

2. Overall Context

2.1 Overview

Table 1 – Bosnia and Herzegovina: Key Facts



Key facts¹

Official name:	Bosnia and Herzegovina
Land area:	51,129 km ²
Population:	3,989,018 (July 2003 est.)
Age structure	0-14 years: 19.4%
	15-64 years: 70.5%
	65 years+: 10.1% (2003 est.)
Population density	78 /km ²
Capital :Sarajevo population	–526,000 (2001)
Religions:	Muslim – 40%
	Orthodox – 31%
	Roman Catholic – 15%
	Protestant – 4%
Territorial-administrative structure:	
Two first-order administrative divisions:	
	The Federation of Bosnia and Herzegovina
	The Republika Srpska
	Plus Brcko District

Bosnia and Herzegovina held a referendum on independence on March 1st 1992, at which RBiH Bosniaks and Croats voted for independence. Polls indicated that the majority of the Serb population wanted to stay with Yugoslavia (SFRY) and many Serbs boycotted the referendum on independence. The Republic of Bosnia and Herzegovina was recognised as an independent state by the EU on April 6th 1992 and war immediately followed. It involved the constituent peoples as well as the Republic of Croatia and the Federal Republic of Yugoslavia and lasted from 1992 to 1995. It left a severely damaged country and high levels of distrust among the different ethnic groups making up the population.

Peace was imposed through the International Community in two stages. In the first, Washington, in March 1994, agreement was reached between delegations from the RBiH, Croat, and Bosniak peoples. They agreed a framework for a federation of the Croat and Bosniak majority areas in RBiH, thereby creating the FBiH. The Federation in turn was subdivided into Cantons, basically in line with the ethnic distribution of the population, generally Croats and Bosniaks. The Washington Agreement was followed by an agreement brokered in Dayton, USA. The Dayton Peace Agreement was signed in Paris in December 1995 by the Presidents of the Republic of BiH, the Republic of Croatia and the Federal Republic of Yugoslavia.

According to the Dayton Agreement, the country was renamed as “Bosnia and Herzegovina” and recognised as a single state within its existing borders. Its territory was divided into 2 Entities: Republika Srpska (RS) (49% of the territory) and the Federation of BiH (FBiH) (51%). Later the Brčko municipality (whose status had been left unsolved in the Dayton negotiations) was awarded a special status, *inter alia* so as to allow free access between the two parts of Republika Srpska without passing through FBiH.

The resulting governance structure is highly complex and difficult to manage; however, it provided a framework for peace and allowed the three main constituent peoples to govern themselves. The State Level is particularly weak relative to the Entities; and it depends, almost entirely, on the Entities. The dependence on the international community is both direct (i.e. budgetary contributions) and indirect in that they ensure that the Entities comply with their transfer obligations.

The Dayton Agreement included the creation of the Office of the High Representative (OHR) as the representation of the international community. The High Representative was given the mandate to secure the peace-building process and given final decision-making power in the country. The HR’s power was extended in several Peace Implementation Conferences so that since 1997 the HR has the right to intervene directly in local decision taking, e.g. s/he may impose and withdraw laws, and remove any local civil servant, judge or elected official from office if s/he deems the person an obstruction to the peace process. These powers have been used extensively by successive High Representatives.

Negotiation of an SAA has started

On the request of the Government of BiH, the EC carried out a feasibility study in late summer 2003 to assess if BiH were ready for a Stabilisation and Association Agreement (SAA) with the EU and its Member States. Based on this study, in November 2003, the EU accepted that BiH was ready to take its next steps to Europe and has opened negotiations for a SAA.

The declared goal of the Government, announced on 10 April 2003, is to join the EU in 2009.

2.2 Political conditions

State Level

The State Level governance structures (known as the “common institutions”) are, in practice, a new institutional set up, since the old SFRY Republic institutions were mainly inherited by the Federation (see below). Although prior to the break up of the FRY Republic, the administration was populated by individuals from each of the constituent peoples, the position of the BiH capital within the FBiH has hindered the employment of ethnic-Serb civil servants.

