judiciary while advancing impartial, independent and effective administration of justice throughout the country. The efforts by Republika Srpska to establish a separate, parallel High Judicial and Prosecutorial Council would undermine these advances and endanger the legal interests of clients of the judiciary of Republika Srpska. The appointment of judges and prosecutors by a parallel institution, such as a High Judicial and Prosecutorial Council of the Republika Srpska, would be unconstitutional, and their rulings could be challenged on that basis, to the detriment of legal certainty throughout the Republika Srpska.

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

## **F. Denial of war crimes**

41. On 3 December 2021, I wrote to the Parliamentary Assembly of Bosnia and Herzegovina urging the enactment of legislation to address the denial of genocide and other war crimes, and glorification of the perpetrators of such crimes. I highlighted that I am prepared to withdraw the amendments to the Criminal Code of Bosnia and Herzegovina criminalizing such behaviours that were enacted by my predecessor in July 2021, as soon as the domestic process yields such legislation consistent with international standards. My letter has still not been considered in the Parliament.

42. The representatives of Republika Srpska in the Parliament of Bosnia and Herzegovina proposed a draft law on Abuse of Term Genocide in urgent procedure, which prompted generally negative reactions from the Sarajevo-based parties represented in the Parliament. The draft law was rejected on 9 March 2022.

43. The need for a process to prevent instigation and spreading of hatred that could incite the repetition of crimes is made more urgent by the frequent glorification of adjudicated war criminals. Sadly, murals or plaques intended to glorify former Republika Srpska Army commander Ratko Mladić, conclusively sentenced to life in 2021 for genocide, crimes against humanity and violations of the laws or customs of war, including terrorizing the civilian population of Sarajevo for nearly four years and killing more than 8,000 Muslim men and boys in Srebrenica in 1995, continue to reappear, even after such glorification has been designated as a criminal offence. It is up to the Prosecutor's Office of Bosnia and Herzegovina to deal with those cases.

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

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

44. The Presidency of Bosnia and Herzegovina only held three regular sessions and, officially, four urgent sessions. The Presidency maintained regular protocol activities, receiving official diplomatic delegations, and making some official visits abroad. Šefik Džaferović (Party of Democratic Action (SDA)) has been Chair of the Presidency of Bosnia and Herzegovina since 20 March, assuming the position from Presidency member Željko Komšić (Democratic Front (DF)) in accordance with the eight-month rotation between the three members.

45. The political turbulence in Bosnia and Herzegovina remains most visible in the Bosnia and Herzegovina Presidency, as the divergent positions of Bosnia and Herzegovina Presidency member Milorad Dodik, on the one side, and Mr. Komšić and Mr. Džaferović, on the other, are expressed daily on a range of issues. Most recently, members have differed over the Ukraine crisis, as Mr. Dodik boycotted a Presidency session after the other two members rejected a discussion of the issue. Mr. Dodik had protested the fact that the Ambassador of Bosnia and Herzegovina to the United Nations, Sven Alkalaj, voted with 140 other Member States in the General Assembly meeting held on 2 March to demand that the Russian Federation end its military operations in Ukraine. Mr. Dodik advocated neutrality by Bosnia and Herzegovina on the issue, while the other two members condemned the aggression and warned of the risk of spillover to Bosnia and Herzegovina.

46. Mr. Komšić and Mr. Džaferović also welcomed the 17 February adoption by the European Parliament of its resolution on the implementation of the common foreign and security policy, which condemned “the secessionist moves of the Republika Srpska authorities” and called for sanctions against Dodik and his associates. The two members marked the 25 November Bosnia and Herzegovina Statehood Day and the 1 March Bosnia and Herzegovina Independence Day without Mr. Dodik, as the Republika Srpska does not recognize those holidays.

47. The only issue around which there were no dissonant tones between Presidency members in public was the path of Bosnia and Herzegovina to the European Union and the recent revival of appeals by Bosnia and Herzegovina authorities to the European Union to grant candidate status to Bosnia and Herzegovina and stabilize the situation in Bosnia and Herzegovina. Presidency members repeated their commitment to intensifying activities on European Union integration.

