



# **INTEGRITY IN RECONSTRUCTION**

## **Corruption, Effectiveness and Sustainability in Post-War Countries**



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## **FOREWORD**

The Study "Integrity in Reconstruction in BiH – Corruption, Effectiveness and Sustainability in Post-War Countries" was prepared as the component of wider research, which was organized by TIRI, international organization from United Kingdom.

Afghanistan, Bosnia and Herzegovina, Kosovo, Lebanon, Mozambique, Palestine, Sierra Leone and Timor Leste undertook this research using the shared methodology. Moreover, the Study for Bosnia and Herzegovina was supported by Balkan Trust for Democracy.

In post war period, Bosnia and Herzegovina was subject to huge international support and assistance within reconstruction process, economic, social and institutional reform. The case of BiH could be used for critical analysis related to the concept and mechanisms of international support policies. The first example of this type of analysis was used in published Study "International Support Policies to South-East European Countries", OSF BiH/Muller, Sarajevo, 2001.

While reading this Study, it is easy to conclude that from the point of approach and mechanisms of international support policies, positive changes did not occur. Precisely, partnership with local stakeholders related to implementation of support projects was not developed, therefore, their ownership/responsibility is inadequately developed and their sustainability is weak.

General methodological rules used for these researches, applied in all above-mentioned post war situations, often represented limitation for us to further directly criticise international organizations and bilateral donors. That was the reason why some observations in the 1<sup>st</sup> and 2<sup>nd</sup> parts of the Study are

being repeated. Despite this, the results of this research could be the basis for modification of approach of international support policies.

The term integrity in reconstruction itself requires more precise explanation. Within the context of reconstruction in post-war countries, integrity should be considered as complex term, which, in one word, means consistency, legitimacy, rightness, noncorruption. Synonym for integrity could be the word "truthfully" or "how it (would) should (be)" in terms of more detailed description of connotation.

In the text of this Study, we used term "integrity" suggesting that it should be understood entirely in aforementioned manner.

The Study was prepared by IBHI-BiH, and the authors are: Žarko Papić - Team Coordinator, Ranka Ninković and Omer Čar.

We would like to express our thanks to organizations TIRI and Balkan Trust for Democracy for their support related to this kind of research and especially to Martin Tisne, TIRI Associate Programme Director, for his well-intentioned advices and stormy discussions. This surely contributed to the text of the Study.

We would like to thank Sarina Bakić and Sandra Vuković for their huge support and Anja Tomić-Čiča for the translation of this Study.

Žarko Papić  
IBHI-BiH Director

## **Independent Bureau for Humanitarian Issues, Bosnia and Herzegovina**

IBHI-BiH is an established aid organisation and think tank. IBHI-BiH works in four main sectors: poverty reduction, dynamic economic and social development, sustainable NGO sector and mainstreamed equality (age, gender, nation, race, religion, sex) in all spheres of private and public life. IBHI-BiH's means of achieving its mission in Bosnia and Herzegovina include: partnerships with and endorsement by national and local Governmental institutions and non-governmental organisations, engagement of primarily national and local human resources (academic and practitioner expertise) as well as international experts, community-based partnerships (NGOs, local authorities and policy-level Government institutions, Private sector, or the PPPs – public-private-partnerships), action-oriented research and policy development, and a regional approach – lessons learned in BiH, evaluation of international support policies. Within the previous context, IBHI-BiH was an active participator in the reconstruction process in BiH and many reconstruction projects. IBHI-BiH received matching funding from the Balkan Trust for Democracy to support its work with Tiri and NIR.

IBHI-BiH, Šaćira Sikirića 12, 71000 Sarajevo, Bosnia and Herzegovina  
Tel: (+387-33) 219 781, 268 750; Tel/Fax: (+ 387-33) 219 780  
E-mail: [ibhi@bih.net.ba](mailto:ibhi@bih.net.ba)  
[www.ibhibih.org](http://www.ibhibih.org)

## **Tiri**

Tiri is an international NGO based in London that partners with civil society, governments, and business to create networks of committed change agents dedicated to strategic integrity reform. Tiri is an incubator and facilitates innovative reforms and provides a critical learning platform to disseminate cutting-edge experiences.

This paper is part of a series of eight studies of post-war reconstruction countries commissioned by Tiri and funded by the Norwegian Ministry for Foreign Affairs and the Foundation Open Society Institute. All studies are accessible on [www.tiri.org](http://www.tiri.org). Eight local policy centres undertook research using a shared terms of reference: Afghanistan, Bosnia and Herzegovina, Kosovo, Lebanon, Mozambique, Palestine, Sierra Leone, Timor Leste. The research is the basis for an advocacy and monitoring agenda to promote integrity in reconstruction both within the eight countries and internationally. Together, these groups form the Network for Integrity in Reconstruction (NIR).

Tiri  
Downstream Building (3rd fl),  
1, London Bridge,  
London SE1 9BG  
United Kingdom

All material contained in this survey was believed to be accurate as of January 10th, 2007. Every effort has been made to verify the information contained herein, including allegation. Nevertheless, Tiri does not accept the responsibility for the consequences of the use of this information for other purposes or in other contexts.

## **Reconstruction Survey in Bosnia and Herzegovina**

### **Report Authors**

dr. Žarko Papić, Ranka Ninković  
Independent Bureau for Humanitarian Issues (IBHI-BiH)

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Note: RS is also prepared on the basis of interviews with competent individuals. Their answers are quoted in the text anonymously. A list of people interviewed may be found under Annex 4.

