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**Sigma Public Management Profiles  
No. 17**

## **Bosnia and Herzegovina - Federation**

OECD



## **SIGMA**

**Support for Improvement in Governance and Management**

A joint initiative of the OECD and the European Union, principally financed by the EU

### **PUBLIC MANAGEMENT PROFILES OF WESTERN BALKAN COUNTRIES:**

**BOSNIA AND HERZEGOVINA  
FEDERATION OF BOSNIA AND HERZEGOVINA**

**(as of May 2004)**

*For easier reference, separate Profiles have been established for the state level, the Federation of Bosnia and Herzegovina, and the Republika Srpska*

## THE SIGMA PROGRAMME

The Sigma Programme — Support for Improvement in Governance and Management — is a joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the European Union, principally financed by the EU.

Sigma supports partner countries in their efforts to improve governance and management by:

- Assessing reform progress and identifying priorities against baselines which reflect good European practice and existing EU legislation (the *acquis communautaire*);
- Assisting decision-makers and administrations in building institutions and setting up legal frameworks and procedures to meet European standards and good practice;
- Facilitating donor assistance from the EU and other donors inside and outside Europe by helping to design projects, ensuring preconditions and supporting implementation.

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- Western Balkan countries — Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, and Serbia and Montenegro / Montenegro, Serbia and Kosovo.
- Russia (under OECD financing).

The Sigma Programme has set its priorities to support reform efforts of partner countries in the following areas:

- Design and Implementation of Reform Programmes
- Legal Framework, Civil Service and Justice
- External Audit and Financial Control
- Public Expenditure Management
- Policy-making and Co-ordination Capacities, including Regulatory Management
- Public Procurement

For further information on Sigma, consult our web site:

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## **1. Political background**

The General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP), popularly known as the Dayton Peace Agreement (DPA) since it was negotiated and initialed at a U.S. Air Force base in Dayton, Ohio, defined Bosnia and Herzegovina as a state consisting of two entities, the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS). In accordance with international law, Bosnia and Herzegovina continued the legal existence of the Republic of Bosnia and Herzegovina, with its internal structure modified, but within the existing, internationally recognised, borders.

The Federation covers 51 per cent of the state territory, that is, 26 110 sq km. Geographically, the Federation occupies central and western parts of Bosnia and Herzegovina, although the two entities are intertwined, which makes it difficult to attach to them geographical designations. Moreover, according to the DPA, the entities do not have jurisdiction over border control.

The last official census took place in 1991, but the Federation Bureau of Statistics published on 30 June 2003 an official estimate of population figures. According to the Bureau, in summer 2003 the Federation of Bosnia and Herzegovina had 2 839 215 inhabitants, of which 2 321 058 actually resided in the Federation. The remaining 518 157 persons were categorized as refugees.

Official languages are Bosnian, Croatian and Serbian. Other languages may be used as a means of communication and education. The official scripts are Latin and Cyrillic.

The Washington Agreement, which established the Federation of Bosnia and Herzegovina, was signed on 18 March 1994 by Bosniaks, Bosnian Croats, and the Croatian leadership. The first session of the Parliament of the Federation was held in Sarajevo on 30 March 1994. The assembly included representatives elected in the 1990 elections for the Parliament of the Republic of Bosnia and Herzegovina from the territory defined by the Washington Agreement as belonging to the Federation. This Parliament ceased to exist in October 1996, following the elections for the Parliament of the Federation of Bosnia and Herzegovina.

At the last general elections on 5 October 2002, the nationalist parties came back to power, ousting the loose coalition of non-nationalist and reformist parties dubbed the 'Alliance for Change' and led by the Social-Democratic Party. The return to power of the wartime nationalist parties immediately raised doubts about the effect of international engagement in Bosnia and Herzegovina, since one of the crucial objectives of the international community has been 'anti-nationalist democratisation'. However the High Representative dismissed fears asserting that the nationalist parties that came to power had been significantly reformed and would have to operate within the framework of the rule of law.

In the 5 October 2002 elections, the following parties filled 98 posts in the Federation House of Representatives:

<b>Party</b>	<b>Acronym</b>	<b>No. of Seats</b>
Party for Democratic Action	SDA	32
Coalition: Croatian Democratic Union Democratic Christians Croatian People's Union	HDZ HNZ	16
Party for Bosnia and Herzegovina	SbiH	15
Social-Democratic Party	SDP	15
Bosnian Party	BOSS	3
Party of Retired Persons	SPU	2
Democratic People's Union	DNZ	2
Economic Bloc – For Prosperity	EB	2
New Croatian Initiative	NHI	2
Bosnian-Herzegovinian Patriotic Party	BPS	1
Croatian Peasants Party	HSS	1
Liberal Democratic Party	LDS	1
Croatian Christian Democratic Union	HKDU	1
Party of Independent Social Democrats	SNSD	1
Croatian Party of Rights	HSP	1
Civic Democratic Party	GDS	1
Croatian Right Bloc	HPS	1
Pro-European People's Party and Youth Party	PROENS & SMBIH	1

## **2. Constitutional Framework**

### **2. *Constitutional basis***

The Constitution of the Federation of Bosnia and Herzegovina was adopted by the Constitutional Assembly on 24 June 1994 and since then it has been amended nine times. Three of these amendments were passed by the Federation Parliament and six by the High Representative. The amendments reflected an evolution in the process of institution-building in the Federation of BiH and the position of the entity within the state structure. The most important amendment, which affected the entire Constitution and fundamentally changed the nature of the entity, was the Decision of the Constitutional Court of Bosnia and Herzegovina on the constitutional status of the three ethnic groups — Croats, Serbs and Bosniaks — throughout the state of Bosnia and Herzegovina.

Previously, Bosniaks and Croats were constituent peoples in the Federation of BiH, while Serbs were constituent in Republika Srpska. As of 2002 (the Constitutional Court's Decision was in 2000), all three peoples enjoy equal status throughout Bosnia and Herzegovina. Thus, the amended Chapter I, Article 1 of the Federal Constitution says that Bosniaks, Croats and Serbs are constituent peoples, along with Others, in the Federation of Bosnia and Herzegovina.

The Federation Constitution also has strong wording regarding the protection of human rights. Annexed to the Constitution is a list of human rights instruments to which all courts, administrative agencies and other governmental organs of the Federation must apply and conform to. There is also the institution of Ombudsperson, one appointed from among each of the constituent peoples. A main role of these three Ombudspersons is to protect human rights and liberties as provided in the Constitution and its Annex, but their most important role is the capacity to reverse the consequences of the violations of these rights and liberties, in particular the consequences of ethnic cleansing.

The hierarchy of norms in the Federation of BiH is as follows:

- The Constitution;
- 'Vital national interests' laws adopted by a majority of each caucus represented in the House of Peoples;
- Laws adopted by simple majority of both Houses;
- Government decisions in accordance with the Law on Government; and
- Orders, decrees, regulations, instructions, standing rules and other by-laws.

'Vital national interests' refer, among other things, to the rights of constituent peoples to be adequately represented in legislative, executive and judicial bodies; to identify with one of the constituent peoples; to education, religion, language, promotion of culture, tradition and cultural heritage; to territorial organisation, a public information system, and other issues treated as of vital national interest if so claimed by two-thirds of one of the caucuses of the constituent peoples in the House of Peoples.

## **2.2 Nature of the State**

The Federation of Bosnia and Herzegovina is a constitutive part of the sovereign state of Bosnia and Herzegovina, functioning as a parliamentary democracy and based on the rule of law. Under the Constitution, the Federation has a coat-of-arms, a flag, a national anthem, a seal, and other symbols as decided by the Parliament of the Federation.

## **2.3 Division of Powers**

The Federation has all the authority, powers and responsibilities that, under the Constitution of Bosnia and Herzegovina, are not the exclusive responsibility of the state institutions of Bosnia and Herzegovina. Some areas are the exclusive responsibility of the Federation government, and in some areas the Federation government and cantons share responsibility.

The division of power in the Federation is based on a balance between the legislative branch, the executive branch and the judicial branch.

The Federation Parliament, which consists of two Houses — the House of Representatives and the House of Peoples, acts at the supreme legislative authority in the entity. Executive authority is exercised by the President, vice-presidents and the Government of the Federation of BiH. The Constitutional and Supreme Courts are the highest judicial powers in the entity; courts of first and second instance are under the authority of the cantons. It should be borne in mind that the Federation Constitution recognises the institution of the Ombudsperson for human rights.

### **3. Head of State**

#### **3.1 Electoral Rules**

The President of the Federation has two vice-presidents, each of whom comes from different constituent peoples. Candidates for the position of the President and vice-presidents of the Federation are nominated by at least one-third of the respective Bosniak, Croat and Serb caucuses in the House of Peoples. The election of the President and vice-presidents require joint approval of the three nominees by a majority vote in the House of Representatives and then by a majority vote in the House of Peoples, including the majority of each caucus.

The President and vice-presidents are elected for a four-year term of office. Each one of them may be removed from office by a decision of the Constitutional Court, acting pursuant to a decision adopted by a two-thirds majority vote of each House, that the official has violated the oath of the office or is otherwise unworthy to serve. In case of death, removal or any established inability to perform duties of the office, the caucus which nominated the person to be replaced proposes a new nominee within thirty days.

#### **3.2 Main Responsibilities**

The President serves as the head of the Federation's executive branch and the commander-in-chief of the Federation's military. The President, in agreement with both vice-presidents, appoints the Government upon consultation with the Prime Minister or a nominee for that office. The Government is elected after its appointment has been confirmed by a majority vote of the House of Representatives and any vacancy is filled under the same procedure. Upon request from the Prime Minister, the President relieves from duty a minister or a vice-minister. The Federal Constitution does not envisage the dismissal of the Prime Minister. However, the President, with the approval from the vice-presidents, can dismiss the Government.

The President nominates the Government, heads of diplomatic missions, officers of the military, and judges of the Constitutional Court upon proposal of candidates by the High Judicial and Prosecutorial Council. S/he also conducts consultations concerning the appointment of Ombudspersons and judges and grants amnesties.