48. Mr. Dodik continued to effectively block the work and/or decision-making of the Presidency either by not attending sessions or by attending and voting against all agenda items, including adoption of agendas.

49. In the 31 March session of the Presidency, after previously blocking the engagement of helicopters of the Bosnia and Herzegovina armed forces in firefighting in Herzegovina, Mr. Dodik relented and gave his consent, only after it was forecast that rain would extinguish the fires. However, when agenda items required the presence of the Minister for Foreign Affairs of Bosnia and Herzegovina, Bisera Turković (SDA), Mr. Dodik walked out over what he called Ms. Turković's "constant violation of the Constitution of Bosnia and Herzegovina." SNSD tweeted "We will not bear such a Muslim attack on the Constitution of Bosnia and Herzegovina!".<sup>4</sup> Dodik subsequently called for an urgent National Assembly of Republika Srpska session to invoke a vital national interest veto against five items adopted in his absence. With less than two-thirds majority support, the National Assembly rejected the veto.

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

50. The Council of Ministers of Bosnia and Herzegovina held only five regular and four urgent sessions, with very limited output. The Council of Ministers did not adopt a single piece of legislation, which is indicative of the extent of the blockade of the State and its legislative instruments.

51. After a period of non-attendance following the conclusions by the National Assembly of the Republika Srpska on 30 July 2021 not to participate in decision-making at the State level, ministers from the Republika Srpska-based parties made a limited return in November, voting against all agenda items. They subsequently attended to support items that impact health and the economy, which the Chair of the Council of Ministers, Zoran Tegeltija (SNSD), said does not contradict the conclusions of the National Assembly of Republika Srpska.

52. The Council of Ministers adopted two decisions on temporary financing of the institutions of Bosnia and Herzegovina and its international obligations for the first and second quarters of 2022, marking six straight quarters the institutions have been under temporary financing owing to no adopted State budget in 2021 and 2022. At the time of completion of this report, a budget for 2022 had not been adopted.

53. The Council of Ministers of Bosnia and Herzegovina reached no agreement on the appointment of members to the Communications Regulatory Agency Council or to the State Commission for Cooperation with the United Nations Educational, Scientific and Cultural Organization, among others.

54. The Council of Ministers did adopt various financial and loan agreements in different stages of the ratification process, in the areas of infrastructure, environment, public health, free trade and science, and memorandums of understanding with various financial institutions. The Council of Ministers took some steps to address the effects of the Ukraine crisis by suspending or reducing customs tariffs on certain goods, and allocated KM 300,000 in humanitarian assistance to the Ukrainian Red Cross.

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

55. The Parliamentary Assembly of Bosnia and Herzegovina has been most affected by the consecutive political crises since its inauguration following the 2018 general elections. This is reflected in its poor functionality and inability to exercise its legislative functions. The situation has been greatly exacerbated by the ongoing full or partial boycott or blockade of decision-making in the State institutions pursued by the Republika Srpska-based parties.

<sup>4</sup> See <https://twitter.com/SNSDDodik/status/1509471228498690053>.

56. The Bosnia and Herzegovina House of Representatives held only four regular sessions and one urgent session, not even meeting monthly, and usually without the participation of representatives elected from the Republika Srpska. The Bosnia and Herzegovina House of Peoples fared even worse, holding only two regular and two urgent sessions.

57. After five months without a session, the Bosnia and Herzegovina House of Peoples held an urgent session on 29 November, at the request of five delegates (four from the Bosniak Caucus and one from the Croat Caucus) to discuss the reasons for blockade of the highest legislative body. The representatives of SNSD seized the opportunity to propose several conclusions that in essence sought justification for the blockade and to blame the former High Representative's decision amending the Criminal Code of Bosnia and Herzegovina while calling for its annulment, challenging High Representative's mandate and authority, further challenging Constitutional Court of Bosnia and Herzegovina decisions on State property and stating that property belongs to entities, calling on entities, cantons and Brčko District to come to agreement on apportionment of property. The House of Peoples ultimately rejected the conclusions, but adopted a conclusion calling for dialogue between constituent peoples in Bosnia and Herzegovina towards possible future solutions.