The governing coalition, which emerged from the elections of November 2000 and served for 2 years, was the only one not to have a nationalistic character. This ten-party coalition, known as the Democratic Alliance for Change, led the State-level Council of Ministers from early 2001 to the October 2002 elections. During this time the Alliance contributed to the relative normalisation of politics in BiH and pushed through some significant reforms, including on budgeting and financial discipline that had been stalled for years.

Nationalistic parties gain ground

In the October 2002 elections, the main nationalist parties again won a majority. However, the three parties representing the three ethnic groups found it difficult to construct a coalition. The new State-level Government was formed only in January 2003. Some important personnel decisions are still outstanding, despite some progress in consolidating the governing coalition. The Government does not seem to have a common vision or the political will to implement a program of change.

Intergovernmental Task Force created to develop a reform strategy

The Council of Ministers, as well as the Entity governments, have subscribed to the Five Pledges¹ to Improve Public Governance, prepared by the International Community, but they have until now failed to translate these into a comprehensive strategy and an action plan, including a legislative program. With the support of the International Community an intergovernmental Task Force (IGTF), consisting of the BiH Minister of Justice, the FBiH Minister of Justice, the Minister of Administration and Local Self-Management of the Republika Srpska as well as the Mayor of the Brčko District and Heads of Civil service Agencies and other appropriate members was created in the second trimester of 2003. This Task Force consists of several working groups and is supposed to drive the reform process forward and establish a mechanism for cooperation. The immediate objective is to develop a comprehensive reform strategy at the state and Entity level.

Given the sluggish reform pace and the obvious difficulty of the government and the parliament to find compromises and take decisions, the OHR, in 2002 and 2003 seemed to rely increasingly on its coercion powers. This included imposition of laws but also appointments and dismissal of staff, political appointees and politicians. For instance, the OHR has decided that all political appointments will require approval by the Office, and has prevented new appointees from taking office if the proper recruitment procedures have not been observed.

Governments commitment to implement reforms difficult to assess

Despite its continuously-growing responsibilities and an increasing number of Ministries, the State Level remains weak. It may become stronger when it obtains its own resources with the planned introduction of Value Added Tax. The Government of FBiH appears to support the increasing responsibilities of the State Level, while they are only reluctantly accepted by the Government of RS. But both Entities have undermined the leadership of the State Level and often behave as if they are independent states, disregarding the BiH Presidency, Executive and Parliament.

¹ The five pledges concern organisation, funding, staff, procedures and service orientation of the administration. See below and <http://www.mpr.gov.ba/en/?ID=35>

Federation of Bi H

The Federation of Bosnia and Herzegovina, of which the capital is Sarajevo, is divided internally along ethnic lines. There are ten Cantons, of which two had a special regime regarding ethnic representation until early 2003 (Mostar and Travnik). The main governance responsibilities lie with the Cantons. Taxes are levied at the Cantonal level and then the requisite amounts are transferred from the Cantons to the Centre. There is significant disparity in wealth amongst the Cantons and effective re-distribution mechanisms have not been established. The Federal level structures to coordinate amongst the Cantons are inadequate. In addition, for political reasons, 5 Ministries are in Mostar while their Ministers reside in Sarajevo.

FBIH inherited the SFRY administrative infrastructure and most of its civil servants.

The governing coalition is rather fragile. The economic situation, characterised by high unemployment coupled with low budget revenues and severe budget constraints, has pushed the Government to take unpopular decisions which has led to social unrest including strikes.

Similar to the situation at the State Level, the Federation is an ethnically divided Entity whose creation was the result of the international community's pacification efforts in Washington in 1994. As such, FBIH is structurally weak. Power lies with the Cantons, which have provided bases for politicians to use their position to stimulate the break-up of the Federation. In addition, the strong authority given to Cantonal officials has diluted the power of Mayors².

Republika Srpska

Republika Srpska is organised as a unitary Entity. It is split geographically into two halves joined by Brčko, a thin land-bridge which is under direct international supervision. The governance infrastructure is essentially newly created following the establishment of the Entity in 1995, although it built on wartime institutions. In early 1998, the capital was transferred from Pale, the wartime capital situated in the eastern part of the Entity, to Banja Luka in the relatively richer western part. Tax revenues are only created on the local level. The Entity Government relies on transfers, which creates some degree of dependence on the municipalities.