Vice-presidents replace the President when s/he absent, act with the President in those situations in which the latter is required to seek their concurrence, and carry out other duties entrusted to them by the President or by the Parliament.

#### **3.3 Office of the Head of State**

Apart from a number of persons employed in the cabinet of the President and the cabinets of the vice-presidents of the Federation, there is no general service that assists the President and the vice-presidents in carrying out their duties. The staff that make up the cabinets are the head of the cabinet, advisers, and technical staff.

Proposals for the fundamental revision of the institution of the President of the Federation of Bosnia and Herzegovina have been made.

#### **3.4 Head of State in Legislative Process**

The President of the Federation, along with the vice-presidents, has a right to take part in the legislative process and has a right to be informed of activities undertaken in this regard. The Government regularly informs the President and the vice-presidents of the Federation of their sessions and regularly delivers materials for the agenda planned for a particular session. The President and the vice-presidents take part, at their discretion, in proposing and drafting laws.

The President signs laws and other acts of the Parliament upon their enactment, and signs and ratifies international agreements on behalf of the Federation.

## **4. Parliament**

### **4.1 Electoral Rules**

The House of Representatives (HoR) of the Parliament of the Federation of Bosnia and Herzegovina consists of 98 delegates, directly elected, whose mandate is four years. A minimum number of four members of each constituent people are represented in the HoR.

The election of members of parliaments are based on general and equal voting rights, carried out through direct and secret ballots and are held on the first Saturday in October. A citizen of Bosnia and Herzegovina, aged 18 or older, has the right to vote providing s/he is registered in the Central Voters Register. A citizen who has the right to vote and is a refugee or temporarily residing abroad may vote by mail providing s/he completes and submits an application form to the Election Commission.

No person who is serving a sentence imposed by the International War Crimes Tribunal for former Yugoslavia (ICTY), and no person who has been indicted by the ICTY and who fails to comply with an order to appear before the Tribunal, may register to vote or stand as a candidate or hold any appointive, elective or other public office in the territory of Bosnia and Herzegovina. As long as any political party or coalition maintains such person in a position within a party structure, that party or coalition is deemed ineligible to participate in the elections.

Political parties, coalitions, and independent candidates may stand for elections. In order to be certified for elections in the Federation of Bosnia and Herzegovina, a political party or independent candidate must present to the Election Commission, which certifies the application, 2 000 and 1 000 signatures of registered voters respectively; one voter may support only one political party or independent candidate. A political party, coalition, or independent candidate must submit its application for certification no later than 140 days before the date of the elections.

Candidates' lists are submitted by a certified political party, coalition, or list of independent candidates to the election commission in the Federation no later than 95 days prior to the elections; the FBiH election commission then forwards the lists to the Election Commission of Bosnia and Herzegovina after having verified that the candidates' lists were submitted in accordance with law. Every candidates' list has to include male and female candidates. The minority gender candidates are distributed on the lists in the following manner: at least one minority gender candidate has to be among the first two candidates, two minority gender candidates amongst the first five candidates, and three minority gender candidates amongst the first eight candidates, etc. There has to be at least one-third of minority gender candidates out of the total number of candidates. The lists for the House of Representatives of the Federation Parliament have to indicate to which constituent people, or the group of Others, the candidates belong.

The HoR determines the number of mandates and boundaries for multi-member constituencies and the number of compensatory mandates. Of the 98 mandates for the HoR between 23 per cent and 27 per cent are compensatory mandates. The remaining mandates are allocated to multi-member constituencies. There is a minimum of ten multi-member constituencies; to each of them a minimum of three and maximum of 15 mandates for the HoR are allocated. The number of mandates for a constituency is determined as follows: the number of registered voters for the HoR is divided by the total number of constituency mandates to be allocated. The number of registered voters for a constituency is divided by the quotient resulting from the previous division to determine the number of mandates to which the constituency is entitled.

Following the elections mandates are allocated in the following manner: for each political party or a coalition, the total number of valid votes is divided by 1, 3, 5, 7, 9, etc., going as high as necessary for the allocation in question. The number resulting from this series of divisions are the quotients. The number of votes for an independent candidate is the quotient for that candidate. The quotients are arranged in order from the highest to the lowest and mandates are distributed in the same manner — starting from the highest until all the constituency mandates have been distributed. The threshold for both parties and individual candidates is three per cent of valid ballots in an electoral unit.

The constituencies and the number of mandates are to be reviewed every four years by the Parliament of the Federation of Bosnia and Herzegovina to ensure that they are respected, bearing in mind geographical constraints, proportionality between the number of mandates and the number of registered voters.

Cantonal assemblies elect 58 delegates for the House of Peoples (HoP) for a term of four years. The distribution of seats is as follows: 17 Bosniaks, 17 Croats, 17 Serbs and 7 delegates from the rank of Others. The Bosniaks, Croats, Serbs and Others members of parliament in each cantonal assembly elect delegates from among their respective constituent peoples in that canton. The number of delegates elected to the House of Peoples in any canton is proportional to the population of the canton as reflected in the last census.

Any member of the cantonal assembly is entitled to nominate one or more candidates on a list for the election of delegates of that particular caucus from that canton and each delegate in the cantonal assembly casts one vote for a list within his/her appropriate caucus. The results of the vote are communicated to the Election Commission of Bosnia and Herzegovina for the final allocation of seats. Mandates are distributed, one by one, to the lists or candidate according to the same 1, 3, 5, 7, ... proportional formula that has already been described. When a list wins, mandates are allocated from the top of the list. A person who is a member of the House of Representatives or a councillor in a Municipal Assembly cannot be a delegate in the House of Peoples.

#### **4.2 Main Powers of Parliament**

The Parliament of the Federation is responsible for:

- Enacting and amending the Constitution;
- Electing the President and vice-presidents of the Federation;
- Submitting requests to the Constitutional Court concerning a possible dismissal of the President or one or both vice-presidents;
- Approving the appointment of the Government of the Federation;
- Passing laws regarding the functioning of the Federation;
- Granting approval for any use of military force by the Federation Army in accordance with international law;
- Issuing authorisations, upon request, to cantons to conclude various agreements (for example, with states and international organisations), except for types of agreements for which the Parliament has decided that no such authorisation is required;
- Ratifying agreements with states and international organisations, following prior ratification by the Parliament of Bosnia and Herzegovina, except for types of agreements for which the Parliament of Bosnia and Herzegovina has decided that no such ratification is necessary;
- Carrying out civil control over armed forces and approving officer appointments in the Federation Army;
- Adopting the entity's budget and budget execution reports;
- Supervising the work of the Government and other holders of public authority responsible to the Parliament;
- Giving final interpretation of laws and legal documents whose content is disputed; and
- Presenting resolutions, recommendations, decisions and carrying out other assignments entrusted to it.

Unless stipulated otherwise, decisions of the Parliament require confirmation by both Houses, except for rules and procedures, and declarations passed independently by both Houses. Other decisions are passed by simple majority vote in each House.

Amendments to the Constitution of the Federation may be proposed by the President of the Federation in agreement with the vice-presidents, by the Government of the Federation, by the majority of delegates of the House of Representatives or by the majority of Bosniak, Serb or Croat delegates in the House of Peoples. A proposed amendment is adopted by simple majority in the House of Peoples (including the majority of Bosniak, the majority of Croat, and the majority of Serb votes) and by a two-thirds majority vote in the House of Representatives.

### **4.3 Internal Organisation**

The internal organisation of the Federal Parliament is regulated by the Rules of Procedure, a document drafted by the Legislative and Legal Commission of the Federal Parliament.

The House of Representatives and the House of Peoples elect from amongst its members a Speaker and two deputy speakers who may not be from the same constituent peoples or from amongst the Others. They also elect by an open vote a Secretary, nominated by the Election and Appointment Commission.

The Speaker of the House:

- Represents the House;
- Participates in the preparation of sessions, convenes and chairs sessions of the House;
- Participates in the preparation of sessions, convenes and chairs sessions of the Collegium of the House;
- Initiates discussion on issues within the House's scope of work;
- Co-ordinates with the Speaker of the other House the process and timeline of parliamentary debates on decisions that require approval of both Houses;
- Oversees the implementation of the work plan of the House and reports to the House on the implementation progress;
- Ensures that the Rules of Procedure are observed and applied;
- Ensures that the work of the House is public and transparent;
- Ensures that delegates exercise their rights and duties while serving their mandate;
- Ensures co-operation of the House with other Federation bodies;
- Signs documents enacted by the House; and
- Gives instructions to the House's Secretary related to his/her tasks and responsibilities.

In case the Speaker of the House is temporarily unable to perform his/her duties, s/he decides, after consulting with Deputy Speakers, which of the two will replace him/her.

The Secretary of the House of Representatives, as well as the Secretary of the House of Peoples, assists the Speaker in preparing and chairing the sessions, as well as in co-ordinating the work of various working bodies. S/he ensures that minutes of the sessions are taken, verifies the quorum, heads the Expert Service, manages the finances of the House, and performs other tasks stipulated by the Rules of Procedure as well as tasks conferred to him/her by the Speaker and/or deputy speakers.

The President and members of the Presidency of Bosnia and Herzegovina may take part in sessions of both the House of Representatives and the House of Peoples, whereas it is considered an obligation for

the President and vice-presidents of the Federation as well as for the Prime Minister and the members of the Federation Government. Guests invited by the Speakers of any of the Houses may take part in sessions as well.

The Speaker of the House (the same for both Houses) convenes sessions and proposes the agenda. The invitation for this must be delivered 14 days prior to the date set for the session; the first session has to take place at the latest 20 days after the election results are announced. The first session is called by the former Speaker of the House and s/he presides until the election of the new Speaker.