58. Republika Srpska-based parties started attending sessions of the working bodies in March, although whether that will be a consistent pattern remains to be seen. SNSD attendance during House debates and or voting was restricted only to agenda items of their particular interest.

59. On 4 March, the Bosnia and Herzegovina House of Representatives held an urgent session devoted to the crisis in Ukraine, convened at the request of four opposition parties. The Republika Srpska-based parties did not attend and failed to join in public condemnation of the Russian Federation aggression against Ukraine.

60. In response to global economic issues that already affect Bosnia and Herzegovina, opposition parties from the Republika Srpska and the Federation in the Bosnia and Herzegovina House of Representatives launched and adopted, on 9 March, urgent initiatives to amend and change the Law on Value Added Tax and the Law on Excise Tax, introducing differential rates on value added tax and reducing excise tax on fuel and its derivatives to zero for a period of six months. However, these initiatives are pending in the House of Peoples, and in any case may be technically impossible to implement.

61. Also, on 9 March, in the context of the Ukraine crisis, the Joint Collegium of the Bosnia and Herzegovina Parliament agreed to request that European Union candidate status be granted to Bosnia and Herzegovina in an accelerated procedure. On 24 March, the House of Peoples endorsed this conclusion, and the House of Representatives is also expected to endorse the request. However, notwithstanding this request, after the Bosnia and Herzegovina House of Representatives adopted, on 9 March, the Law on Conflict of Interest and amendments to the Law on the Bosnia and Herzegovina High Judicial and Prosecutorial Council and had earlier adopted amendments to the Law on Public Procurement – three key requirements from the European Council Opinion from May 2019 – the House of Peoples subsequently failed to follow through on the next steps necessary for their adoption. The adoption of all three remains pending. During the reporting period, the Parliamentary Assembly only adopted a single piece of legislation in full, the Law on Customs Violations.

62. Also on 11 March, the Bosnia and Herzegovina House of Representatives considered the SNSD club's proposed Law banning abuse of the term Genocide in urgent procedure, as an attempt to, in the words of SNSD representatives, deescalate the crisis. Sarajevo-based parties condemned this initiative as another attempt to relativize and deny genocide committed. The proposed Law was rejected.



63. Following failed negotiations on electoral amendments, and the inability of the Inter-Agency Working Group on electoral reforms to meet and deliberate owing to a lack of a quorum, on 11 April, representatives of six political parties in the Bosnia and Herzegovina House of Representatives submitted into parliamentary procedure the so-called “integrity package” of changes and amendments to the Election Law of Bosnia and Herzegovina. The package focuses on improvements to electoral system to help prevent election fraud and return integrity and voter confidence to the electoral process.

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

64. The Federation Government from the 2014–2018 mandate remains, with no new Government appointed following the 2018 general elections and reduced from 16 to 13 ministers due to the deaths of two and the resignation of another, which occurred in previous reporting periods. There is no agreement on appointing a new Government or replacing the missing ministers due to the stated position of the Croat Democratic Union (HDZ Bosnia and Herzegovina) not to approve any appointments until an agreement on electoral reform, primarily between HDZ Bosnia and Herzegovina and SDA, is reached. Additionally, Federation Prime Minister Fadil Novalić (SDA) and Deputy Prime Minister and Minister of Finance Jelka Miličević (HDZ Bosnia and Herzegovina) are currently on trial over the controversial procurement of 100 ventilators early in the coronavirus disease (COVID-19) pandemic.

65. In October 2021, Mr. Novalić sent a letter to the Federation President and Vice Presidents, in which he wrote that it is necessary to fill the missing ministerial positions in the Government as it no longer has the appropriate composition and national structure.

66. Nevertheless, the Federation Government has continued to meet regularly, holding 26 regular sessions and 11 extraordinary sessions. Both houses of the Federation Parliament met infrequently, with the House of Representatives holding just six regular and four extraordinary sessions and the House of Peoples only four regular and six extraordinary sessions. In terms of legislative output, only seven new laws and 13 amendments to existing laws were adopted.