²

See below section 3.1.4

Since the Dayton agreement there have been 4 elections for the Entity Government and 3 elections for municipal self-government. The current Government of the Entity is said to be nationalistic; it is formed as an alliance of several parties without real coalition obligations.

The geographical structure of RS, and the relatively very low income in its eastern sector, offset the relative advantage which RS enjoys, as a unitary Entity, over the difficult federal system in FBiH. RS suffers from high unemployment, especially in the east, and has severe problems with social unrest and strikes. This situation is exacerbated by the demands of the IFIs for further budget restrictions and staff cuts in the public sector.

2.3 Role of Key institutions in the reform process

2.3.1 Constitutional framework

BiH is a Parliamentary Republic. Its Constitution was adopted as Annex 4 of the Dayton Peace Agreement in 1995. The Constitution of FBiH was adopted in 1994 under the Washington Agreement: the Constitution of RS was adopted in 1992. The Constitutions of the Entities have been amended several times by Parliament or by decree of the OHR to accommodate international standards or decisions of the Constitutional court, calling *inter alia* for the guarantee of equal rights for all constituent peoples (11 amendments for FBiH, 16 for RS).

Central state has limited responsibilities

The State Level has only a few responsibilities enumerated in Art. 3 of the BiH Constitution. However, para. 5 of Art. 3 allows the State Level to assume additional responsibilities, if this is either agreed by the Entities or is deemed necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina. The constitutional responsibilities of the State Level are as follows:

- foreign policy;
- foreign trade policy;
- customs policy;
- monetary policy
- finances of the institutions and international obligations of BiH;
- immigration, refugee, and asylum policy and regulation;
- international and inter-Entity criminal law enforcement;
- establishment and operation of common and international communications facilities.

According to Art. 3 of the BiH Constitution, all governmental functions and powers which are not expressly assigned to the State Level are the responsibility of the Entities.

This arrangement leaves the Federation and RS responsible for defence, internal affairs, economic and social policy, environment, reconstruction programmes, and taxation. In matters of refugees and displaced persons, and of customs, policy is set at State Level, but administration of the policy is

devolved to the Entities.

The State assumes additional responsibilities

Given the rather restricted legal competencies and the dependency on transfers, the State Level was extremely weak in the first years. Over the last few years it has increased its influence by assuming additional responsibilities based on Art. 3 para. 5; e.g. it has taken on health and education policy and is providing framework legislation in these areas. Even so, it would be very difficult for the State Level to ensure compliance with these laws as it lacks the necessary enforcement capacities. Therefore it remains to be seen if the framework legislation will meet expectations.

The only independent source of revenue for the State Level is administrative fees. The State Level budget is ensured by transfers from the Entities, Art. 8 para. 3, whereby the Federation has to provide two-thirds and the Republika Srpska one third of the funds required by the budget. In November 2003 the BiH Assembly adopted a law on the introduction of a Value Added Tax, which will in future (probably from 2006) constitute the main direct revenue for the State Level.

The Constitutions of both Entities enumerate the responsibilities of the Entities (Art. 68 Constitution RS and Division III, Art 1 Constitution FBiH). Among the responsibilities of the Entities are :

- defence and security
- economic policy;
- Finance and taxation
- commerce,
- energy policy.

The Constitution of FBiH enumerates the responsibilities shared between the Federation and the Cantons as well as the exclusive responsibilities of the Cantons. The distribution of powers in the FBiH Constitution implies that the Cantons are the true centres of political power within the Federation.

Fundamental rights and freedoms are guaranteed

The BiH Constitution (Article 1 para. 3) as well as the Entity Constitutions (chapter II of the RS and also of the FBiH Constitution) state that basic human rights and fundamental freedoms shall be guaranteed. These provisions are reinforced and detailed in the Agreement on Human Rights, integrated as Annex 6 to the Dayton Peace Agreement and agreed by the representatives of the Republic of BiH, of RS and FBiH. In particular, the BiH as well as Entity Constitutions state that the freedom of religion and press shall be guaranteed (articles 1 and 2 para. 3 of the BiH Constitution; article 2 of chapter II in FBiH Constitution; articles 26 and 28 of RS Constitution).

The FBiH Constitution requires specifically that the Canton Constitutions ensure the protection of rights and freedoms described in the FBiH Constitution (article 4 of chapter V (Cantonal Governments)).