Each House has a Collegium, which differs in its composition. The Collegium of the House of Representatives consists of the Speaker, deputy speakers, secretary, and presidents of delegates' clubs. The Collegium of the House of Peoples consists of the Speaker, deputy speakers, secretary and presidents of the caucuses. The Collegium:

- Co-ordinates activities in preparation of sessions of the House and sets the agenda for the sessions;
- Initiates discussions on certain issues within the working bodies of the House;
- Ensures the exercise of rights and duties of the delegates in serving their mandate;
- Ensures co-operation with the other House;
- Ensures the exercise of rights and duties of the House, in accordance with the Constitution of the Federation BiH, towards the President and vice-presidents of the Federation BiH, the Prime Minister and the Government of the Federation BiH;
- Ensures co-operation with cantonal and municipal assemblies;
- Ensures co-operation with political parties and citizens' associations;
- Ensures the exercise of rights and the compliance with obligations of the House in particular with regard to the courts of the Federation;
- Ensures inter-parliamentary co-operation; and
- Discusses initiatives and proposals addressed to the House.

The Prime Minister, any of his/her deputies or any other member of the Government assigned by the Prime Minister can take part in the sessions of the Collegium in order to facilitate the preparation of the agenda and the material for the sessions. The Speaker of the House calls and presides over a session of the Collegium. The Secretary of the House prepares the material for a Collegium session and ensures that the minutes are taken.

Both Houses establish permanent and temporary working bodies whose task is to discuss drafts and proposals of laws and other documents, as well as to carry out other tasks in the domain of the House. The working bodies of the House of Representatives are the following:

- Constitutional Commission
- Legislative Commission
- Administration Commission
- Human Rights Commission
- Defence and Security Commission
- Election and Appointment Commission
- Information Commission
- Commission for Verification of Identical Texts in Bosnian, Croatian and Serbian Language

- Mandate and Immunity Commission
- Gender Equality Commission
- Commission for the Control of Intelligence and Security Service
- Joint Commission for the Institution of Ombudsmen
- Local Self-Governance Commission
- Committee for Economy and Finance
- Committee for Energy, Mining and Industry
- Committee for Denationalisation and Privatisation
- Committee for Justice and Administration
- Committee for the Return of Refugees and Displaced Persons
- Committee for Education, Science, Culture and Sports
- Committee for War Veterans
- Committee for Labour, Health and Social Policy
- Committee for Agriculture and Forestry
- Committee for Spatial Planning, Housing and Environmental Protection

The working bodies of the House of Peoples are the following:

- Constitutional Commission
- Legislative Commission
- Administration Commission
- Human Rights Commission
- Commission for Defence, Security, and Control of the Agency for Protection of Constitutional Order of the Federation BiH
- Election and Appointment Commission
- Information Commission
- Commission for Verification of Identical Texts in Bosnian, Croatian and Serbian Language
- Mandate and Immunity Commission
- Committee for Economy, Development, Finances and Budget
- Committee for Energy, Mining, Industry, Services, Agriculture, Forestry, Spatial Planning, Housing and Public Utilities
- Committee for Denationalisation and Privatisation
- Committee for Justice and Administration
- Committee for Return of Refugees and Displaced Persons
- Committee for Education, Science, Culture and Sports
- Committee for War Veterans, Labour, Health and Social Policy

The working bodies give opinions, submit proposals and report to the House on issues under their competencies. They can decide on certain issues only if such decision-making capacity is specifically assigned to them by the Rules of Procedure or by a decision of the House.

Political parties within the House of Representatives are organised into delegates' clubs as a way to foster the development of a coherent party policy on issues addressed by the HoR and the articulation of such policy within the HoR and to the general public. Apart from clubs of the three constitutive peoples, there is the Club of Others.

The HoR provides the office space for the clubs, necessary financial means for their activities, as well as administrative and technical support. Each club establishes its Rules of Procedure that define the internal organisation and the rights and duties of members of a club. The party clubs within the HoR combine their activities with presidents and vice-presidents of caucuses within the House of Peoples, thus creating a dense net of activities, initiatives and influences that are not easily assessable.

Delegates in the House of Peoples are organised into caucuses and each caucus has its President and Vice President. The caucuses are principal working units of delegates in the HoP, particularly regarding the preparation of the agenda for sessions and resolving disputes that may arise in the work of the House of Peoples and/or in the relations with the House of Representatives.

Both Houses have an individual Expert Service and share the administrative support provided by the Common Service of the Parliament of the Federation BiH. The organisation and the work of the Expert Service and the Common Service are determined by special regulation.

#### **4.4      *Legal Status of Members of Parliament***

A delegate is under immunity on the territory of the Federation starting on the day of verification of the mandate until the day his/her mandate expires. A delegate cannot be placed under criminal charges or be held responsible in a civil procedure for any act done while performing his/her function. Delegates cannot be under temporary arrest and have had their freedom taken unless given such right by the House of Representatives.

The Speaker of the HoR must call a session of the HoR within 48 hours after s/he has been informed by the authorised body on the necessity of the temporary arrest of a delegate, e.g. if the delegate was caught performing a criminal activity. Such session is to be held at the latest within the following eight days.

#### **4.5      *The Legislative Process***

The HoR, on equal grounds with HoP, adopts the Constitution, laws, the federal budget, the report on spending the federal budget, resolutions, recommendations, decisions and conclusions, serves as the final arbiter in interpreting laws or other acts whose content is disputed and in deciding on the final version of a text of law or another act.

Both Houses independently adopt Rules of Procedure, declarations, recommendations, decisions, conclusions and other acts in accordance with the Constitution of Bosnia and Herzegovina and the Constitution of the Federation. The Secretaries of both Houses co-operate and co-ordinate their work in forwarding laws and other acts adopted in both Houses to the President of the Federation for promulgation.

Since the Federation Parliament is made up of two Houses, a law is considered adopted only when adopted in the same wording by both Houses. The legislative process is regulated by the Rules of Procedure on the basis of the Constitution of the Federation BiH. The Rules of Procedure differentiate among three methods of law adoption:

- Standard procedure;
- Summary procedure; and

- Urgent procedure.

Standard procedure is the usual way of adopting laws, while the other two are exceptions. The standard procedure consists of three phases:

- Phase one: initiative;
- Phase two: discussion in working bodies;
- Phase three: discussion in the Parliament, usually requiring two readings.

★ *Phase one: initiative*

Initiative for drafting a certain law may come from delegates, the Prime Minister, ministers, cantonal and municipal assemblies, as well as citizens, enterprises and other legal bodies in accordance with the Constitution. The proposal is presented to the Speaker of the House. A draft of a law, however, can be submitted by any delegate, working body, delegates' club in the HoR, a caucus of the constituent peoples in the HoP, President and Vice-Presidents of the Federation, Prime Minister, President of cantonal assembly, city and municipal council, but not by citizens.

If the Speaker of the House receives an initiative for drafting a law, s/he informs relevant working bodies and the Federation Government, if it was not the initiator, and requests their opinion. The initiative is, as a rule, reviewed by the Legislative Commission which, afterwards, has to submit its opinion to the House. At its session, the House decides on the initiative — it either rejects it or accepts it. By accepting the initiative, the House also determines the preparation procedure and the body which will prepare the draft of the law.

★ *Phase two: discussion in working bodies*

The body authorised to prepare the draft law or any other eligible proponent of the law submits the draft to the Speaker of the House who then forwards it to the Legislative Commission and working bodies within whose competences it falls for consideration. The Speaker of the House forwards the draft law to the President and vice-presidents of the Federation and to the Speaker of the other House if they have not already received it directly from the proponent.

The Speaker forwards the draft to the legislative cantonal bodies if it also relates to them. If the draft law was not submitted by the Prime Minister, the Speaker of the House also forwards it to the Government of the Federation for opinion. If the draft law was submitted by a delegate in one of the Houses, the Speaker also forwards it to the other House. If the Government of the Federation does not issue its opinion within 15 days, it is considered that it agrees with the draft law.

Working bodies discuss the draft and submit their opinions to the House at least eight days before the session at which the draft law is to be discussed, which is scheduled at least twenty days after the draft law has been delivered to the delegates.

Explanatory notes have to be submitted together with any draft law. They specify constitutional grounds and reasons for the adoption of such a law, principles for regulating relations in certain domains, financial and other assets required for law implementation and the means of providing them, explanation of legal solutions contained in the draft, and the opinions of bodies and organisations consulted during its elaboration. Required documentation is also submitted. When the law draft changes or provides additions to the existing law, the text of law that is to be changed is also submitted.

★ *Phase three: discussion in the Parliament*

As previously stated, the third phase usually requires two readings before a law is adopted.

### 1. *Phase three: first reading*

After the House has received opinions from the Legislation Commission and the relevant working bodies, the proponent of the law presents it to the plenary, after which a general discussion begins on the need to adopt such law, on basic principles governing the drafting of the law, its contents and details of the text. Particular attention is devoted to the financial aspects of the proposed law, i.e. the cost of implementation and sources for financing this cost.

At the end of the discussion, if the House judges that there is no justifiable reason to adopt the law, the draft is rejected. If the Legislative Commission gives the opinion that the draft law is not in accordance with the Constitution and the legal system of the Federation, the House first takes a position relating to the opinion of the Legislative Commission. In this case, the draft law may be rejected or the House may decide that there is a need for such a law and that the draft can be used as a basis for further elaboration. Positions and comments on the draft offered by the delegates and the conclusion of the discussion are delivered to the proponent of the law for further elaboration. The Rules of Procedure of both Houses of the Federation Parliament do not specify deadlines when a rejected draft may again enter a parliamentary procedure or when a proponent of an accepted draft has to submit the final version.

### 2. *Phase three: second reading*

The final draft is sent to both Houses of the Parliament, which deliver it to their Legislative Commissions and working bodies, who review the final draft and report on it to their Houses. At the second reading, the proponent presents the final draft to the House after which discussion begins on the final draft and proposed amendments, leaving aside general principles and the purpose of the law that were discussed at the first reading.

The discussion focuses on issues resolved by the final draft, explanation of essential legal tenets, amendments made to the first draft, other amendments that were suggested, rejected comments and suggestions related to the draft law and the reasons for rejecting them, as well as other significant details related to issues regulated by the law. The final draft can be discussed at the earliest twenty days after it was delivered to the delegates.

Before the termination of the discussion the proponent of the law can propose that the House postpones the discussion of the law. The Prime Minister may propose postponing a discussion even if the Government did not submit the draft law. The House decides immediately on proposals to postpone a discussion.