## 1. INTRODUCTION

Bosnia and Herzegovina<sup>1</sup> declared independence in March 1992 following a referendum, and acquired full membership at the United Nations in May of the same year. The war in BiH started in April 1992 and lasted until September 1995, when a peace agreement was negotiated at a conference in Dayton (USA) throughout November and signed in Paris, December 1995<sup>2</sup>.

### 1.1. The Consequences of the War

1.1.1. The consequences of the war in BiH are vast and incalculable. Reliable data still does not exist about the measurable consequences and no one dares estimate the immeasurable ones.<sup>3</sup> The data that follows pertains to the end of 1998. In the meantime, no significant changes regarding these basic data have taken place.

It is estimated that 258,000 inhabitants of BiH died or are missing, i.e. 5.9% of the pre-war population was eliminated.<sup>4</sup> Other estimates are that the dead and missing, counting also the increase in mortality rate, number 269,800 inhabitants (of which 152,900 were Bosniacs, 72,350 Serbs, 31,060 Croats and 13,500 were of other origin).<sup>5</sup> It is interesting to note,

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<sup>1</sup> Basic info on BiH see in Annex 1

<sup>2</sup> General Framework Agreement for Peace in Bosnia and Herzegovina, with Annexes. International Legal Materials, Volume XXXV, No. 1, January 1996, pp. 75-183. This agreement is usually referred to as "The Dayton Agreement" because it was entirely drafted in the course of negotiations held in the "Wright Patterson" Air Force Base in Dayton, Ohio, for 3 weeks in November 1995.

<sup>3</sup> For more information see: UNDP *Human Development Report (HDR) – Bosnia-Herzegovina - 1998*, UNDP/IBHI Sarajevo, 1999.

<sup>4</sup> According to F BiH Public Health Institute estimate.

<sup>5</sup> According to estimates from an unpublished study by Dr. Ilijas Bošnjović and a group of researchers, *Demographic Changes in Bosnia-Herzegovina from 1991 to 1998*. See in the International Forum of Bosnia, Document no. 1, *Return of Displaced Persons and Refugees as a Condition for the Survival of Bosnia-Herzegovina*, Sarajevo, January 1999.

according to the data of the State Commission for Missing Persons, that 27,371 persons have been declared missing to date. According to International Red Cross data, 19,000 persons are missing.<sup>6</sup>

During the war, 1995 was the peak year in terms of the sheer number of displaced persons when they numbered 1,282,000. The estimated number of displaced persons at the end of 1997 was 866,000 and in 1998, 816,000.<sup>7</sup> There were 1.2 million refugees from BiH at the end of the war. Now it is estimated that 712,555 of the total number of refugees have found permanent solutions abroad and that 611,969 refugees are still without a permanent solution and are potential returnees.<sup>8</sup> Approximately 50% of the 1991 population of BiH has changed their place of residence.

1.1.2. The economic impact of the war is estimated at 50 – 60 billion USD, of which 20 billion USD covers production capacity.<sup>9</sup> Numerous other estimates exist, taking into consideration the GDP lost from 1992 to date, which represents indirect economic losses, the combined total of indirect and direct losses is approximately 100 billion USD.

Indirect effects, such as the destruction of the governance system, the interruption of economic development, education and development of technology, as well as the “brain drain”, although immeasurable, are undoubtedly colossal.

Destruction of society, social ties, tolerance and coexistence, the breakdown of families and small communities and the general collapse of social values and normal life are the most enduring

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<sup>6</sup> See: Helsinki Committee for Human Rights in B-H, *Report on the Human Rights Situation in B-H, January-December 1998*, Sarajevo, December 1998.

<sup>7</sup> See: UNHCR, *The State of the World's Refugees*, 1995, and UNHCR, *The Operation of Return 1998*, 1998.

<sup>8</sup> See: UNHCR, *The State of the World's Refugees Seeking Asylum*, 1995, and UNHCR, *Populations of Concern to UNHCR - 1997 Statistical Overview*, 1998.

<sup>9</sup> UNDP, *Reconstruction, Reform and Economic Management in Bosnia-Herzegovina*, Vienna, January 1997.

consequences of the war, which cannot be mitigated in a short time. It will be much more difficult to reconstruct the social fabric than the bridges and roads.

A consequence of war (or rather, of the nature of the peace agreement) is also the very specific structure of governance. The general problem of weak and inefficient state institutions in ex-socialist countries is greatly amplified in BiH.

1.1.3. During the war, there was practically no legal system in any part of the territory in BiH. Warlords had complete power over smaller or bigger territories which were under their control. Those were ideal conditions for the normalisation of criminal behaviour. This is about a phenomenon that is much worse than corruption in the usual sense; it is about "legalized" organized crime. Participants were, often with leading roles, warlords, or political or military top officials.

A significant source of this was aid arriving from abroad for the Army of BiH, the Military of RS and the Croatian Council of Defence (HVO). Mostly, aid was trafficking through personal channels without any control. At the same time, in the condition of siege (as in the capital Sarajevo), there was an arms embargo, a lack of food, and the black market was the most frequent type of market. Informal networks and practices were established during that time, and continued to function after the war. They are the basic generators for corruption today in BiH.

Therefore, there is no existing information on this matter, beside a huge number of media reports and statements.

As an illustration, we mention some of the examples published in BiH media in recent period.