Brčko develops without link to the rest of the country

The status of the district of Brčko was determined following a three-stage international arbitration. The first arbitration award, the so-called Rome Award, decreed the establishment for one year of "interim international supervision of Dayton implementation in the Brčko area." A Deputy High

Representative serves as Supervisor in Brčko and holds legislative and executive powers. The 1998 Supplemental Award prolonged and detailed the situation established by the Rome Award. The 1999 Final Award decreed that the Brčko district shall be unified as a neutral and demilitarised district under the sovereignty of the State. The Arbitral Tribunal reserved for itself the right to vary the Final Award should circumstances so require.

The first Deputy High Representative established multinational supervisory institutions, adapted the relevant entity laws, and drafted a Statute for the District. On 8 March 2000 he proclaimed the creation of the District and promulgated its Statute. He proceeded to appoint an interim Government and a 29-member Assembly. These interim authorities are still in place.

Even though some essential requirements of the Final Award have been fulfilled, there is still no defined end date for this interim agreement, and considerable power remains with the Deputy High Representative. There have been no district elections to test whether a viable situation has emerged in Brčko.

2.3.2 Interaction and relations between three branches of the state

The BiH Constitution and the Entities' Constitutions stipulate a separation of powers between the Executive, Legislature and the Judiciary (Art. 2 BiH Constitution, Art 69 in the RS Constitution, implicit in FBiH Constitution). The Dayton agreement and Final Award, respectively, empower the High Representative and the Brčko Supervisor with significant intervention powers including legislative, administrative and judicial powers. The separation between Legislative and Executive powers is therefore, *de facto*, not fully implemented.

The Constitutions have established formal channels and procedures for relations between the Executive, Legislature and the Judiciary branches: however the main and most efficient communication links are still informal.

2.3.3 Parliamentary and Ministerial accountability

The BiH and the Entities' constitutions establish procedures of no-confidence vote guaranteeing the ministerial accountability (Article 5 para. 4c of the BiH Constitution, Article 70 of the RS Constitution and Article 20 of the chapter IV A of the FBiH Constitution) The principle that the Government of the day is responsible to the Parliament is also stated in the Constitutions (Art V, 4 a BiH; inc. Chapter V b 4ff in FBiH; Art 94 RS). The Constitutions also stipulate that a Minister is responsible for the work of his/her Ministry.

Supreme Audit Institutions, which are established at the State and the Entities level, report on the work of the government and assist the Parliament in its task to control the government. However, the Parliaments have not properly followed-up on the recommendations of the SAIs which has reduced the impact that the SAIs have had on the administration.

There are three Ombudsman offices in Bosnia, one for each Entity and one State Level institution. Their mandate concerns mainly alleged violations of Human Rights, and the control of the public administrations. Today, State Level and Entity Ombudsmen report that the most frequent violations of Human Rights relate to equality before the law, property rights, and the right

*Separation of power
can be overruled by
OHR*

*No adequate links
amongst the
branches of the
State*

to work.

2.3.4 Parliament

Legislative authority on the State Level is vested in the bicameral parliamentary Assembly of BiH. This comprises two chambers: the House of Representatives and the House of Peoples.

The House of Peoples comprises 15 Delegates, two-thirds from the Federation (including five Croats and five Bosniaks) and one-third from the Republika Srpska (five Serbs). The designated Croat and Bosniak Delegates from the Federation are to be selected, respectively, by the Croat and Bosniak Delegates to the House of Peoples of the Federation. Delegates from the Republika Srpska are selected by the National Assembly of the Republika Srpska. (Article IV.1 of the BiH Constitution).

The House of Representatives comprises 42 Members, two-thirds elected from the territory of the Federation, one-third from the territory of the Republika Srpska. Members of the House of Representatives are to be directly elected from their Entity. The first election held in 1996, however, was to be governed by Annex 3 to the Dayton Agreement, which stated that voters were expected to vote, or be a candidate, in the place where they resided in 1991³; they could however ask to vote elsewhere. The purpose of this provision was to counter the electoral effects of ethnic cleansing.