When the Speaker of the House closes the discussion, the voting on the draft law begins. First, delegates vote by simple majority on proposed amendments. Adopted amendments become an integral part of the draft law, after which delegates vote on the whole draft law. A law is adopted when it wins a majority of votes in both Houses.

### ★ *Summary procedure*

When a law is simple and short, a proponent may suggest discussion of the proposed law in a summary procedure, which does not require an elaborate draft (constitutional framework, legal tenets, opinions of working bodies and other organs consulted during the drafting procedure, etc). In such a case, the House first decides whether it shall consider the law in a summary procedure. If the House decides that a law indeed is not complex and extensive and thus accepts the proponent's proposal, the discussion of the proposed law can begin. If the House does not agree to discuss the proposed law in a summary procedure, the law is treated as a regular draft law and is subject to the usual parliamentary procedure.

### ★ *Public debate*

If the House judges that the draft law or a particular point in the draft is of special importance to citizens, enterprises, cantons, cities, municipalities, and the Federation at large, the House may decide to put the draft law out for public debate. In such a case, the House:

- Decides how to publicise the draft law;
- Identifies a working body of the House which will organise and direct the public debate;
- Defines the scope and level of public debate;
- Determines the financial cost and sources of funding;
- Sets a deadline for conducting public debate; and
- Decides how to collect and assess opinions, suggestions and criticism generated by public debate.

In formulating and conducting public debate, the authorised body of one House co-operates with the respective body of the other House, political parties, business companies, scientific and expert institutions, and all other competent bodies who may be affected and/or may offer a relevant opinion on the draft law.

The working body submits the report on the results of the public debate on the draft law to the House, after which the House draws a conclusion. The conclusion, along with the report, is delivered to the proponent, who has to take it into consideration when preparing the final draft. If the proponent fails to incorporate particular suggestions generated by public debate into the final draft, s/he has to justify why such suggestions were deemed inappropriate for the given law.

### ★ *Amendments*

Amendments to the law are submitted in written form followed by an explanation. If an amendment contains a provision stipulating the engagement of additional funds, the proponent of the amendment is obligated to point out to sources of these additional funds.

Amendments have to be submitted to the Speaker of the House not less than three days before the day scheduled for the session of the House of Peoples at which the proposal of the law is to be discussed.

The proponent of the draft law may submit amendments until the closing of the discussion on the draft law. The Federation Government may submit amendments until the closing of the discussion even if it did not submit the law.

A delegate may submit an amendment to an amendment until the closing of the discussion. When an amendment changes the principles on which the law is based or requires significant additional funding, at the initiative of ten delegates, the Federation Government, Legislative Commission or any other working body, the House may decide to postpone the discussion to allow delegates/caucus of peoples to take a position.

Amendments are adopted by a majority of votes of the total number of delegates, or by the majority necessary for adoption. Adopted amendments are considered integral part of the law.

### ★ *Urgent procedure*

As a rule, laws cannot be enacted under urgent procedure. Exceptionally, only laws regulating issues that are considered urgent may be enacted under urgent procedure and in a case where the enactment of the law under regular procedure could cause detriment to the Federation. The Rules of Procedure of both Houses do not, however, further specify circumstances that qualify for urgent procedure.

The proponent of the law is obligated to list reasons as to why it is necessary to enact the law under urgent procedure. The House decides on the urgent procedure at its session before establishing the agenda. Once the Speaker of the House receives the proposal to enact the law under urgent procedure, s/he may request the Legislative Commission and any other relevant working body to review the proposal and submit the report to the House. If the Federation Government is not the proponent of the law, the House seeks opinion from the Federation Government before making a decision.

If the House agrees to handle the draft law under emergency procedure, the law is put on the agenda and decided at the same session. Amendments can be submitted before the end of the proceeding. If the House does not accept the emergency procedure, the proponent of the law can submit it through the regular procedures.

★ *Enactment of a law and procedure for harmonisation of differently-adopted texts of the law*

Laws and other acts are adopted once the same text is adopted in both Houses of the Federation Parliament. Should any House adopt a law or amendments before they have been adopted by the other House, the Speaker of the House which has adopted the law or amendments immediately, and not later than 24 hours after the session, submits to the Speaker of the other House the law and/or amendments.

The other House may confirm or return to the first House the law and/or amendments. If after the second round of discussion, an agreement has not been reached, both Houses form a joint commission composed of five members from each House to solve the dispute.

If the joint commission does not reach an agreement or one of the Houses does not adopt the text proposed by the joint commission, the disputed law/amendment is removed from the agenda. The Speaker of the House which adopted the law/amendment informs the Prime Minister in order for him/her to decide whether s/he shall act in accordance with his powers established in the Federation Constitution. If the Prime Minister decides that any of the Houses unjustifiably delays the adoption of the law, s/he may summon a joint commission of maximum ten representatives from both Houses who will in the course of ten days prepare a proposal acceptable to both Houses.

★ *Adoption of the Federation Budget*

The Government proposes the budget by submitting the proposal, with the attached documentation, to the Speaker of the House. The proposal for the budget is discussed and adopted in the usual parliamentary procedure.

Adopted laws are submitted to the President of the Federation who signs them, after which they are considered promulgated. Laws and other acts are published in the *Official Gazette of the Federation BiH* in the Bosnian, Croatian and Serbian languages and alphabets in official use in the Federation. The Secretaries are in charge of publishing laws and other acts, as well as delivering of the conclusions adopted at sessions of the Houses.

There is no law regulating lobbying in the Federation BiH.

In practice, although the legislative procedure in the Federation BiH does not recognise such practice in writing, the High Representative in Bosnia and Herzegovina can promulgate laws by decree, without consent of any official body. Such laws can afterward be adopted by the Parliament of the Federation only in the same form in which they have been promulgated. The procedure for amending such laws can begin only after they are adopted. The adoption or rejection of a law promulgated by the High Representative does not change its status, which is considered legal and binding.

In the year 2003, the Federation Parliament adopted 77 laws, 73 of which were submitted by the Federation Government. Seventeen laws submitted by the Government were laws prepared by the Office of the High Representative who sent them to the parliamentary procedure through the Government of the Federation BiH.

In 2003, the High Representative issued 25 decisions on various subjects, which directly shaped political, economic and legal space of Bosnia and Herzegovina and/or the Federation BiH.

## **5. The Central Executive**

### **5.1 Legal Bases of Executive Authority and Administration**

The status and the functioning of the Federation Government and the public administration are regulated by the following legal documents:

- The Constitution of the Federation BiH, particularly section B, item 2, articles 4 to 9.
- The Law on the Federation Ministries and Other Bodies of Federation Administration (*Official Gazette of the Federation BiH*, 58/02).
- Law on Government of the Federation BiH (*Official Gazette of the Federation BiH*, 1/94, 8/95, 58/02).
- Administration Law of the Federation of BiH (*Official Gazette of the Federation BiH*, 28/97).
- Law on Administrative Procedures (*Official Gazette of the Federation BiH*, 2/98).
- Law on Allocation of Public Revenues in the Federation BiH and Funding of the Federation BiH (*Official Gazette of the Federation BiH*, 26/96, 32/98, 54/01, 37/03).
- Law on Civil Service of the Federation BiH (29/03).
- Law on Employment Relationships and Salaries of Employees of Administrative Bodies of the Federation BiH (13/98).

### **5.2 Composition and Powers of the Government (Council of Ministers)**

The Government of the Federation BiH consists of a Prime Minister and 15 ministers<sup>1</sup>, two of whom serve also as Prime Minister's Deputies. Each minister also has a deputy. No deputy, including the Prime Minister's deputies, may come from the same constituent peoples as his/her minister. The mandate of the Government is four years and has been made up of eight Bosniaks, five Croats, and three Serb ministers, although this ratio is to be adjusted to reflect changes in the government composition which have taken place. One Other may be nominated by the Prime Minister from the quota of the largest constituent people.

Until Annex 7 of the Dayton Peace Agreement (which provides for free return of refugees and displaced persons to their places of origin) is fully implemented, at least 15 per cent of the members of the Government have to be from one constitutive people and at least 35 per cent from two constitutive peoples combined, while at least one member of the Government has to come from among the Others.

The President of the Federation, in agreement with both vice-presidents, nominates the Government upon consultation with the Prime Minister or the nominee for that office. The Government is elected after its nomination is confirmed by a majority vote in the House of Representatives, while the House of Peoples takes part only in a situation of possible removal of the Government. The Government may be removed either by a decision of the President of the Federation, with the consent of the vice-presidents, or by a majority vote of no confidence by both Houses. The President removes ministers and deputy ministers upon a proposal from the Prime Minister.

The President and the vice-presidents of the Federation are informed of Government sessions and they receive the agenda and relevant materials prior to every session. They may attend the sessions and take

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<sup>1</sup> As of 29 December 2003, the Federation Government has been reduced by one ministry. The Ministry of Defence has been moved from the entity level — the Federation of BiH and Republika Srpska — to the state level, thus reducing the number of ministries in the entities' governments.

part in discussions. If the President or any of the vice-presidents request discussion on a certain issue, the Prime Minister has a duty to call up a government session and put this issue on the agenda.

### **5.3 Division of Executive Power**

The Prime Minister calls and chairs the sessions, which can be held only if more than half of the ministers of the Government are present. Government sessions are held weekly (usually on Thursdays) at the seat of the Government (Sarajevo), while every fourth session is held in Mostar. The Government may have its session in another city in the Federation; the Prime Minister, along with the deputy prime ministers, decides on this matter.

The Government passes decisions by majority vote of the ministers present. S/he may authorise members of the Government with special tasks as a way of implementing the Government programme. The members of the Government are entitled to immunity status and they may not be civilly liable for any act carried out in the line of duty.

According to the Constitution of the Federation BiH, the Prime Minister is responsible for:

- Implementation of the policy and enforcement of laws passed by the Government, including the implementation of decisions of Federation courts;
- Proposing removals from office to the President of the Federation;
- Proposing and making recommendations concerning legislation; and
- Preparing budgetary proposals.