The first example is the ongoing trial against Momčilo Mandić, ex minister of police in the government of Radovan Karadžić, Milovan Cicko Bjelica, ex director of Privredna Banka Srpsko Sarajevo, Mirko Šarović, ex president of Republika Srpska and

the member of BiH Presidency and Milorad Govedarica. They have been accused for "associating in order to obtain criminal acts, organized crime ... and assistance to persons accused by the International Crime Tribunal for Former Yugoslavia, financing SDS elections campaigns, etc. During the war 1992-1995, Momčilo Mandić organized and with the support of RS government, gained huge wealth on the black market, which was after the war, spread across Privredna Banka Srpsko Sarajevo. His network was financing the hiding of Radovan Karadžić, one of the two most wanted war criminals.<sup>10</sup>

Potential witnesses associates in this process are under huge pressure from what is left of this organized network or they were murdered, just like in the case of Radomir Spajić.<sup>11</sup>

## **1.2. Peace Implementation**

1.2.1. The Dayton Agreement (DPA) created the framework of BiH as a state. DPA is essentially a peace treaty, the main aim of which was to end the conflict. It thus resulted from protracted negotiations aimed at meeting the conflicting political agendas of the principal parties. The Accords defined BiH as a state of three constituent peoples - Bosniaks (Muslims), Serbs and Croats. Two ethnically-based Entities were established - Republika Srpska (RS) in the north and east with a Serb majority, and the Federation (F BiH) in the south and central parts of the country shared between the Croats and Bosniaks. Following subsequent international arbitration decision, the District of Brčko was created, as a single administrative unit of local self-government under the sovereignty of BiH, but under international supervision ("mini OHR"). The Entities divide the

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<sup>10</sup> See: among other articles, Dženana Karup-Druško "British connection of Momčilo Mandić", magazine "BH Dani", No. 462 (21.04.2006) and Suzana Mijatović "Trial for four members of the SDS band", magazine "Slobodna Bosna", No. 490 (06.04.2006).

<sup>11</sup> Emir Hadžić: "Stajić was cooperating with Federal MUP (Ministry of Internal Affairs) in the last months", magazine "Slobodna Bosna", No. 489 (30.03.2006).

country almost in half: 49% and 51% of the territory respectively.

Many believe this territorial division legitimised the results of war gains and widespread ethnic cleansing, particularly as the new boundaries did not correspond to any pre-war historic or ethnic divisions. The main rationale behind this protection of national or 'ethnic' interests, through entrenching collective rights, was an attempt to establish the principle of equal representation at all levels of government.

The DPA comprises a total of eleven annexes, and mandated various international agencies to take the lead in aspects of the agreement.<sup>12</sup> Annex 10 established the new position of High Representative as the final authority regarding interpretation of the DPA for the civilian implementation of the peace settlement, supported by the Office of the High Representative (OHR), which is effectively a secretariat.

Over the past two years, in line with requirements for entry into the EU Stabilization and Association Agreement (SAA), some modifications have been made within the Dayton Structure, notably the creation of additional state-level ministries. In addition, a state-level Police Agency (SIPA) and Intelligence Agency (OSA) have been set-up.

1.2.2. The constitution of BiH is set out in Annex 4 of the DPA. This has a highly complex and decentralized structure, establishing in effect two separate political and territorial entities. The RS has a centralized structure with a central government and 64 municipalities, whereas F BiH has ten cantons and 82 municipalities. This fragmented arrangement is

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<sup>12</sup> Dayton Agreement contains the following annexes: 1-A) Military Aspects; 1-B) Regional Stabilization; 2) Inter-Entity Boundary; 3) Elections; 4) Constitution; 5) Arbitration; 6) Human Rights; 7) Refugees and Displaced Persons; 8) Commissions to Preserve National Monuments; 9) B&H Public Corporations; 10) Civilian Implementation; 11) International Police Task Force.

further burdened by the fact that competencies of the state level government as outlined in the Constitutions are limited. Both Entities have their own constitutions. In the Federation, competencies are further devolved and this operates under a cascading principle: any power not granted to the federal government rests with the ten cantons. Consequently, in the RS it is the Entity government, and in the Federation it is the Cantons, that have the strongest potential for power accumulation. The constitutional settlement has thus created a system that establishes governance by multiple sub-national authorities.

The Entity constitutions each determine the establishment of local governments within their territories. Their regulation is further specified by local government laws passed by the Entities and the cantons in BiH. This functionally separate regulation inevitably produces considerable difference in local competence and capabilities.

At the state level, there is a bicameral parliament and a Council of Ministries. At the Entity level, there are parliaments (RS National Assembly and F BiH Parliament) and their respective governments. Within the F BiH, there are in addition ten bicameral cantonal parliaments and cantonal governments. At a municipal level in both Entities there are assemblies and mayors. Finally, Brčko District BiH has an assembly, a government and a mayor. Thus, there are ministries established at State, Entity and cantonal level, and as a result, in most cases 13 separate ministries regulate each and every sector of responsibility. In all, the weak Bosnian economy and its people of less than 4 million have to support 14 governments, 150 ministries, 200 ministers and 146 local governments. This administrative structure results in a high level of complexity and a huge redundant bureaucracy. Complexity leads to organizational and functional failures and high administrative

costs. The impact is to cloud accountability, confuse citizens and 'crowd-out' non-administrative expenditures.<sup>13</sup>

The administrative structure of BiH is not, in a normal sense "decentralized". It is its "atomization" that is a fruitful soil for corruption.

1.2.3. In 2004 the costs of administration were 8.97% GDP. Although there is decreasing tendency (in 2002 it was 9.79 % of GDP and 2003, 9.21%)<sup>14</sup> it is still a lot. The proportion of public expenditures (including administration costs) of GDP is also very high; in 2004 it was 49.5%.<sup>15</sup>

### **1.3. Political "System" and Role of OHR**

1.3.1. It can be hardly said that immediately after the war, in 1996 and 1997, BiH was in a normal state. The political stake holders from the war were still dominant in the political life of the country, war criminals enjoyed their protection, national tensions were strong and conflicts present. Ruling political parties that created basic political picture in BiH for the period of war were ethnical based - Stranka demokratske akcije (SDA) with aim of representing Bosniaks (Muslims), Srpska demokratska stranka (SDS) Serbs, and Hrvatska demokratska zajednica (HDZ) Croats.