The Dayton Agreement requested the OSCE to adopt and put in place an election program for BiH (Annex 3). According to the original decision of the OSCE Council, only the first general election was to take place under OSCE supervision and in accordance with Annex 3, and thereafter elections should be held under an electoral law which was to be passed by the BiH parliamentary Assembly. However, in the absence of such a law, the OSCE Mission was extended: as a result, the Mission organized and oversaw the subsequent general elections in 1998 and 2000.

An Electoral law was passed in late 2001 (No. 23/2001), which *inter alia* specified that the mandate of Members of the House of Representatives to be four years. The 5 October 2002 general elections were the first to be organised by the BiH authorities; international monitors controlled the electoral process. The municipal elections, which were held in October 2004, were also fully organised and funded by the BiH authorities.

The RS has a unicameral National Assembly with 83 deputies (Art 71 of the RS constitution), directly elected for a four-year mandate. The electoral laws establish electoral units and the system of the distribution/allocation of mandates ensuring that all municipalities are appropriately represented in the National Assembly.

In addition, according to Article 72 of the RS Constitution, laws or other regulations or acts adopted by vote of the National Assembly shall be submitted to and considered by a Council of Peoples if:

- they refer to vital national interests or

³

This was the date of the last census prior to hostilities. The issue is discussed below.

- two-thirds of one of the caucuses of the constituent peoples in the Council of Peoples decides that the law, act, or regulation, refers to vital interests.

The composition of the Council of Peoples shall be based on parity (Article 71) so that each constituent people has the same number of the representatives. The Council of Peoples shall have 8 members from each of the constituent peoples and 4 members from the ranks of Others, elected by the respective caucus in the National Assembly for a four-year mandate.

The Assembly has been riven by power struggles between hardliners and more moderate politicians, resulting in frequent constitutional crises⁴.

The FBiH has a bicameral Assembly, which comprises the House of Representatives and the House of Peoples. In addition, within the FBiH, each Canton has a Cantonal Legislature.

The FBiH House of Representatives consists of 98 delegates, directly elected for a 4-year mandate. A minimum number of four representatives of one constituent people is required to be represented (art. IV.A.1 of the FBiH Constitution).

The FBiH House of Peoples comprises 58 delegates elected for a 4-year term by the Cantonal Assemblies from among their representatives in proportion to the ethnic structure of the population (Art. IV.A.2).

The Brčko District has a District Assembly.

According to the 2003 SAP report, the performance of State and Entity Assemblies has continued to improve. The BiH House of Representatives and House of Peoples enacted outstanding EU Road Map⁵ legislation and a number of other important laws⁶.

The institutionalised protection of ethnic (“constituent peoples”) interests in the three jurisdictions (BiH, FBiH and RS), while necessary to preserve peace and avoid consolidating the gains of past ethnic cleansing, carries the risk of blocking and delaying decisions. It further risks embedding, for the long term, an ethnicity principle at the heart of the Constitutional arrangements.

2.3.5 Judicial system

The BiH and Entity constitutions put special emphasis on the independence of the judiciary (Article 6 of the BiH Constitution; Chapter IV C Art. 1 of the FBiH Constitution; Art. 121 of the RS Constitution).

*Judicial system
needs further*

The Constitutional Court of BiH is the highest judicial authority (Art. 6 para. 3 of the BiH constitution) and can take cases submitted by any court in the

⁴ EIU, Country profile 2001, p. 9

⁵ The EU Road map set out 18 essential steps to be undertaken by BiH before work on a Feasibility Study for the opening of negotiations on a Stabilisation and Association Agreement could be begun.

⁶ European Commission, *Stabilisation and Association Report 2003*, SEC(2003) 340, March 2003, p. 6

improvement...;

country. It consists of 9 judges, of whom 4 are selected by the FBiH House of Representatives, 2 by the RS National Assembly and 3 by the President of the European Court of Human Rights. There are also Constitutional Courts in each of the Entities.

... and lacks trust of the citizens

Apart from the BiH Constitutional Court, the judiciary is under the responsibility of the Entities and even the sub-Entities (i.e. Cantons), rather than being centrally run. This system has in practice led to a lack of respect of court hierarchy and uneven legal quality of the courts and their judgements.