In addition to the powers stipulated by the Constitution, the Prime Minister also performs the following duties:

- Ensures timely implementation of plans, work programmes and conclusions of the Government;
- Initiates discussions on issues falling under the jurisdiction of the Government;
- Ensures co-operation of the Government of the Federation with the Council of Ministers of Bosnia and Herzegovina, the Government of Republika Srpska and the Government of the Brcko District;
- Ensures application of the Government's Rules of Procedure and other acts, and reinforces internal organisation and operation of the Government;
- Ensures the public, lawful and transparent operation of the Government;
- Co-ordinates, communicates and co-operates with representatives of the international community in the Federation BiH and in Bosnia and Herzegovina; and
- Performs any other duty falling under the jurisdiction of the Government.

Deputy prime ministers are responsible for:

- serving as a minister when necessary;
- assisting the Prime Minister in executing and enforcing laws and policies of the Federation;
- serving as the Prime Minister when the latter is unable to serve or the position is vacant, until a new Prime Minister takes office; and
- implementing other tasks assigned by the Prime Minister.

Each minister is responsible for:

- Executing Federation Government policies and enforcing laws within his/her ministry or as assigned by the Prime Minister;
- Proposing and making recommendations concerning legislation within the scope of his/her ministry or as assigned by the Prime Minister;
- Directing, co-ordinating and supervising the activities of his/her ministry;
- Issuing notices, instructions, directives, and regulations to facilitate the implementation and administration of laws concerning his/her ministry and those matters assigned to him/her by the Prime Minister, in accordance with the Constitution and laws of the Federation;
- Formulating, explaining, and analysing budgetary proposals concerning his/her ministry, or, at the request of the Prime Minister, other matters;
- Responding to inquiries from either House of the Parliament concerning matters within his/her ministry; and
- Assisting the Prime Minister in executing and enforcing Government policies and laws.

Members of the Government are accountable to the Prime Minister, the President and the vice-presidents of the Federation, and to the Federation Parliament.

#### **5.4      *The Office of the Government***

The Secretariat performs most tasks that traditionally fall within the competences of the office of the Government. The Secretariat is headed by the Secretary, whose responsibility is to:

- Assist the Prime Minister and deputy prime ministers in preparing and carrying out Government sessions;
- Ensure preparation and timely distribution of materials, as well as adequate working conditions for sessions;
- Ensure inter-ministerial co-operation, as well as co-operation of the Government with other bodies and offices in relation to the fulfilment of the Government's plan;
- Co-ordinate the work of working bodies of the Government and ensure that materials to be reviewed at sessions of these working bodies are delivered on time;
- Ensure that within three days after a Government's session, minutes of the session are completed and decisions and positions are delivered to persons in charge for signature, as well as the execution of such decisions if they fall within the Secretary's competencies;
- Inform the Government at least once a month on the progress made in implementing the work programme for the current year, including information on implementing resolutions, positions, decisions and other Government documents;
- Ensure timely distribution of drafts and proposals of laws, regulations, reports, platforms, analyses and other material to the Federation Parliament;
- Ensure professional and technical support to the work of the Government, working bodies and other offices of the Government;
- Head the Professional Service of the Government; and
- Perform other duties as assigned by the Government, the Prime Minister or the Deputy Prime Ministers.

The Secretary is accountable to the Federation Government, the Prime Minister and the Deputy Prime Ministers. S/he is also in charge of executing the financial plan of the Government.

The Professional Service of the Government carries out tasks and performs duties in support of the work of the Government, such as:

- Preparing and organising sessions of the Government;
- Preparing and organising sessions of the working bodies;
- Creating and monitoring implementation of Government's resolutions;
- Collecting documents and data necessary for the work of the Government;
- Performing any other administrative, technical, and logistical support as needed.

The Offices and Services of the Government are as follows:

- Legislation Office;
- Office for Co-operation and Representation before the Human Rights Commission;
- Information Office;
- Gender Centre of the Federation BiH; and
- Joint Service of the Federation Offices and Bodies.

Working bodies, sectorally divided, discuss issues which fall under the Government's jurisdiction and consequently present proposals and opinions on issues discussed. The Government of the Federation BiH maintains the following working bodies:

- Defence and Security Commission, headed by the Prime Minister;
- Economic Development Commission, headed by the Minister of Finance;
- Commission for Human Rights, National Minorities, Civil Society, Justice and Administration, headed by the Minister of Justice;
- Public Activities Commission, headed by the Minister of Culture and Sports;
- Commission for Development and Safety of Transport, headed by the Minister of Transport and Communications; and
- Commission for Administrative Affairs, headed by the Minister of Labour and Social Policy.

## **5.5 Line Ministries**

Line ministries in the Federation BiH are established the Law on Federation Ministries and Other Bodies of Federation Administration (*Official Gazette of the Federation BiH*, 58/02).

The Federation ministries are the following:

- Ministry of Interior
- Ministry of Justice
- Ministry of Finance
- Ministry of Energy, Mining, and Industry
- Ministry of Transport and Communications
- Ministry of Labour and Social Policy
- Ministry of Displaced Persons and Refugees

- Ministry of Health
- Ministry of Education and Science
- Ministry of Culture and Sports
- Ministry of Trade
- Ministry of Urban Planning and Environment
- Ministry of Agriculture, Water Management, and Forestry
- Ministry of Development, Entrepreneurship and Crafts
- Ministry for Veterans

The management of the Government, including Federation administrations and institutions, are carried out in a manner stipulated by the Law on Administration in the Federation BiH. In one article for each ministry, the Law briefly defines the scope of work for each ministry, including details on institutes and directorates which belong to individual ministries. The internal organisation is regulated by the Rulebook on Internal Organisations, which is drafted and issued in accord with the Law. In practice, a service which takes care of operational tasks — protocol, media relations, public complaints, and others — is usually a part of a cabinet of a minister or a cabinet of a secretary of a ministry.

The seat of most Federation ministries, administrations and institutions is in Sarajevo, while the seat of the following five ministries is in Mostar:

- Ministry of Trade
- Ministry of Transport and Communications
- Ministry of Energy, Mining and Industry
- Ministry of Education and Science
- Ministry of Culture and Sports

The Government can decide that other ministries and other bodies of the Federation administration may be seated outside Sarajevo.

## **5.6 Central Non-Ministerial Bodies**

Federation non-ministerial bodies are established by the same law as the Federation ministries (The Law on Federation Ministries and Other Bodies of Federation Administration, *Official Gazette of the Federation BiH*, 58/02).

Independent Federation administrations and institutions are:

- Federation Administration of Civil Protection
- Federation Administration for Geodetic, Property and Legal Affairs
- Federation Institute of Statistics
- Federation Institute of Meteorology
- Federation Archives
- Federation Development Planning Institution
- Federation Commodity Reserves Directorate

A special Federation body is the Federation Commission on Missing Persons, which keeps a database on missing and imprisoned citizens and mass graves in the Federation.

Other institutions make up a diverse list of implementing and regulatory non-ministerial bodies of the Federation:

- Privatisation Agency
- Banking Agency
- Federation Bureau for Pensions and Disability Insurance
- Securities Commission
- Securities Register
- Budget Review Office
- Office for Supervision of Insurance Companies
- Accounting and Revision Bureau
- Public Health Institute
- Drugs Control Institute
- Institute for Transfusion Medicine
- Federation Chamber of Commerce
- Investment Bank of the Federation
- Federation Civil Service Agency

### **5.7 *Inter-ministerial Co-ordination***

The Office of the Secretary of the Government is responsible for inter-ministerial co-ordination in general terms. There is no body which regulates inter-ministerial co-ordination except the previously-described working groups of the Government.

### **5.8 *Governmental Preparatory Legislative Process***

The Government of the Federation proposes about 98 per cent of the laws that enter Parliamentary procedure. Each ministry prepares — following the work plan of the government the draft legislation that fall within its authority. Together with the draft law the lead ministry has to prepare the accompanying documentation. The documentation necessary is set out in the Rules of Procedure of both Houses of the Federation Parliament (constitutional framework, reasons for proposing laws, financial aspects, etc). Prior to the decision of the CoM on the submission of the draft to parliament, the lead ministry has to submit the draft law to the following offices in order to receive their opinion, comments and possible amendments:

- Legislation Office of the Government which reviews the draft law in relation to the Constitution of the Federation and the legal system;
- Federation Ministry of Justice which reviews the draft law in regard of legal and organisational compliance;
- Federation Ministry of Finance which reviews the draft law in regard of the budgetary impact; and
- Relevant working group of the Government (one of the six Commissions).

These offices must communicate their opinions to the lead ministry within seven days (15 days in case of complex laws). After all opinions are collected, the draft law is put on the CoM agenda along with the

opinions as well as the response of the lead ministry to these opinions. If the Government adopts the draft law, it is considered the Government's proposal and as such enters the parliamentary procedure.

### **5.9 Executive Budgeting Process**

The budgeting process, which reflects projected political and economic goals, takes place in three phases — preparation, adoption, and execution. The Ministry of Finance is in charge of budget preparation and serves as a focal point for ministries and other institutions and offices financed by the budget to submit their financial requests. The Federation Government has identified the following priorities to serve as guidelines in preparing the budget:

- Servicing foreign debt;
- Payments to physically disabled citizens;
- Salaries and other expenses of delegates in the Federation Parliament;
- Transfers to cantons and municipalities;
- Assistance to refugees;
- Transfer for financing BiH state institutions;
- Military expenses,
- Transfer to public utilities companies and for capital investments;
- Salaries of Government employees; and
- Miscellaneous.

Based on the requests of the budget users the Ministry of Finance prepares the comprehensive budget proposal for discussion in the CoM. Once the budget proposal has been approved by the CoM, it is submitted to both Houses of the Parliament. The Prime Minister presents the budget proposal to the delegates.

The Ministry of Finance is in charge of executing the budget, i.e. collecting and disbursing money, and has to report regularly to the Government, which has to report to the Parliament on the budget execution. Funds allocated to one ministry or other Federation body cannot be in the course of the budget year dispersed among other ministries or Federation bodies. The Audit Office audits the execution of the budget.