67. The collegiums of both houses of the Federation Parliament remain incomplete. The House of Representatives has failed to appoint a new Deputy Speaker from the ranks of the Serb people following a reshuffling of the parliamentary majority in June 2019, while the House of Peoples has not appointed a Deputy Speaker from the ranks of the Serb people since its inaugural session following the 2018 general elections.

#### **Federation Constitutional Court appointments still outstanding**

68. Since 2019, the Federation Constitutional Court has had four vacancies pending, owing to the retirements of judges, leaving the Court with only five sitting judges of the nine required under the Federation Constitution. All five must be present for a quorum, and the adoption of decisions requires unanimity. Moreover, the Court’s vital national interest panel cannot function at all, as it only has four judges, which is insufficient for a quorum in the vital national interest panel. In October 2019, the Bosnia and Herzegovina High Judicial and Prosecutorial Council submitted to the Federation President and Vice-President proposed candidates for three vacancies and it submitted proposed candidates for the fourth vacancy in February last year. Subsequently, the two Federation Vice-Presidents submitted their final proposals to Federation President Marinko Čavara (HDZ Bosnia and Herzegovina) and urged him to forward the nominations to the Federation Parliament. However, Mr. Čavara has refused to proceed, blocking the appointment process, and leaving the Federation Constitutional Court dysfunctional.

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

69. The ruling coalition in the Republika Srpska continued to be led by SNSD. The Republika Srpska government held 22 regular sessions and one special session. The National Assembly of the Republika Srpska held three regular sessions and nine special sessions.

70. In addition to the longstanding practice of the Republika Srpska authorities refusing to deliver session materials to the Office of the High Representative, since October the National Assembly of the Republika Srpska has prevented staff from the Office of the High Representative from attending sessions, thus impeding my staff from carrying out the mandate of my office under annex 10 to the General Framework Agreement for Peace, against obligations arising under article IX of the General Framework Agreement for Peace and annex 10 to the General Framework Agreement for Peace to fully cooperate with the High Representative and his or her staff. The legality of the existence of the High Representative and the Office of the High Representative was publicly questioned.

### *Srebrenica*

71. The Srebrenica Municipal Assembly continued to function despite frequent instability as a result of a political split within both Serb and Bosniak Caucuses, which has resulted in different factions of Serb and Bosniak parties in the majority and in the opposition. However, the same differences that have burdened inter-ethnic relations in the post-war period persist, with Bosniak representatives calling on Serb representatives to accept international and domestic court rulings on the Srebrenica genocide, to no avail, while the wider local Serb community claims that their war victims have not been acknowledged at all. The unresolved differences continue to be sources of mutual frustration, burdening the community and hindering attempts at improving coexistence and reconciliation.

## **V. Developments related to public security and law enforcement appointments**

72. The practice of improper political interference in operational policing did not diminish.

73. In Brčko District, the appointments of the Police Chief (May 2021) and Deputy Police Chief (November 2020) remain in effect, despite the appointments resetting the clock on the mandates as first term when they were nearing the end of their first and second four-year mandates, respectively, in contravention of established standards. The standard maximum appointment is for two four-year terms. These appointments stem from damaging October 2020 changes to police legislation that are still being rectified. The status of the appointments of members of the Independent Board to new mandates remains unclear. In March, a Brčko District working group, in cooperation with the Office of the High Representative and other international community partners in Bosnia and Herzegovina, completed the technical phase of preparing proposals of changes to the Brčko District Law on Police and Law on Police Officials.

74. On 22 and 28 February, and again on 15 and 29 March, the Independent Board was unable to hold sessions owing to a lack of a quorum. Consequently, the Independent Board of Bosnia and Herzegovina is unable to release vacancy announcements for the posts of Deputy Director at the State Investigation and Protection Agency; Border Police Director and Deputy Director; and Directorate for Police Coordination Director and two Deputy Directors, all mandates expire in May 2022.

75. On 22 March, the Federation Independent Board decided by a majority vote to issue a new vacancy for the post of Federation Police Director after a period of legal uncertainty dating to 2019. The Federation Government, serving in technical mandate since 2018, failed to appoint a Federation Police Director based on the April 2019 list of candidates proposed by the Federation Independent Board in the first selection round. The mandate of the previous director expired in January 2019. The top-ranked candidate from the 2019 list filed a court case against the Federation Government for failure to complete the appointment process. The mandate of the Federation Independent Board overseeing the new selection process expires in May 2022.