The FBiH Constitution establishes a strict division between the Federal and Cantonal levels. The Supreme Court, Constitutional Court and Human Rights Court belong to the Federation, whereas the Cantons have Cantonal courts and as many Municipal courts as they deem necessary.

Croat-majority cantons do not recognise Federation Supreme Court

The Supreme Court of the Federation acts as the court of highest appeal only in the Bosniak-majority Cantons, while the Croat-majority Cantons refuse to recognise the authority and jurisdiction of the Federation Supreme Court. This means that in these Croat majority Cantons there is no appeal beyond the Cantonal level and the Cantonal-level institutions are *de facto* the organs of highest appeal⁷.

2.3.6 Executive

State Government	
Adnan Terzic (Bosniak)	Chairman
Mladen Ivanic (Serb)	Foreign affairs & deputy chairman
Barisa Colak (Croat)	Minister of Security & deputy chairman
Nicola Radovanovic (Serb)	Minister of Defence
Safet Halilovic(Bosniak)	Minister of Civil affairs
Dragan Doko (Croat)	Minister of Foreign trade & Economy
Mirsad Kebo (Bosniak)	Minister of Human rights & refugees
Ljerka Maric (Croat)	Minister of Finance and Treasury
Branko Dokic (Serb)	Minister of Transport & communications
Slobodan Kovac (Serb)	Minister of Justice
Source EIU Country Report, Jan 2004	
Federation of BiH	
Ahmet Hadzipasic	Prime Minister
Dragan Vrankic	Deputy Prime Minister & Minister of
Gavrilo Grahovac	Deputy prime Minister & Minister of sport
Marinko Bozic	Minister of agriculture, water & forestry
Miroslav Nikolic	Minister of Defence
Zijad Pasic	Minister of Education and science
Izet Zigic	Minister of Energy. Mining & industry
Ramiz Mehmedagic	Minister of Environment & urban
Tomo Lucic	Minister of Health
Mevludin Halilovic	Minister of Interior
Borjana Kristo	Minister of Justice
Radovan Vignjevic	Minister of Labour & social affairs
Maid Ljubovic	Minister of Trade
Nadzad Brankovic	Minister of Transport & communications
Ibrahim Nadarevic	Minister of Veteran's affairs
Source EIU Country Report, Jan 2004	

⁷ ICG, *Rule of law in public administration: Confusion and discrimination in a post-communist bureaucracy*, Balkans report No 84, December 1999, p. 8

Republica Srpska	
Dragan Mikerevic	Prime Minister
Rodoljub Trkulja	Minister of Agriculture
Milovan Stankovic	Minister of Defence
Gojko Savanovic	Minister of Education & culture
Milan Bogicevic	Minister of Economy, energy &
Branko Krsmanovic	Minister of Finance
Omer Brankovic	Minister of Economic affairs &
Marin Kvaternik	Minister of Health & social welfare
Zoran Deric	Minister of Interior
Suad Filipovic	Minister of Justice
Boris Gaspar	Minister Trade & tourism

Source EIU Country Report, Jan 2004

Central state is staffed on the principle of ethnic parity

BiH's central institutions, including the Council of Ministers, are organised to protect the interests of the Constituent Peoples. The Executive is specified in Article V of the Constitution to be the Presidency. The Presidency consists of 3 Members, one Bosniak and one Croat, each directly elected from the territory of the Federation and one Serb directly elected from the territory of the Republika Srpska for four year mandates. The Members of the Presidency appoint a Chair, which in practice has been rotated.

According to Article V.4.b of the BiH Constitution, the Presidency nominates the Chair of the Council of Ministers and the Chair nominates the Ministers who shall take office upon the approval of the House of Representatives". The Article further states that "no more than two thirds of all Ministers may be appointed from the territory of the Federation. The Chair shall also nominate Deputy Ministers (who shall be from the same Constituent People as their Ministers), who shall take office upon the approval of the House of Representatives". According to the Constitution, the Government consists of the Chair of the Council of Ministers (i.e. the Prime Minister), a Foreign Minister, a Minister for Foreign Trade and other Ministers nominated by the Chair as appropriate. A Law on the Council of Ministers (imposed by the OHR in Dec 2002), provides for a non-rotating⁸ Chairman for the full mandate of the Assembly.

The number of Ministries has gradually increased: the current Government consists (for the first time) of 8 Ministries.