General elections in BiH until 2002, were held every two years (1996, 1998, 2000 and the last ones were held in 2006). In all models a coalition of SDA, SDS, HDZ was and still is ruling and has had the majority in parliaments of BiH, F BiH and RS, and in various combinations have formed governments. Only in the period of 2000-2002, the majority was held by Alliance for

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<sup>13</sup> See, UNDP-BiH: "National Human Development Report 2005-Better Local Governance in BiH"

<sup>14</sup> Sources: BiH Ministry of Finance and Treasury; F BiH Ministry of Finance; RS Ministry of Finance; IMF Staff Report, Article 10: 'Discussion Paper, F BiH and RS Mid Term Expenditure Framework, 2005-2007)

<sup>15</sup> See IMF: Staff Report for the 2005 Article IV Consultations, May 12, 2005.)

Changes, consisting of a coalition of 13 non-ethnic based parties, mostly social democratic-orientated: before all, Socijaldemokratska partija (SDP), Stranka nezavisnih socijaldemokrata (SNSD) and Hrvatska nova inicijativa (NHI).

1.3.2. The institutions, in particular those at the level of the state, were weak, especially because of different interests among ethnically-based parties. Strengthening the powers of the OHR at the Peace Implementation Conference held in Bonn on December 10, 1997, derived first of all from this situation in the country.

This mandate by OHR was extended even after the situation in BiH had become substantially much more normal. New grounds for it were found in the lack of capacity of the institutions to function properly, i.e. in the Constitution of Bosnia and Herzegovina.

Use of the Bonn powers grew from one year to another. Each next High Representative used them more frequently than his predecessor: Westendorp (1997-1999) passed four decrees per month; Petritch (1999-2002) twelve, and Ashdown (from 2002), fourteen.<sup>16</sup> In 2005 such powers were used more moderately.

In April 2002, OHR suspended all judges and public prosecutors in the country, through the process of the reconstruction of judiciary. This was followed immediately by an elaborate procedure of appointing and re-appointing judges and prosecutors by an independent body (High Judicial and Prosecutorial Council). On the other hand, all the nominations for high ranking officials (ministers, etc.) must pass the eligibility test with OHR, which is crucial for their official election or appointment.

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<sup>16</sup> G Knaus, F. Martin, "Lessons from Bosnia and Herzegovina- Travails of the European Raj", *Journal of Democracy*, No. 14, 3. July 2003, p. 68.

Such a 'system', naturally, left room for «invisible influences – direct, informal pressures on the local authorities in the decision making process. The real problem is that such a mandate by OHR (imposing laws, removal of the officials, etc.) creates an appearance of a functioning system, and thus maintaining it *de facto*. This vicious circle, logically, produced with time an evident symbiosis between the interests of the national parties and OHR.

Therefore, the assessment quoted in the text below is quite correct:

“Despite the unprecedented largest financial investments into the democratization of one country, the international mission in BiH found itself in a paradoxical situation: what Bosnia and Herzegovina needs are not democratic domestic policies, but rather the rule of international experts. In Bosnia and Herzegovina, the foreigners work more than what mere involvement in the creation of political agenda is- something that has already become a norm in East Europe, due to the efforts made by the governments to join European Union. In BiH, however, the foreigners are those who create this agenda, impose it and punish by sanctions on those who refuse to implement that agenda. OHR is in the centre of such system, interpreting its own mandate, and accordingly, has unlimited legal powers ... as a matter of fact, OHR is not held accountable by any elected institution at all. The Office of the High Representative reports at the meetings of Foreign Ministers held twice and to the PIC chaired by OHR who drafts reports from these meetings. The OHR mandate is unlimited. Nothing changed this situation, neither the recently held elections in BiH, characterized by all the observers as «free and fair», nor Bosnia becoming a member state in the Council of Europe.”<sup>17</sup>

If the Bonn powers were to be a remedy for the unstable and 'ailing' situation, they changed, with time, into a self-generating

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<sup>17</sup> G. Knaus, F. Martin, *ibid*, p 61

illness, maintaining the unstable situation and making the country a political hostage of dependency. However, it is important to understand that the extension of powers of the High Representative, and, quite clearly, the negative consequences thereof, were caused by internal reasons – the poor conception of the Constitution of BiH and the ethnic structure of the dominant political parties. The Constitution as it is objectively requires such a mandate by the High Representative. However, the functioning of BiH as a state and its democratization will be possible only if the Constitutions are reformed and the role of the High Representative redesigned. These are two mutually dependent processes.

The announced process of transformation of the mandate of the OHR is associated with the beginning of the negotiations on Stabilization and Association Agreement between the EU and BiH.

“In this respect, Bosnia finds itself at a crossroads this year. Broadly speaking, in public discussions on constitutional reform three distinct approaches have emerged in the past few years. The first one advocates the unstitching of the Dayton structure altogether, whereby the entities and the District of Brčko would be abolished and the concept of territories controlled by ethnic majorities abandoned. Territorially, Bosnia and Herzegovina would be organized into sustainable economic areas. In other words, decentralization would be based on different principles than today. The second approach would rather see an entirely centralized state of Bosnia and Herzegovina, whose institutions would be transformed accordingly. And finally, yet another vision advocates a country made up of three, rather than the existing two, entities, consequently applying the principle of “symmetry” between ethnicity and territoriality.