76. In Herzegovina-Neretva Canton, the selection and appointment of a new Independent Board, initiated in May 2021 by the Assembly, has stalled. The Herzegovina-Neretva Canton has not had a functioning Independent Board since March 2017 nor a duly appointed Police Commissioner since October 2018.

77. The Posavina Canton authorities failed to insert a required provision in the relevant police law, as stipulated by the letter of the President of the Security Council from 2007, on police denied certification by the former United Nations International Police Task Force, despite repeated assurances from the Canton's authorities.

78. In October 2021, changes to the Canton 10 Law on Internal Affairs and the Law on Police Officials were withdrawn from the adoption process in the Canton 10 Assembly, including one provision lowering the requirements for candidates for Police Commissioner. The mandate of the previous commissioner mandate expired in November 2021.

79. In December 2021, the Zenica-Doboj Canton Assembly adopted a long-delayed separate police budget in line with its 2018 Law on Internal Affairs.

80. In December 2021, West Herzegovina Canton adopted changes to its Law on Police Officials, lowering the requirements for police commissioner candidates, and, in March 2022, the West Herzegovina Government appointed a new police commissioner under the new rules.

81. In March 2022, the mandate of the Una-Sana Canton Independent Board expired. The procedure of selection and appointment of the new Independent Board has not been completed owing to the lack of candidates.

### *Intelligence*

82. The Council of Ministers of Bosnia and Herzegovina has not yet appointed the next Director General of the Intelligence-Security Agency of Bosnia and Herzegovina. The mandate of the current Director General, who continues to serve in technical mandate, expired in November 2019.

## **VI. Economic developments**

### **A. Economic trends**

83. In 2021, total exports and imports increased by 35.7 per cent and 27.9 per cent, respectively. Industrial production in December 2021 grew by 7.2 per cent over the same month in 2020. The annual price level increase was 6.4 per cent. Foreign direct investments in 2021 totalled KM 869.9 million, 22 per cent more than in 2020. The banking sector is assessed as generally stable and liquid. Preliminary data for 2021 shows a 136 per cent increase in its profits over 2020, suggesting a post-pandemic recovery of the banks.

84. At the end of December, there were 375,804 unemployed persons, 9.1 per cent less than December 2020. The average net salary of KM 1,042 and average pension of KM 421 remain significantly below the average price of the basket of goods of about KM 2,200 for a family of four, suggesting that even those with steady incomes struggle to make ends meet. Pensioners are particularly vulnerable. About 60 per cent of pensioners in Bosnia and Herzegovina receive the minimum pensions of KM 207 in the Republika Srpska and KM 382 in the Federation and survive on KM 3.5–12 a day.

85. Another vulnerable category in Bosnia and Herzegovina is the youth. According to the World Bank's fall 2021 Western Balkans Regular Economic Report, the youth unemployment rate in Bosnia and Herzegovina in 2020 was 36.6 per cent. According to the 2013 census, slightly more than half a million young people, aged 19 to 29, live in Bosnia and Herzegovina. Although there is no precise data on how many have left the country in recent years, research shows that every other young person is considering leaving temporarily or permanently. A United Nations Population Fund survey indicates that 23,000 young people aged 19 to 29 will leave Bosnia and Herzegovina in the next 12 months, adding to the already worrisome population outflow. The Union for Sustainable Return and Integrations in Bosnia and Herzegovina estimates that 170,000 persons left Bosnia and Herzegovina in 2021, meaning that nearly half a million people have left since 2013.

86. Moody's and Standard and Poor's credit ratings for Bosnia and Herzegovina are B3 and B, respectively, both with stable outlook. Bosnia and Herzegovina is in the ranks of moderately free countries based on the 2022 Index of Economic Freedom published by the Heritage Foundation, ranking 68th out of 177 countries in the world and 36th out of 45 countries in Europe. Dropping eight places from the previous report, Bosnia and Herzegovina now ranks 90th out of 165 countries in the 2021 Annual Report of the Fraser Institute's Economic Freedom of the World, which analyses the size of government, legal system and property rights, sound money, freedom to trade internationally and regulations. According to Transparency International's Corruption Perceptions Index 2021, Bosnia and Herzegovina is 110th out of 180 countries by corruption perception. Its score has dropped seven points since 2012.