The Constitution of the Federation (Art. 4 Chapter IV B) states that "the Government of the FBiH (Prime Minister and 16 Ministers) shall be composed of 8 Bosniak, 5 Croat and 3 Serb Ministers. One other Minister may be nominated by the Prime Minister from the quota of the largest constituent people. The Government shall have a Prime Minister/President of the Government who shall have two Deputy Prime Ministers from different constituent peoples selected from among the Ministers". These provisions are "transitional" until Annex 7 of the Dayton Agreement (on Refugees and Displaced Persons) is "fully implemented"; thereafter "a minimum of 15% of the Members of the Government must come from one constituent people. A minimum 35% of the Members of the Government must come from two constituent peoples, but one Member of the Government must come from

⁸ Previous practice was to rotate the Chair amongst the representatives of the Constituent peoples in the CoM.

the group of the Others”.

No Deputy should be from the same Constituent People as his/her Minister. This principle, while ensuring equal representation, gives rise to some concern as the Deputy, being from another ethnic group, may well replace his/her Minister in Government meetings, thereby changing the ethnic balance: for this reason Deputies are not allowed to vote in place of their Minister.

The Constitution of RS, in Art. 92 ff. states that the Government shall consist of the Prime Minister, two Deputy Prime Ministers and Ministers. The Prime Minister and the Deputy Prime Ministers may not be from the same constituent people. The Government of the RS (Prime Minister and 16 Ministers) shall be composed of eight from the ranks of the Serbs, five from the ranks of the Bosniaks and three from the ranks of the Croat people. One Minister from the ranks of Others may be appointed by the Prime Minister from the quota of the largest constituent people”. These provisions are “transitional until Annex 7 of Dayton (Agreement on Refugees and Displaced Persons) is fully implemented”; thereafter “a minimum of 15% of the Members of the Government must come from one constituent people. A minimum 35% of the Members of the Government must come from two constituent peoples, but one Member of the Government must come from the group of the Others”.

For the State Level, institutionalised interactions and relations between State and Entity Levels, as well as between FBiH and Cantons, are absent.

Inter-governmental coordination structures, common in federal systems, therefore need to be established as a matter of urgency.

2.4 Economic conditions

Key Economic Indicators

Table 2 – Bosnia and Herzegovina: Main Economic Indicators

	2001	2002	2003
Real GDP (% growth)	4.5	3.8	3.3
CPI Inflation (% growth)	5.1	0.3	1.0
General Government Operations	Percent of GDP		
Revenue and grants	51.8	51.8	50.6
Expenditure and net lending			
Overall balance	-5.8	-4.3	-2.2
Public debt	89.6	82.3	79.5
Current Expenditure:			
Expenditure on goods and services	45.8	47.7	45.3
Interest payments	1.2	1.2	1.1
Subsidies	19.2	20.8	19.9

Source: IMF, *Second and third reviews under the stand-by arrangement – staff report*, IMF Country report No 03/2004, July 2003, pp. 25 and 28

Weak private investment hampers development

The 1992-1995 war brought activity to a near standstill, leading to a 70% cumulative fall in real GDP. By mid-2001 industrial output had reached only one-third of its pre-war level.

BiH's post-war GDP growth has been primarily underpinned by large inflows of international assistance. Over the past year BiH has maintained macro-economic stability, low inflation and continued its efforts to improve fiscal performance. Nevertheless, concerns have arisen about rising external debt servicing requirements, weak private investment, a very high current account deficit and declining international assistance.

It remains difficult to analyse BiH's economic situation due to a continuing lack of reliable statistical data. Currently available indicators suggest a steady fall in annual GDP growth. After high aid-driven growth rates in the first half of the 1990s, growth declined from 5.6% in 2000, to 4.5% in 2001 and is estimated at 3.3% for 2003.

Continued adherence to the Currency Board arrangement has kept inflation subdued. The inflation rate in 2002 was roughly zero in FBiH, and less than 2% in RS. In 2003, it reached 1.0% in FBiH, and fell to 1.2% in RS⁹.

High unemployment creates social unrest

The estimated unemployment rate in 2003 was above 40% in FBiH and in the RS¹⁰.