It will be up to the people of Bosnia and Herzegovina to choose a system they want to live by and to forge a consensus in the process of changing the constitution. As part of Bosnia’s EU bid, the European Union and the Council of Europe should monitor

this process closely. Since the start in late 2005 of talks between Bosnia and Herzegovina and the EU on a Stabilization and Association Agreement, Bosnia has found itself on what is now commonly understood to be the country's irreversible journey toward membership of the EU."<sup>18</sup>

## **1.4. Foreign Debt**

1.4.1. Monetary policy in BiH is based on a Currency board and fixed course of domestic currency (Convertible Mark towards EUR). Until 2003, the Director of the BiH Central Bank was a foreigner appointed by international organizations. The monetary situation is stable and the inflation rate is very low.

1.4.2. The ratio between the external debt and GDP places BiH into the category of moderately indebted countries. Looking at the external debt as a percentage of GDP, we shall see that there is a dropping trend. In 2000, the external debt was 40.33% of GDP; in 2001 it was also 40.33%; in 2002, 36.89%; in 2003, 32.9%, and in 2004 it was 30.6% of GDP. The share of external debts in the GDP in BiH in 2004 was smaller than in Bulgaria (65.6%), Croatia (81.8%), Czech Republic (33.4%), Macedonia (38.7%), Serbia Montenegro (68.9%) and Slovenia (53%).<sup>19</sup> Consequently, the external debt has no major influence on the subordination of the country to foreign organizations. Naturally, criteria conditioning the IMF and WB agreements and credits are present as in other countries with great economic problems.

On the other hand, the relatively low level of foreign investments implies that, generally speaking, the economy is not dominated by foreign companies. However, their influence is present in individual segments of the economy (e.g. import and oil trade, consumer goods trade).

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<sup>18</sup> Z. Pajić: "Bosnia: A Statehood Crossroads", Transition-on-line, February 2006.

<sup>19</sup> EPPU, «Bosnia and Herzegovina – *Bosnia and Herzegovina-Economic Report for 2004*, May 2005.

### **1.5. Capital Flight**

In the last 5 years the banking system has mostly been privatized with Austrian and German banks playing the greatest role. The bank sector in BiH has been considered as the most successful. On the other hand, it is estimated that a significant part of local savings, especially with the turnover from DM to EUR, has been transferred to the centres of foreign banks, i.e. has moved out of the country. Credit interests are high mostly due to the risk but also due to the previous fact.

Since the war period, there has been an issue regarding the old - i.e. pre-war - foreign currency savings of BiH citizens in Ljubljana Bank, the field office in Sarajevo. During the war, Ljubljana Bank (Slovenia) was reorganized, and the savings of BiH citizens stayed in Slovenia. The return of these savings is refused by an argument that the ex-country (Yugoslavia) guaranteed savings in banks over the whole territory.

Therefore, more significant return of capital to BiH is not recorded.

## **2. THE RECONSTRUCTION PROCESS**

### **Introduction**

During the war 1992-1995, BiH received significant aid donations. This was exclusively humanitarian aid for people in BiH and for refugees from BiH in asylum countries.

Immediately after the war, in December 1995, the first Donor's Conference for BiH was organized. At this Conference the basics of the Priority Reconstruction and Recovery Programme were agreed, and the World Bank was nominated as the coordinator. In total, there were 5 Donor's Conferences during a period of 4 years. It was planned that countries and international

organizations would collect in total 5.1 billion of US \$ for the Priority Reconstruction Programme. It was done for a little bit less (4.1 billion US \$), and those funds were mostly used for the reconstruction of infrastructure and support to the BiH economy in transition. At the same time, a huge number of bilateral donors and projects appeared, especially in the area of refugees and displaced persons return issues. Beside the Priority Reconstruction Programme, other programmes were not coordinated and were very often duplicated. INGOs were major implementing partners in those projects (more about this in part 2.12.).

Local capacities were not used at all in the implementations of these projects. That fact that BiH, before the war, had European level of education and institutions in health and social sector, was neglected.

In 1991, BiH had 2439 schools with 698,528 pupils in elementary and secondary schools (15.8% of its population), and in the higher education system, there were 45 faculties with 37 541 students (0.7% of general number of its population). During the war, enormous number of qualified professionals was lost. So, for example in 1992 in BiH there were 7072 medical doctors and in 1996, 4760<sup>20</sup>. Significant number of qualified professionals left the country even after the war or did not return to the country at all.<sup>21</sup>

## **2.1. Transition Specificity in BiH**

In the described conditions in chapter 1, the social dynamism in BiH is characterized by a "triple transition".<sup>22</sup>

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<sup>20</sup> UNDP/IBHI, "Human Development Report-BiH, 1998", Sarajevo, 1999.

<sup>21</sup> As it is known, after the war in BiH, there was no census, therefore no one exactly knows how many people live in the country (only estimations are mentioned).

<sup>22</sup> For more information see: UNDP/IBHI, *ibid*.

2.1.1. The implementation of the GFAP is in essence a transition from war to peace. With strong support of international forces in military, civilian, economic and humanitarian/social fields, this process is making progress but facing serious obstacles, including its internal contradictions. It is obvious that this process will take longer than expected and that it would be faced with great risks if international support was to diminish or disappear. Political factors dominate the socio-economic scene and serious efforts will need to be made to set the BiH priorities right.

2.1.2. BiH is one of the biggest beneficiaries of international assistance in various fields (See: 2.3.). Even though the population of BiH would have had difficulty surviving during the war or returning to normal life after the war without international assistance and support, care must be taken that foreign aid does not produce a dependency syndrome. The smooth and speedy transition from emergency assistance to sustainable development is therefore in the greatest interest of the country, as is the use and building up of local capacity, and institution-building.