## **B. Fiscal issues**

87. There were no delays in debt servicing and regular monthly budget payments in the reporting period. This was mostly as a result of the continued growth of indirect tax revenue, which accounts for most budget revenue for all levels of government. Collection in 2021 was the highest ever, totalling KM 8.44 billion, a KM 1.2 billion increase, or 16.7 per cent, over 2020.

88. Budget stability was also strongly supported by continued borrowing and international financial disbursements, including the first tranche of the European Union macro-financial assistance of 125 million euros, which was distributed in the ratio of 61.5 per cent to the Federation, 37.5 per cent to the Republika Srpska and 1 per cent to Brčko District. The State did not benefit from this assistance.

89. The preliminary data of the Ministry of Finance and Treasury of Bosnia and Herzegovina estimate the overall public debt as at 31 December 2021 at KM 12.81 billion, which is 34.82 per cent of the gross domestic product (GDP) of Bosnia and Herzegovina in 2021. Of this amount, foreign debt is KM 9.69 billion (75.7 per cent) and domestic debt is KM 3.11 billion (24.3 per cent).

90. The financing of the State institutions remained hostage to the Republika Srpska policy of undermining the functionality of the State and its key functions. The blockage of the State-level institutions and decision-making processes by representatives from the Republika Srpska stalled the parliamentary adoption of the

State budget for 2021. Owing to the late adoption of the Global Framework of Fiscal Balance and Policies for 2022–2024, there is still no annual budget for 2022. Consequently, the State institutions were forced into restricted temporary financing throughout 2021 and in the first quarter of 2022. In March, the Bosnia and Herzegovina Council of Ministers adopted temporary financing for the second quarter.

91. Under the Constitution of Bosnia and Herzegovina, the responsible authorities are obliged to ensure financing of the State institutions so they may fully discharge their constitutional and legal responsibilities. Extending temporary financing is only a stop-gap measure, as it restricts the amount of funds available to the State institutions and their scope of operations. It also makes them vulnerable to political calculations. Financing of State institutions requires a sustainable solution.

92. The Federation institutions were restricted by temporary financing in the first quarter, while the 2022 annual budget was adopted by the end of March at KM 5.59 billion, a 2 per cent increase over the 2021 rebalanced budget. Budget stability was supported by the sustained growth of indirect tax revenues, continued domestic borrowing (mainly through the issuance of treasury bills and bonds), and recent International Monetary Fund special drawing rights and European Union macro-financial assistance disbursements. The budget shows a deficit of KM 920 million, a 32 per cent decrease from 2021, with plans to be covered by short-term domestic borrowing (KM 250.0 million), long-term domestic borrowing (KM 270 million), loans received through the State (KM 300 million) and receipts from financial assets (KM 100 million). The budget foresees KM 271.3 million for gross salaries and allowances (an 8 per cent increase), KM 29 million for employee contributions (an 8 per cent increase), KM 120.9 million for expenditures for material and service (20 per cent increase) and KM 3.75 billion for current transfers (a 2 per cent increase), include for social and veteran categories, pension funds, stabilization of the economy and transfers to lower levels. The Federation debt payment totals KM 849.1 million (a 15 per cent decrease), of which foreign debt totals KM 467.2 million.

93. All cantonal budgets for 2022 were adopted before the end of the first quarter of 2022.

94. The Republika Srpska continues to operate in a fragile financial environment, financing one-fourth of its regular budgetary needs through borrowing. The 2022 Srpska Budget – adopted on schedule before the end of 2021 – amounts to KM 4.024 billion, KM 8 million more than 2021. More than half of the budget funds are planned for pension payments and civil servants' salaries. The main budget beneficiaries are the Republika Srpska Ministry of Education, the Republika Srpska Ministry for Labour and Veterans, and the Republika Srpska Ministry of Interior. For 2022, the Republika Srpska authorities have planned an increase of civil servants' salaries by 5 per cent of net monthly salaries up to KM 1,000 and by 3 per cent of net monthly salaries over KM 1,000, while the average monthly pension would be increased by 3 per cent. The estimated debt of the Republika Srpska as at the end of September 2021 amounted to KM 6.1 billion, which was 51 per cent of the estimated GDP of the Republika Srpska in 2021.