### **5.10 Advisory and Consultative Arrangements**

Two advisory boards — one on legal and the other on economic matters — advise the Government on issues that fall within these two categories. Thus, the legal advisory board, upon request of the Government, reviews draft laws and other legal acts, particularly complex ones, and gives its opinion and proposals to the Government. The economic advisory board, upon request of the Government, reviews draft laws and other documents within the economic, monetary and financial area and gives its opinion and recommendations to the Government. Members of the advisory boards are appointed by the Government from among university professors, experts and other professionals.

On the basis of the Law on Government of the Federation BiH, the Government is given the authority to establish ad hoc working groups to perform advisory and/or consultative work. The Government, or the interested ministry, selects the members and finances such working groups. The Government also receives advice from foreign consultants who work on specific projects that are financed by foreign governments, inter-governmental or international organisations.

## **6. Executive Linkages**

### **6.1 *The Executive and the Presidency***

The Constitution of the Federation defines in general terms relations between the President and the vice-presidents and the Government, while details of their co-operation are further specified in their respective Rules of Procedure.

The Government has a duty to report to the President and the Vice-Presidents on all issues of concern for the Federation or when requested to do so by the President or the Vice-Presidents. A joint meeting takes place at least once every three months and can take place more frequently if needed. The joint meeting is organised and chaired by the President with assistance from the Vice-Presidents at which the Prime Minister and the Deputy Prime Ministers inform the President and the Vice-Presidents on progress achieved in implementing the work plan of the Government and of obstacles that they may encounter.

The Government also regularly informs the President and the Vice-Presidents on scheduled Government sessions and regularly delivers to them documents and other material for these sessions. The President and the Vice-Presidents decide whether to attend Government sessions.

The Government usually communicates with the President and the Vice-Presidents either through the Prime Minister's office or through the Government Secretariat.

### **6.2 *The Executive and Parliament***

The Government communicates with the Parliament through the Office of the Government and the Secretariats of the two Houses of Parliament. The Prime Minister presents the Government to the Parliament for approval and submits a report on the Government's work once a year.

Members of the Government have a duty to attend Parliament's sessions, particularly when draft laws that they have proposed or that pertain to their field of work are on the agenda.

The delegates in the Federation Parliament have the right to raise questions and request answers from the Prime Minister and ministers, or the representative of the Government authorised by the Prime Ministers (usually one of the deputy prime ministers) either in writing or orally during the time allocated for questioning the Government. The time foreseen for questions and answers is maximum one hour and takes place prior to the start of the session. If a question requires a complex and extensive answer, a member of the Government has to submit a written answer before the next session. Members of the Government also regularly take part in Parliament's working bodies.

The Government influences the Parliament's agenda by submitting law proposals and other documents that require parliamentary approval to become effective. The Parliament's Rules of Procedure serve as a guideline for determining the agenda. Every representative of the Government has the right to propose the inclusion of a topic prior to establishing the agenda for a particular session as does any delegate. In case of urgency, a representative of the Government may propose the inclusion of a topic in the agenda during the session.

By the powers vested in the Constitution, the Parliament exercises control and supervises the work of the Government. At least 20 delegates of the House of Representatives can initiate the vote of no-confidence in the Government, which has to be submitted in written form to the Speaker. The Government has the duty to review such initiatives and submit its opinion in the course of 30 days. The vote of no-confidence is put on the agenda of the next session. A majority of votes in both Houses is necessary for the no-confidence vote to pass.

### 6.3 *The Executive and Political Parties*

The Federation BiH legislation does not regulate the management of party coalitions, neither prior to nor following the elections. The formation of coalitions is regulated by individual statutes of parties entering into a coalition, in accordance with the existing legislation. There is no law on political parties for the Federation BiH, but the Law on Political Organisations, which dates back to 1991 (*Official Gazette of the Socialist Republic of Bosnia and Herzegovina*, 27/91) and the Law on Party Financing (*Official Gazette of Bosnia and Herzegovina*, 22/00) are in use in the Federation BiH. The Election Law also regulates political party behaviour in relation to elections and election-related activities.

Thus, a political party, coalition, list of independent candidates or a single independent candidate participating in the elections to parliaments at all levels in Bosnia and Herzegovina is obliged to file a financial report for the last three months with the Election Commission of Bosnia and Herzegovina, when the application to participate in the elections is submitted. In addition, no later than thirty days after the Election Commission publishes the election results, a financial report has to be submitted for the time between the day the application was submitted and the published election results. These reports must contain the following:

- All cash at hand;
- All income and disbursements based on: memberships; contributions from abroad; contributions from individuals and legal entities; contributions in the form of goods and services ('in-kind contributions'); returns on own assets and entrepreneurial activities; credits; loans; donations; rebates; refunds; other operating expenditures; and other sources;
- Identification of the person or source of any payment and in-kind contribution, as well as the identification of a person who received that payment, in excess of 100 KM, together with the date and amount of any such receipt;
- The total amount of all account payables, and total amount of disbursements in the following categories: direct costs for political campaign; operating expenses; costs associated with the entrepreneurial activity, and other costs; and
- The amount and nature of outstanding debts and obligations owed by or to the person who files a report and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished.

Political parties are registered in the register of political parties kept in the higher court according to the seat of the political party. The Minister of Justice prescribes the manner and form of register-keeping. A panel of three judges decides on applications of political parties for entry into register. A party may obtain funding from the following:

- Membership fees;
- Contributions from legal entities and persons;
- Income generated by property owned by a political party;
- Entity budget; and
- Profit generated through a party's economic activity, which is limited to publishing and culture-related activities.

The access of political parties to the public media is not specifically regulated by law. Administrative bodies, within their competences stipulated by law, supervise the legality of the work of political parties. Within the Election Commission of BiH there is an Audit Office which reviews and audits financial reports submitted by political parties. Any irregularities found by the Audit Office are reported to the Election

Commission of BiH which has the authority to fine a political party. The Election Commission of BiH has to report to the Parliament of Bosnia and Herzegovina once a year.

The appropriate court (which keeps the register of political parties) has the authority to ban a political party if it fails to perform its activities in accordance with law. The court can initiate the procedure to ban a political party ex officio or upon the proposal of the public prosecutor. No political party has been banned yet although occasionally such proposals have been made to the High Representative by some local and foreign officials.

#### **6.4 The Executive and Civil Society**

Laws that partially regulate civil society are the following:

- Labour Law (*Official Gazette of the Federation BiH*, 43/99);
- Law on Strike (*Official Gazette of the Federation BiH*, 14/00);
- Law on Voluntary Associations (*Official Gazette of the Federation BiH*, 28/97);
- Law on Humanitarian Organisations and Humanitarian Aid (*Official Gazette of the Federation BiH*, 35/98); and
- Law on Trusts and Foundations (*Official Gazette of the Federation BiH*, 16/98).

According to law, workers have the right to organise and join trade unions and take part in a number of trade union-related activities and initiatives. In the same manner, the right to form and/or join non-governmental organisations, professional associations and environmental groups is granted to all citizens.

There is no official and permanent channel for consulting NGOs in the legislative process, but consultations take place in various ways. Individual ministries may consult a particular NGO when preparing legislation, while an NGO may carry out activities which directly influence decision-making in the Government.

#### **6.5 The Executive and the Media**

The Information Office of the Government serves as a focal point for disseminating information about Government activities and responding to inquiries from the media and the general public in relation to Government activities. The Office organises press conferences and issues press releases while the Head of the Information Office serves as the spokesperson of the Government.

Although the focus on public relations activities among ministries varies, each ministry has a person or an office in charge of public relations activities.

### **7. Deconcentration and Decentralisation**

#### **7.1 Deconcentrated State Administration**

The Federation Administration is mainly based in Sarajevo, although a few ministries have their seat in Mostar. There is also an initiative to transfer the Ministry of Energy, Mining and Industry to Tuzla, the capital of the Tuzla canton, a region with important mining and energy-production facilities. Due to strong decentralisation, deconcentration of the Federation administration is less pronounced.

#### **7.2 Regional Self-government**

The Federation consists of ten cantons with equal rights and responsibilities. The cantons are named either after the cities where the seats of cantonal authorities are located or after their regional and

geographical features. Each canton has legislative, executive and judicial powers, which operate in accordance with the Federation Constitution.

The cantons in the Federation are:

- Una-Sana canton, seat: Bihać
- Posavina canton, seat: Orašje
- Tuzla canton, seat: Tuzla
- Zenica-Doboj canton, seat: Zenica
- Bosnian Podrinje canton, seat: Goražde
- Central Bosnia Canton, seat: Travnik
- Herzegovina-Neretva canton, seat: Mostar
- West Herzegovina canton, seat: Široki Brijeg
- Sarajevo canton, seat: Sarajevo
- Canton 10, seat: Kupres

The exclusive responsibilities of the Federation Government are: the defence of the entity and the joint command of the armed forces; citizenship; economic policy, including planning and reconstruction; finances and fiscal policy; telecommunications and allocation of electronic frequencies; the fight against terrorism, inter-cantonal crime, drug trafficking, and organised crime; energy policy; financing of the Federation institutions.

The Federation and cantonal governments share responsibilities for: health policy; social welfare policy; environmental policy; protection of and implementation of human rights; communication and transport infrastructure; implementation of laws on citizenship and travel documents; tourism; and exploitation of natural resources. Each canton may further delegate its functions to municipalities and is required to do so to a municipality whose population majority is different from that of the canton.

Cantonal governments have responsibilities not expressly granted to the Federation Government. They have, in particular, responsibility for:

- Establishing and controlling police forces, which have identical Federation uniforms, with cantonal insignia;
- Education policy;
- Cultural policy;
- Housing policy;
- Policy concerning regulation and provision of public services;
- Regulating local land use, including by zoning;
- Regulating and promoting local business and charitable activities;
- Regulating and ensuring local energy production capacity;
- Radio and television policy, including decisions concerning regulation and provision thereof;
- Implementing social welfare policy and providing social welfare services;
- Cantonal tourism policy and developing tourism resources; and
- Financing activities of the cantonal government by taxation, borrowing, or other means.