2.1.3. The transition from a centrally-planned economy and a political monopoly to a free market economy, democracy and civil society is the key link to the future and the two transition processes described above. It is not only that BiH is required to simultaneously cope with the consequences of war and a fundamental change in the economic and political system. It is also the case that BiH is a country where the transition itself, both directly and indirectly, has been financially supported from abroad.

## **2.2. Social and Economic Situation**

2.2.1. BiH has a number of special features in the social and economic context. The basis for these special features is the socially and economically contingent, and reversible historical situation. Before the war, BiH was a progressive, medium-

developed European country, part of the former Yugoslavia, with a GDP of \$ 2,450<sup>23</sup> per capita in 1990, and correspondingly developed capacities in the social and health sectors for example.

Alongside huge international support, the Bosnian economy over the 10 year post-war period did not manage to recover. GDP per capita is estimated US\$ 1852<sup>24</sup> for 2003; that is significantly less than the GDP in 1990.<sup>25</sup>

2.2.2. According to the latest data,<sup>26</sup> around 17.8% of the population (15% in the FBiH and 21% in RS) lives below the general poverty line, although extreme poverty has not been found to exist.

A special feature of the problem is that this is new poverty. A considerable section of the population enjoyed a relatively high living standard before the war but now finds itself on or below the poverty line. Socially and politically, this makes the situation more complex. It also contributes to a public perception of poverty levels which sees them as considerably more dramatic than they actually are.

The poorest groups of the population in BiH in 2004 included households with three or more children, refugees and displaced persons, households with two children, households in which the head of household is younger than 25, unemployed (ILO classification), and households in which the head of household has finished only primary school.

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<sup>23</sup> See UNDP/Economic Institute Sarajevo, "Human Development Report 2002, Bosnia and Herzegovina," Sarajevo 2002, p. 20.

<sup>24</sup> Source: National Accounts Thematical Bulletin, p 24., AS BiH, December 2004.

<sup>25</sup> See more Annex 2 (BiH Selected economic indicators)

<sup>26</sup> EPPU: "Preliminary Report on Poverty in BiH for the period 2001-2004 (with AS BiH, ISRS, FOS BiH, WB, DFID, BSAL, IBHI-BiH), Sarajevo, April 2005.

2.2.3. The results of the Living Standards Measurement Survey (LSMS) are indicative of the employment situation in BiH and its entities.<sup>27</sup> The overall employment figure in BiH is estimated at 999,500 persons, of whom a surprising 33% are employed in the informal sector. The overall percentage of those employed in the informal sector is higher in the RS (41.4%) than in the F BiH (31.9%).

On this basis, the actual unemployment rate in BiH has been calculated at 16.1% (16.9% for FBiH and 15.8% for RS). By OECD standards, these rates are very high. The main issue is that a large portion of actual employment is in the informal sector and that a large portion of actual unemployment is "statistically hidden" within formally registered employment (laid-off workers on waiting lists, for instance). In that sense, there is no normal labour market, and worse still, labour is not regulated at all.

The real problem in BiH lies not in so much in their accuracy as in the large portion of the population that is at the great, constant, and real risk of dropping below the poverty line.

2.2.4. This confirms that in fact, none of these numbers offer any ground for optimism. This is illustrated by the fact that there is a large portion of the workforce and population in both entities that:

- are just above the poverty line, and are coping through various unsustainable survival strategies;
- have insecure jobs or work in the informal sector without any job security;
- work in very localized labour markets with little development stability;
- have little chance to increase their income;

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<sup>27</sup> See AS BiH, ZSFBIH, RZSRS, "Living Standards Measurement Survey" (with support by UNDP, WB, DFID), Sarajevo 2003.

- are very vulnerable with regards to local turbulences and contraction trends such as those that might be caused by privatisation, loss of local markets, a decrease in payments through direct transfers from the international community or through a loss of confidence on the part of investors.

These workers and the populations that depend on them are thus at high risk of losing their jobs, of diminishing incomes, and the collapse of their survival strategies. Around 50% of the population in both entities is below the poverty line or close to sliding into poverty at any moment.<sup>28</sup>

### **2.3. International Support to BiH - the Scale of Support**

2.3.1. Basic terms of reference of the institutional, economic and social reconstruction of the country in the period from 1995 to 2005 clearly indicate the crucial influence of international support policies. The assessment of the effectiveness of the reconstruction process itself, given the funds invested and the present situation in the country, can hardly be said to be a positive one. It is estimated that the total expenditures of the international community in humanitarian aid, peace implementation and economic reconstruction were 71-81 billion US\$ for the period 1992-2000. This also includes the costs of international activities: i.e. the amount of money 'invested' into BiH as a beneficiary.<sup>29</sup>

Based on the quoted estimates, in the period 1995 – 2000, there were the following amounts 'invested' in BiH coming from different international sources:

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<sup>28</sup> See BSAL/IBHI, Qualitative Study 1, „Unemployment and Market Status: The Potential for Development of Policies for Action in BiH“, DFID Project „Development of Labour and Social Policies“ Report, Sarajevo, October 2002. (Bosnian language version IBHI website [www.ibhibih.org](http://www.ibhibih.org), English version BSAL website [www.birks-sinclair.com](http://www.birks-sinclair.com)).