### **C. Additional developments relevant to the General Framework Agreement for Peace**

95. Bosnia and Herzegovina took no action to rectify its non-compliance with the European Union requirements in the energy sector. Moreover, the Energy Community Ministerial Council concluded at its annual meeting in November that the country was in another breach under the Energy Community law. The latest breach relates to the intended replacement of a thermal power plant - Block 7- in Tuzla by the Sarajevo-

based power company, and it is due to its financing that is characterized as illicit State aid. This adds to the non-compliance due to which Bosnia and Herzegovina has been subject to sanctions by the Ministerial Council of the Energy Community – comprised of 28 member States of the European Union and 6 European states and territories in the Balkans – since 2015.

96. The Public Railways Corporation of Bosnia and Herzegovina has increasingly faced financial constraints owing to dependence on entity financial transfers. Its uninterrupted financing in 2021 was due mainly to the Federation meeting its payment obligations towards the Corporation, as the Republika Srpska unilaterally and disproportionately decreased its financing share (from 40 to 20 per cent) and fully settled its 2021 obligations only in 2022. The Corporation was forced to bridge the gap from its reserves and is now left with none and dependent fully on entity transfers. The uncertainty of financing poses a risk to the sustainability of the Corporation, which is the only State-level corporation established under annex 9 of the General Framework Agreement for Peace. It also jeopardizes the only mechanism for a harmonized approach to the reconstruction of railway routes, which would benefit the railway companies of both entities, all citizens of Bosnia and Herzegovina and the country's economy.

97. Although the mandates of all members of the management and the management board of the Bosnia and Herzegovina Electricity Transmission Company (TRANSCO) expired four years ago, the appointment of new members remains stalled. The Federation Government nominated its members to the TRANSCO management board in December 2020, but the Council of Ministers of Bosnia and Herzegovina decided not to proceed with the appointments until the Republika Srpska submits its nominees. Thus far, the Republika Srpska has taken no action to that end. Further delaying these appointments could complicate decision-making on issues of relevance for the Company and electricity transmission in general. It could also provide a pretext for renewed challenges to the Company, which was established by the Bosnia and Herzegovina Law Establishing the Electricity Transmission Company adopted by the Bosnia and Herzegovina Parliamentary Assembly in 2004, following the June 2003 agreement of the entities on the establishment of a transmission company and independent system operator, concluded based on article III (5) (b) of the Constitution of Bosnia and Herzegovina.

98. Another risk to TRANSCO stems from the revision initiated by the Mostar-based power company against the 16 August 2021 decision of the Higher Commercial Court of Banja Luka, which dismissed the lawsuit by the Mostar company claiming compensation for the transmission facilities invested in TRANSCO at the time of its establishment in 2006. Although dismissed in two instances, the lawsuit thus remains alive and as such a financial threat to TRANSCO, as well as a threat to the ownership structure and the entity shares.

## **VII. Developments related to the return of refugees and displaced persons**

99. Annex 7 to the General Framework Agreement for Peace obliges authorities throughout Bosnia and Herzegovina to “undertake 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”. In this regard, minority returnees and their families still face certain challenges.

100. Incidents and provocations directed at minority communities surrounding Orthodox and Republika Srpska holidays in January occurred in the Republika Srpska

municipalities of Bijeljina, Prijedor, Zenica-Doboj, Foca, Gacko and Nevesinje, and in Brčko District. Incidents followed a similar pattern of persons walking or driving through Bosniak communities shouting insults, playing nationalist songs, and in some instances praising convicted war criminal Ratko Mladic. In Bijeljina, gunshots were fired, but no one was injured.