Constituent peoples and members of the group of Others have to be proportionately represented in the cantonal government. Such proportionate representation follows the 1991 census until Annex 7 (free return of refugees and displaced persons) is fully implemented, in accordance with Article IX.11.a of the Federation Constitution. In exercising its responsibilities in respect to cantonal police, the cantonal government must ensure that the composition of the police reflects the population of the canton, and promote that the composition of the police of each municipality reflects its population.

The cantonal government is responsible for:

- Executing and enforcing cantonal policies and laws;
- Preparing budgetary proposals;
- Ensuring the co-operation of the cantonal government with the Ombudspersons; and
- Performing other duties as may be assigned by the cantonal Parliament.

Each cantonal government can delegate functions concerning education, culture, tourism, local business and charitable activities, and radio and television to a municipality or city in its territory and is obliged to do so if the majority of the population in the municipality or city is different than that of the canton as a whole. Cantons may in general confer their responsibilities to a municipality or to the federal authority, but such opportunity has not been used often. Cantons may also enter into agreements with states and international organisations, with the approval of the Federation Parliament and the Parliament of Bosnia and Herzegovina; the Parliament of BiH may provide by law that certain types of agreements do not require its approval.

Cantonal governments can establish councils in order to co-ordinate policies and activities in matters of common interest to their communities and to advise their representatives in the Federation House of Peoples. These may include co-ordinating bodies, such as commissions and working groups, to share information and harmonise the canton's respective actions in implementing their responsibilities, but may not include military or political arrangements.

Each canton has a Parliament consisting of one House comprising a number of delegates determined in proportion to its population but no fewer than thirty and no more than fifty. The term of cantonal delegates is four years, elected by eligible voters in direct, canton-wide elections. A caucus of a constituent people is established provided there is at least one delegate of such constituent people in the cantonal Parliament. Accordingly, the vital interest protection mechanism is applied in the legislation procedure. Each canton has a president, who is elected by a majority of the cantonal legislature from among candidates nominated by legislators. The cantonal president serves a term of four years and may not serve more than two successive terms.

Cantons have courts which have appellate jurisdiction over the courts of their municipalities and original jurisdiction over matters not within the competence of those courts and as provided in legislation. Judges of cantonal courts, including court presidents, are selected, appointed, disciplined and removed by the High Judicial and Prosecutorial Council of the Federation in accordance with the law.

### **7.3 Local Self-government**

Municipalities exercise self-government on local matters. Each municipality has a statute, consistent with the Federation Constitution and the constitution of its canton, and has to conform to any relevant cantonal legislation. Each municipality has a governing council. The term of the members of municipal governing councils is four years and they are elected in direct, municipality-wide elections. The city of Sarajevo in the Sarajevo canton is established as a unit of local self-government.

The municipal council has the following functions:

- Prepares and approves by a two-thirds majority vote the municipal statute;

- Elects the municipal government;
- Approves the municipality's budget and enacts regulations to levy taxes and otherwise secure the necessary funding insofar as not provided by the canton or the Federation Government; and
- Enacts other regulations and ordinances necessary to carry out the municipality's responsibilities.

The municipal government is responsible for:

- Appointing and removing municipal officials;
- Executing and enforcing municipal policies, ordinances and regulations, as well as any responsibilities assigned by cantonal and Federation governments;
- Ensuring the co-operation of municipal officials with the Ombudspersons; and
- Reporting on the implementation of municipal policies and activities to the governing council and the public.

The municipal courts have jurisdiction over all civil and criminal matters, except to the extent that the original jurisdiction is assigned to another court. Municipal courts are established by the cantonal parliaments and funded by the cantons. Judges of municipal courts, including presidents of courts, are also selected, appointed, disciplined and removed by the High Judicial and Prosecutorial Council of the Federation.

A city is formed for areas of two or more municipalities which are territorially linked by the everyday needs of citizens. The city is responsible for:

- Finances and tax policy, in accordance with Federal and Cantonal legislation;
- Joint infrastructure;
- Urban planning;
- Public transport; and
- Other responsibilities assigned to the city by the canton or municipalities.

The city has statutes and a council consisting of an equal number of councillors from each municipality. There can be no less than 15 and no more than 30 councillors in the council.

The city council is responsible for:

- Preparing and approving by two-thirds majority vote the city statutes;
- Electing the Mayor;
- Approving the city budget; and
- Enacting regulations and carrying out other responsibilities specified in the statutes.

The Mayor is responsible for:

- Appointing and removing city officials;
- Executing and enforcing city policy and city regulations;
- Ensuring the co-operation of city officials with the Ombudspersons; and
- Reporting on the implementation of city policy to the council and the public.

## **8. Personnel Management in Public Administration**

### **8.1 Legal Bases and Principles of Public Employment**

The Law on Civil Service of the Federation BiH (*Official Gazette of the Federation BiH*, 29/03) and the Law on Employment Relationships and Salaries of Employees of Administrative Bodies in the Federation BiH (*Official Gazette of the Federation BiH*, 13/98) establish the legal basis for public employment.

Civil servants are organised in two groups: managerial civil servants and other civil servants. Managerial civil servants include:

- Directors of independent administrations and independent institutions;
- Senior executive managers of a civil service authority;
- Directors of administration and authorities that fall within the Ministries;
- Assistant heads of a civil service authority; and
- Main Federation and main cantonal inspectors.

Other civil servants include:

- Heads of internal organizational unit;
- Inspectors;
- Senior advisors;
- Senior officials; and
- Specialists.

Members of the Federation Parliament, President and Vice-President of the Federation, members of the Federation Government, judges of the Federation Constitutional Court, judges of the Federation Supreme Court, Federation prosecutors, members of the cantonal governments, members of cantonal parliaments, judges of cantonal courts, cantonal prosecutors, members of municipal councils, municipal executive, judges of municipal courts, members of city councils, Mayors, and advisers to office-holders are not civil servants and their employment status is regulated under other regulations. Furthermore, the law on civil service does not apply to the Federation auditors, the members of police and armed forces.

Employees in the public service are classified as officers and support staff. Officers are employees assigned to positions which execute basic activities, not including the execution of sovereignty powers. Support staff are employees assigned to positions which provide technical and other support necessary to fulfil the main activity of the respective administrative body.

### **8.2 Personnel Management**

According to the law, the prime responsibility for the development of personnel policy and for personnel management lies with the Civil Service Agency of the Federation BiH. However, since this Agency is in the process of being established in the Federation BiH, it has not yet started to implement tasks within its area of competence. Due to such transitional conditions, it is difficult to say with any degree of certainty who, in practice, will bear the prime responsibility for personnel management in the Federation. For the time being, the authority to recruit civil servants and appoint employees is divided among Federation institutions. However, this should change once the Federation Civil Service Agency has become operational.

The scope of its work is prescribed in the law as follows:

- Establish unified criteria, rules and selection procedures for appointments and nominations of civil servants in the administrative bodies of the Federation BiH;
- Plan and carry out the recruitment of civil servants;
- Organise and conduct professional education and advanced training;
- Organise preparatory courses for candidates applying for the civil service exam;
- Provide professional assistance to administrative bodies in the areas of personnel policy, organisational development and the establishment of a civil service database;
- Submit an annual report on work carried out and a work plan for the following year to the Federation Government; and
- Perform other duties and tasks in accordance with law.

The Agency has a Director who is appointed by the Federation Government.

## **9. Administrative Oversight and Control**

### **9.1 Internal Oversight and Control**

There is no specific office that performs internal oversight and control within the Federation BiH administrative structure, nor are there units in each administrative body charged with this task. It is to be expected that as Bosnia and Herzegovina advances towards membership in the European Union the issue of internal oversight and control of the administration will be addressed.

The Ministry of Finance, within its Department of Treasury, has a Group for Internal Audit and Control, whose task is to develop a system of internal control of the treasury and the budget beneficiaries, review control systems over accounting documents, indebtedness and debt transactions, non-budget funds, and co-operate with the Budget Audit Office of the Federation.

### **9.2 External Audit and Control**

The Budget Audit Office is a relatively new institution in the Federation BiH, which aims to increase transparency and responsibility in public funds spending. The Office of Budget Audit of the Federation BiH was founded on the basis of the Law on Budget Audit in the Federation BiH (*Official Gazette of the Federation BiH*, 48/99), which was made pursuant to Supreme Audit Institutions (SAI) law model in the European Union.

The Office has defined its strategic objectives as follows:

- Ensure transparency of public spending by presenting audit reports to the Parliament, media and general public;
- Increase responsibility on spending public funds by carrying out audit of financial systems, reports and transactions;
- Increase the quality and reliability of financial processes through recommendations to bodies that affect budget management;
- Ensure the legitimacy of public fund users, identify deviations and suggest correction measures;
- Provide information to the Parliament and the Government of the Federation BiH through submitting specific reports; and
- Increase public confidence in the Federation institutions.

The Office of Budget Audit has five departments:

1. Federation BiH budget and budget users;
2. Canton budget and budget users;
3. Municipality budget and budget users;
4. Funds, bureaus and other legal institutions with major state-owned capital; and
5. General affairs (employs experts for international relations, legal affairs, information technology, etc.).

The central office in Sarajevo has 15 auditors; in addition there are three field offices: Mostar (six auditors), Bihac (four auditors), and Tuzla (three auditors). Their work is supported by the office administration, which employs seven persons. The Office is directly answerable to the Federation Parliament. There is no separate external audit institution for local self-government.

The Office carries out independent inspection of any financial transaction, financial reports or business activities of the subjects under audit. Federation BiH public sector audit includes:

- Audit of financial reports, which include profit and loss statements, balance sheets, cash flow reports and other reports provided for in the Federation BiH regulations for the public sector;
- Audit of conformity, which is directed towards financial transactions of the state in order to ensure their regular implementation, record and adherence to legal provisions; and
- Audit of efficiency, whose objective is to explore how a public body behaved in spending public money.