⁹ IMF, *Second and third reviews under the stand-by arrangement – staff report*, IMF Country report No 03/204, July 2003, pp. 25-26

As illustrated by these figures, BiH's macroeconomic fundamentals have improved, however self-sustainability in the absence of international aid flows seems to be doubtful in the near future¹¹. In addition, estimated GDP is still below half its pre-war level, even though the presence of the informal economy distorts this figure. (Latest estimates of the grey economy place it at roughly equivalent to 40% of GDP). The IMF Stand-by Arrangement approved in August 2002, and extended until February 2004¹², provides a framework for economic growth through continued commitment to the Currency Board arrangement, further fiscal consolidation and structural reform¹³.

In November 2002, the High Representative launched the "Bulldozer Committee" initiative. A part of the "Justice and Work" agenda agreed between OHR and the BiH authorities, it aimed at initiating 50 reforms in 150 days by working closely with the business community. By the end of May 2003 a range of reforms had been proposed to the legislative bodies, covering various issues such as double taxation, administrative barriers to entry and exit of goods.

Upon finalisation of a first set of reforms, the second phase of the Bulldozer Committee programme was launched in early June 2003. In this phase, the initiative was extended by the OHR to regional and local authorities in order to improve local advocacy and bring the "bulldozer" process closer to local businesses. At the same time, the second phase envisages continuous monitoring of the progress in implementation of the 50 reforms set out in the first phase and continuation of the public-private dialogue that started in November 2002¹⁴.

*Road Map
substantially
completed*

According to the 2003 SAp report, progress within the SAp had been noted. The Road Map was "substantially completed" by September 2002. As a result, the next SAp stage, a Feasibility Study to assess whether BiH was ready to open negotiations on an SAA, was carried out by the EC in summer/autumn 2003; the result of the Feasibility Study was positive, and negotiations on a SAA may start soon.

However, the medium-term economic and political reform efforts of the coalition of nationalist parties that came to power following the October 5, 2002 elections, seems, according to the IMF appraisal, "daunting"¹⁵.

In this regard, although the Entity Governments have made a nominal commitment to speed up the privatisation process which ranked high in the reform agenda, the privatisation of larger enterprises, and those deemed "strategic" by the Entities, has been postponed. However, the sell-off of small companies has been moderately successful, with almost 80% in the

¹⁰ European Commission, Stabilisation and Association Report 2003, SEC(2003) 340, March 2003, pp. 16-18

¹¹ EIU, Country report: Bosnia and Herzegovina, July 2003, p. 11

¹² IMF approves two-month extension of Stand-by arrangement with Bosnia and Herzegovina, Press release No. 03/231, 31 December 2003

¹³ European Commission, Stabilisation and Association Report 2003, SEC(2003) 340, March 2003, p. 18; and IMF, IMF approves US\$34 million under stand-by credit for Bosnia and Herzegovina, Press release No 03/81, June 6, 2003

¹⁴ EIU, Country report: Bosnia and Herzegovina, July 2003, pp. 19-20

¹⁵ IMF, Second and third reviews under the stand-by arrangement – staff report, IMF Country report No 03/2004, July 2003, p.

Federation and 55% in the RS having been sold.

Privatisation slow, not supported by adequate legal and institutional framework

In practice, the relative slowness of the privatisation process and the fact that the major part of the needed structural reforms have been more or less imposed by the High Representative, may reflect institutional weaknesses, in particular of the privatisation commissions, and the overall lack of political will on the issue¹⁶. The situation is made even more complicated since each level of authority, (State, Entity and Cantonal), has some competencies regarding economic policy.

However, it should be considered that BiH at this point in time disposes of neither an adequate legislative nor institutional framework, including courts, nor of sufficient qualified staff to carry through privatisation or to monitor the emerging private sector.

The settlement of property claims according to the property law has made considerable progress, a fact which should have a positive impact on economic development. In June 2003, 84% of claims had been resolved, with 80% in the Republika Srpska, 86% in the Federation of BiH and 92% in the Brčko District.

¹⁶ European Commission, *Stabilisation and Association Report 2003*, SEC(2003) 340, March 2003, pp. 18-19; and ICG, *Bosnia's alliance for (smallish) change*, Balkans Report No 132, August 2002, pp. 12-14