101. While local authorities for the most reacted promptly and appropriately, such incidents in the currently tense political climate, coupled with rumours of local populations arming themselves and concerns about the potential negative impact of the Ukraine crisis on stability in Bosnia and Herzegovina, understandably raise fears among vulnerable groups for their security.

102. The Republika Srpska Ministry of Education refused to implement the 23 June ruling of the Constitutional Court of Bosnia and Herzegovina accepting the appeal from a group of Bosniak parents from the community of Konjevič Polje in Bratunac in the Republika Srpska, which supported their claim that Bosniak students were discriminated in the Republika Srpska education system regarding the use of Bosnian language in the school administration. In addition, in 2019, the Republika Srpska Supreme Court ruled in favour of Bosniak parents from Vrbanjci near Kotor Varoš, also in the Republika Srpska, and against the Ministry, regarding a dispute over the introduction of national group of subjects for primary school students. In response to a query in the National Assembly of the Republika Srpska, the Ministry said it would not implement the ruling since the original applicants had already completed their primary education, thus still not addressing the issue.

103. Some Bosniak returnee communities in the Republika Srpska, such as Liplje near Zvornik and Janje near Bijeljina, have continued to protest and request the competent authorities to refer to their language as “Bosnian” in official records in the same way they refer to “Serbian” and “Croatian” for Serb and Croat students, rather than continue to use the term “language of the Bosniak people.”

104. At the same time, Serb returnee representatives from Glamoč in the Federation continue to report on the persistent problem of the introduction of the national group of subjects and teaching of the Serbian language in local schools.

## VIII. Media developments

105. Since the previous report, the Free Media Helpline operating within the Journalists’ Association of Bosnia and Herzegovina registered 33 new cases of violations against journalists’ rights and media freedoms, including one case of defamation, eight instances of political pressure and intimidation, four death threats, and several instances of online harassment, cyberattacks and hate speech. In addition, the Print and Online Media Council of Bosnia and Herzegovina reported 509 cases of complaints concerning hate speech on online media in 2021.

106. The Public Broadcasting System of Bosnia and Herzegovina faces serious financial issues. Since 7 December 2021, the Federation Tax Authority has blocked the bank accounts of the State-level public broadcaster, Bosnia and Herzegovina Radio-Television, three times owing to the debt deriving from unpaid social contributions, amounting to KM 19 million. The blockade was lifted but showed that the financing of the system is very much dysfunctional and that Bosnia and Herzegovina Radio-Television is financially insolvent as it cannot service its current obligations.

107. Bosnia and Herzegovina Radio-Television management claims that its debt is the result of the decision of the Republika Srpska public broadcaster Radio-Television Republika Srpska to deprive Bosnia and Herzegovina Radio-Television of 50 per cent

of the funds collects in the Republika Srpska as defined by law. In 2019, the Radio-Television Republika Srpska unilaterally decided to commence its own collection of radio and television tax and stopped depositing it in the single system account. The Federation public broadcaster, Radio-Television Federation of Bosnia and Herzegovina shares its collected revenue with Bosnia and Herzegovina Radio-Television, but this revenue is primarily collected in Bosniak-majority areas of the Federation. In Croat areas, the leading Croat party, HDZ Bosnia and Herzegovina, has called on people not to pay the radio and television tax and instead donate KM 1 per month to the private broadcaster TV Herzeg-Bosnia. In March, I signed a letter, along with the embassies of the European Union, the United States and the United Kingdom and the Organization for Security and Cooperation in Europe encouraging Bosnia and Herzegovina Radio-Television to address the competent authorities to resolve these issues and offered our support in engaging them if needed.

108. The appointment of the new Communications Regulatory Agency Council has been stalled since November 2017. The most recent attempt of the Council of Ministers of Bosnia and Herzegovina to agree on the list of candidates, on 24 February, failed. The Council remains operational but with only five of seven members owing to two resignations.

109. Despite the State of Bosnia and Herzegovina having allocated KM 40 million for the digitalization process with three public broadcasters in Bosnia and Herzegovina jointly acting as the implementing entity, the process is stalled as there is no progress in the tendering of digital equipment by the Ministry of Communications and Transport of Bosnia and Herzegovina, and no steps taken by the three public broadcasters to establish a joint legal entity.

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