<sup>29</sup> For more information see: Ž. Papić (ed): “International Policies of Support to SEE Countries-Lessons (not) Learnt in BiH”, OSF/Muller, Sarajevo, 2001. p. 28-30

- 7-8 billion US\$ for humanitarian aid for refugees from BiH in asylum countries;
- 7-8 billion US\$ for humanitarian aid in the country;
- 14-15 billion US\$ for military costs of peacekeepers;
- 3-4 billion US\$ for civil implementation of GFAP;
- 10-12 billion US\$ for economic recovery and reconstruction, including 4,1 billion US\$ within the Programme for Priority Reconstruction coordinated by the World Bank (WB);
- 5-6 billion US\$ for other types of assistance (democratisation, development of civil society. media, local communities, etc.).

To conclude, BiH received in total 46-53 billion US\$ in assistance of various kinds. Direct aid for reconstruction in the country, i.e. not calculating costs of the international intervention, including humanitarian aid in the country was 22-26 billion US\$. This refers to the figures above: 7-8 billion US \$ for humanitarian aid in country; 10-12 billion US \$ for economic recovery and reconstruction and 5-6 billion US \$ for other type of assistance. Because these are estimations, it is not possible to have a more detailed sector breakdown.

Some estimates suggest the total assistance for the period 2000-2005 was significantly smaller. Based on IMF data, the share of international assistance as a percentage of GDP decreased from 6.9% in 2002 to 3.8% in 2004. When calculated in monetary terms in relation to the GDP rate, this would be 2 billion KM, 1.3 billion US\$) for the 2002-2004 period. However, this data should be taken with due reserve due to insufficient records and an absence of co-ordination among the foreign donors, and also due to different forms of foreign aid that were not registered. It would be realistic to say that assistance for the 2000-2005 period coming directly into the country or on the

basis of non-commercial loans, was substantially bigger than can be concluded from the IMF Report.<sup>30</sup>

The real problem is that there is no consolidated report on general post-war aid in BiH. The Ministry of Foreign Trade and Economic Relations has announced that general donations for the period 1996-2005 was 4.4 billion US \$.<sup>31</sup> The BiH Parliament Commission has come up, in work that is not yet finished, with the figure of 17 billion US \$. The UNDP, for another example,<sup>32</sup> has produced information that total UK donations for BiH for the period 2001-2005 was US\$1,726,500. Fortunately the amounts were substantially larger. The ground for such assessment we base on information that just two UK (DFID) projects were financed by 6 million GBP in the social sector in that period, which is 8 200 000 US \$.<sup>33</sup>

Part of an answer lies in the following assessment: the Ministry of Foreign Trade and Economic Relations has information on aid implementation and financing that has passed through BiH institutions. There are a certain number of projects that are directly financed and implemented by foreign donors - so called direct execution. Implementation and financing of these projects did not pass through BiH institutions (answer from an interview). This example shows the low degree of transparency of the international support effort to BiH.

If it is not possible to get information on total financial support to BiH, it is not possible to get closer to estimation on how much of that support actually stays in the country.

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<sup>30</sup> IMF, Staff Report for 2005, Article IV, Discussion Paper.

<sup>31</sup> Ministry of Foreign Trade and Economic Relations ; Donations Overview for Bosnia and Herzegovina in the period of 1996-2005", Sarajevo, 28/09/2005.

<sup>32</sup> UNDP, Newsletter Special for 2005.

<sup>33</sup> Original documentation of projects where IBHI participated.

Estimations given in interviews suggest around 40%-50% of total support stayed in BiH.<sup>34</sup>

## **2.4. Dependence**

The above mentioned clearly indicates that one of the basic characteristics of Bosnia and Herzegovina is its dependence on international assistance. Parallel to this, after ten years the level of the international assistance has dropped drastically, and the country is faced with a declining economic reality. The national political leaders are held accountable for the extent of this situation. However, the international community can also be blamed. The question that has to be answered is: What is the cause of a situation where ten years and an enormous amount of international assistance later, the country is still dependent on it? In other words, the assistance has not prepared the country for sustainable development. Having said this, we must not forget the fact that we are speaking about a European country with well developed local capacities, and which ranked as a medium developed country before the war.

Dependence is inevitable in emergency situations, as was the case in the war. However, to prolong the condition of dependence means to consolidate that condition into an informal but real 'system'. Dependence begins influencing changes in the social structure, with significant social and psychological consequences, thus creating its own self-reproducing social structure. The foreign assistance for development, which was more than substantial in BiH, has proved to have had little cost-effective value. It seems that the weaknesses of the concept of development assistance in BiH were far more present in this country than in other countries, first of all on account of the underestimating of local capacities and, consequently, neglecting sustainability as a goal of that assistance.

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<sup>34</sup> "Stayed in BiH" means that it was spent or invested in BiH, i.e. foreign consultant and his/her consulting company, implementing the project in BiH, consultant spends DSA in BiH and Daily Fee is returning to donor's country. And that part of the budget is expressed as donation to BiH.

The international support policies implemented in BiH as a post-conflict country have been developed for non European undeveloped countries in post-conflict situations, with no adequate existing local capacities. Not taking into account the particularities of BiH, international organizations have implemented all their supports as donations - through INGOs or directly - without using already existing human or other capacities in BiH. Because of this, capacities were neither strengthened nor were conditions for sustainability created.

Disregard of social sector development is a major part of this, as well as a total absence of connecting economic with social reconstruction. Ultimately, the consequence is that the post war poverty in BiH has not been substantially reduced. The international organizations, active in BiH, are a part of the problem rather than the solution to it. Along with their non co-ordination and the absence of a clear strategy, there was a culture of dominance. This was even more clearly perceived in BiH because it is a country with great domestic capacities. The condition of reliance on international economic assistance, created in several ways, extended to all social structures and institutions.