### **9.3 Public Redress**

The Law on Administrative Procedures (*Official Gazette of the Federation BiH*, 2/98) states the general right of individuals to challenge administrative decisions. The concrete right to appeal against the first-instance decision of Federation administrative bodies and Federation institutions is regulated in a variety of laws for each substantive administrative field separately. The right to appeal against the first-instance decision of cantonal bodies and institutions — taken based on cantonal law — is regulated by cantonal law, separately for each substantive administrative field

The appeal to a higher administrative body against all first-instance decisions is guaranteed by law. This appeal can only be denied for specific reasons. Appeals are excluded e.g. against decisions of the Houses of the Federation and a cantonal legislative body, that is a city and municipal council, as well as against a decision of the Federation Government and a cantonal government. However, it is possible to directly initiate an administrative dispute at the competent court if an appeal against the first-instance decision is not allowed.

Appeals are handled by the appeal body within the administrative body which issued the disputed decision, unless a special regulation has determined that a different body will take decisions on the appeal. In this case the second-instance body can only annul the disputed decision but cannot change it. An appeal against a decision has to be submitted within 15 days if the law does not envisage it in a different way.

The judicial function in the Federation is carried out through the courts of the Federation (the Constitutional Court, the Supreme Court, and until the end of 2003, the Human Rights Court (The Law on abolishing the Law on Human Rights Court in the Federation BiH, *Official Gazette of the Federation BiH*, 37/03), cantonal courts, and municipal courts.

The High Judicial and Prosecutorial Council, established by the Law on the High Judicial and Prosecutorial Council (*Official Gazette of the Federation BiH*, 41/02) is an independent constitutional body of judicial authority in the Federation, whose task is to ensure an independent, impartial and professional judiciary and to establish a professional and effective judicial system and prosecutorial function.

Among other responsibilities, the Council selects and appoints judges, lay judges, reserve judges, prosecutors, and deputy prosecutors. The courts and prosecutor's offices that fall under the jurisdiction of the Council are the following: the Federation Supreme Court, cantonal and municipal courts, magistrate courts, the Federation Prosecutor's Office, cantonal and municipal prosecutor's offices in the Federation.

The Office of the Ombudsperson was established by the Constitution of the Federation BiH with the mandate to protect human dignity, liberties and rights of all citizens. Three Ombudspersons — a Serb, a Croat and a Bosniak — are appointed by the Parliament of the Federation for a term of four years. The Office of the Ombudsperson gives special attention to ethnic reconciliation, the implementation of Annex 7 of the Dayton Peace Agreement on refugees and displaced persons, and to the reversing of the effects of ethnic cleansing.

The Ombudspersons are empowered to examine the activities of every institution of the Federation, cantons, and municipalities. They may examine all official documents, including secret ones, as well as judicial and administrative files; the staff in all public institutions are obliged to co-operate. The Ombudspersons, individually and collectively present their findings in reports addressed primarily to the Prime Minister and Deputy Prime Ministers, but also to a number of local and international officials. The Office of the Ombudsperson does not interfere with the judicial responsibilities of Federation courts, but may institute judicial proceedings, in accordance with the relevant provisions of the law.

## **10. Specific Topics**

### **10.1 Public Procurement**

Public procurement is regulated by the Regulation on the Procedure for Purchasing Goods, Employing Services and Allocating Works (*Official Gazette of the Federation BiH*, 40/03) and is mandatory for all Federation, cantonal, city and municipal institutions that is all institutions in the Federation BiH that use public funds.

There are three methods for procurement:

- Open tendering, which is the basic method of procurement and represents an open procedure where an invitation to submit offers is published in the media;
- Pre-tendering, a method whereby a contracting body conducts initial selection of submitted offers in order to select those which qualify to be further considered before the best offer is selected; and
- Restricted tendering which can have two forms: tendering by invitation or direct deal.

Pre-tendering is mandatory when a tender is worth over a 1 000 000 KM (500 000 euros). In the first phase a contracting body publicises an invitation to interested parties to submit their offers for taking part in the tender. In the second phase the contracting body prepares documentation which is delivered to acceptable bidders. The contracting body selects the best offer among those received from pre-selected bidders.

The Ministry of Finance has to issue an approval before any form of restricted tendering takes place; this method can be applied only for tenders worth less than 15 000 KM (7 500 euros). Direct deals take place when a contracting body invites one potential company to submit an offer. Tendering by invitation takes place when a contracting body directly invites three bidders to submit their offers. The invitation has to be in written form and has to contain a short description of procurement, selection criteria, and the time frame for submitting offers, selecting the best offer and signing of a contract, a draft of which is attached to the letter of invitation.

Invitations to submit offers in an open tendering procedure are published in the *Official Gazette of the Federation BiH* and optionally in one or more daily or weekly newspapers in the Federation or abroad. There have to be at least three offers submitted for open tendering to be considered legal and for the contracting body to start the selection procedure. Open tendering usually takes place for tenders worth

over 50 000 KM (25 000 euros) and the regulation makes no difference between national or foreign companies.

If a contracting body has not managed to collect at least three acceptable offers either through tendering by invitation or through open tendering, it can request authorisation for initiating a procedure for direct deal. The authorisation is sought from the Federation Government for tenders worth over 50 000 KM and from the Ministry of Finance for tenders worth less than 50 000 KM.

Federation ministries supervise the implementation of the Regulation and they also serve as a first-instance mechanism for reviewing complaints. The ministry can annul a tender if it is found that the procedure violated the tendering rules established by the Regulation.

## **10.2 Combating Fraud and Corruption**

The Federation BiH does not have an entity-level strategy for fighting corruption, but it co-operates in activities that exist on the state level and those initiated by the Office of the High Representative.

The revised Criminal Code (*Official Gazette of the Federation BiH*, 36/03) and the Criminal Procedure Code (*Official Gazette of the Federation BiH*, 35/03 and 56/03) now provide stronger measures for detecting and processing corruption and organized crime.

The Law on Preventing Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina (*Official Gazette of the Federation BiH*, 25/02) establishes special obligations for elected officials, executive officeholders, and advisers in the institutions of the BiH Government. Although the Federation BiH does not have a law of its own on conflict of interest, the state-level law is applied to Federation officials.

The Election Commission of Bosnia and Herzegovina acts on state level as the organ which requests, collects and controls the financial status of officials that stand for elections. Mechanism to control the financial status of civil servants lies with their respective ministries and institutions that employ them and the Revenue Service in general. Once the Civil Service Agency becomes operational, it is expected that it will channel its activities also in this direction.

## **10.3 Access to Public Information**

The Law on Freedom of Access to Information (*Official Gazette of the Federation BiH*, 32/01) sets out the legal framework for the free access to information in possession of public administrative organs in the Federation BiH. Every citizen and every legal person has a right to access such information to the maximum possible, and public administrative organs have a duty to provide such requested information. The violation of this law is subject to sanctions foreseen in the overall legal regulation of the Federation BiH.

The administrative organ has to publish guidelines which facilitate access to information, particularly regarding information necessary to contact the administrative organ, essential elements necessary to submit a request for information, any other instructions that facilitate the access to information and has to nominate a person in charge of information dissemination. In a situation when the administrative organ is not in a position to issue the requested information, its duty is to respond in writing why it is not in a position to issue the requested information and, if possible, instruct as to where such information can be obtained. The reply also has to contain instructions on the body to which complaints can be filed including the right to complain to the Ombudsperson.

The freedom to access information is restricted when the administrative organ judges that disclosure of information would cause significant damage to the interests of the Federation BiH and when the requested information contains confidential information on commercial interests of a third party or information on private affairs of a third party.

#### **10.4 Rights of Minorities**

The legal instrument on the protection of national minorities is the Law on Rights of National Minorities (*Official Gazette of Bosnia and Herzegovina*, 12/03), which is also valid on the territory of the Federation BiH. National minority in the Bosnian context is any citizen which does not belong to one of the three constituent people. Members of national minorities have the right to protect and express their cultural, religious, educational, social, economic and political freedoms, rights, interests, needs and identities. Entities, cantons, cities and municipalities have the duty to adopt laws and regulations which respect to the rights granted to national minorities.

The BiH Parliament has established the Council of National Minorities as a special advisory body that consists of members of national minorities. Members of national minorities are entitled to participate in politics, public administration and all public service at all levels in proportion to the percentage of their participation in the population.

#### **10.5 E-Government**

The Federation Government has initiated discussion on informatisation of the public administration, but no decision has been taken yet. Ministries have websites but vary a great deal in the amount of information available and frequency in updating websites.

It is not possible to electronically conduct transactions with the public administration. The address of the Government website is: [www.vladafbih.gov.ba](http://www.vladafbih.gov.ba)

### **11. Managing European Integration**

#### **11.1 The Institutional Framework of EU-Related Policy-Making**

The Federation BiH does not have a central body in charge of activities related to accession to the European Union. The responsibility for Bosnia and Herzegovina — EU relations lies with the Directorate for European Integration, which is part of the Government of Bosnia and Herzegovina.

Entities have a duty to harmonise their legislation with the legislation passed on the state level and in this regard any legislation or activity undertaken by the state of Bosnia and Herzegovina is consequently transferred on to the entity level. However, activities undertaken by the Directorate for European Integration have not been substantial to the extent that they have caused any significant adjusting in the entities.

#### **11.2 Managing the Approximation of Laws**

The Directorate for European Integration is in charge of managing the approximation of laws.

#### **11.3 Implementing the *acquis communautaire***

The main harmonisation activity is in the responsibility of the State; it is likely that the Federation BiH will be more involved in the near future.

#### **11.4 Managing Technical Assistance**

The Federation BiH is not in charge of managing EU-related activities.

### **12. Plans for Reform and Modernisation**

The Federation BiH has been ever since the end of war in constant reform. In this regard, the entity is in the process of institution-building and activities are taking place in parallel on various levels.

The Office of the High Representative is also a body which drives reforms and institution building, acts as a drafter of laws, an arbiter among various interests groups within the country and eventually as a decision-maker if a decision is not taken.

The Civil Service Agency is in the process of being established; once it becomes functional it should represent an important player in advancing public administration reform.