## **Main Players**

### **2.5. Donors Strategies**

An overview of strategies, main activities and policies among the four biggest donors in BiH is presented here. This overview is prepared based on their official documents and official information.

A critical analysis of their activities is given in the next part (2.8.).

### **2.5.1. European Union**

The Delegation of the European Commission to Bosnia and Herzegovina was established on 10 July 1996 following signature of the Dayton/Paris Peace Agreement. The Delegation has played a key role in the implementation of external assistance to Bosnia and Herzegovina as it was the first 'deconcentrated' delegation. Since 1998, it has managed projects directly from start to finish on behalf of the government of Bosnia and Herzegovina, in close contact with the Europe Aid Co-Operation Office.

Almost €2.5 billion of European Community funds have been committed to Bosnia and Herzegovina since 1991. From 1991 to 2000 humanitarian assistance provided by ECHO, the European Commission's Humanitarian Aid Office, total €1.032 billion. In the period 1996 - 2000 Bosnia and Herzegovina received assistance under the OBNOVA and Phare programmes amounting to €890.7 million. In addition the EU member states contributed over €1.8 billion in assistance between 1996 and the end of 2001.<sup>35</sup>

Basic areas of support were:

- Reconstruction of infrastructure
- Return of refugees and displaced persons
- Democratisation, social cohesion and development
- Institutional building
- Economic regeneration
- Creating a market economy and a vibrant private sector
- Poverty alleviation through local development measures
- Co-operation with the European Investment Bank
- Humanitarian assistance

In 2001 the European Commission adopted a Country Strategy for BiH which covers the period 2002-2006 and provides a

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<sup>35</sup> See: "Main areas of ongoing support", [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int)

framework for EU assistance. Since 2001 assistance of more than €240 million has been committed under the CARDS (Community Assistance for Reconstruction, Development and Stabilization) Programme, supporting BiH's participation in the Stabilization and Association Process.

In 2002, the Government of Bosnia and Herzegovina and the EC agreed on the Country Strategy 2002 - 2006. € 195 million was earmarked for the first three years 2002 – 2004. EC assistance will focus on the following five areas:

1. Democratic Stabilization
2. Administrative Capacity Building
3. Economic and Social Development
4. Environment and Natural Resources
5. Justice and Home Affairs

Funding is now mainly provided through the CARDS programme (successor to Phare and OBNOVA), which is supplemented with macro-financial assistance and financial support from other Community budget lines (e.g. European Initiative for Democracy and Human Rights, LIFE – Third countries).

In concert with the EU Presidency, the Delegation takes the lead in on-the-spot co-ordination of the implementation of all EU assistance, multi-lateral and bi-lateral, to increase synergy and - not to be forgotten - EU visibility.

The main objectives of European Union assistance are to support BiH in the framework of the Stabilization and Association Process. In particular:

- To help consolidate the peace process and foster inter-Entity co-operation
- To help ethnic reconciliation and the return of refugees and displaced persons to their homes of origin
- To establish functioning institutions and a viable democracy, based on the rule of law and respect for human rights

- To lay the foundations for sustainable economic development and growth.
- To bring Bosnia and Herzegovina closer to EU standards and principles<sup>36</sup>

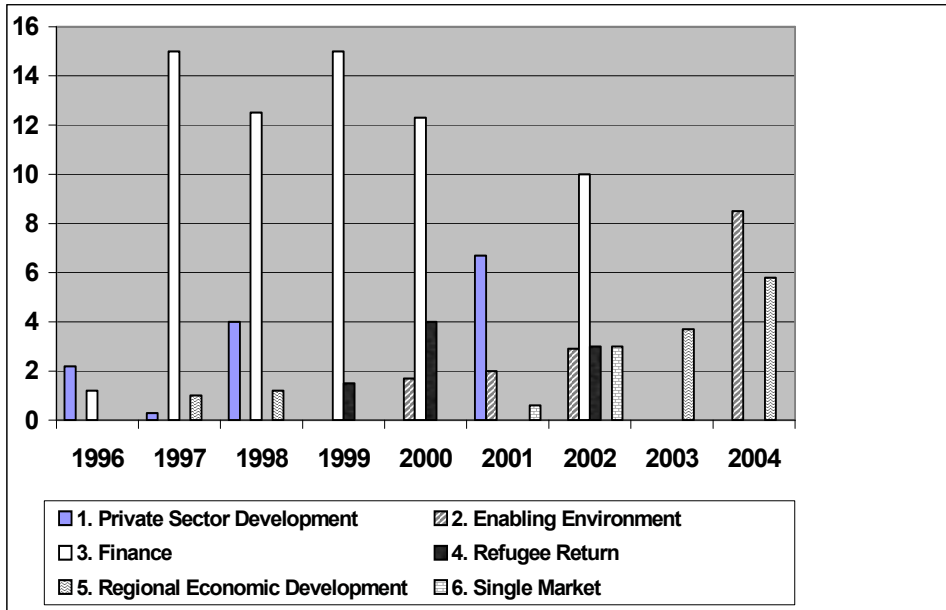
Overview of the EU aid in BiH is demonstrated in the following table<sup>37</sup>:

| <b>1991-2003 EC assistance to Bosnia and Herzegovina - Allocations in millions of €</b> |             |             |             |             |             |             |             |             |             |             |             |               |
|-----------------------------------------------------------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|---------------|
| <b>1991-1994</b>                                                                        | <b>1995</b> | <b>1996</b> | <b>1997</b> | <b>1998</b> | <b>1999</b> | <b>2000</b> | <b>2001</b> | <b>2002</b> | <b>2003</b> | <b>2004</b> | <b>2005</b> | <b>Ukupno</b> |
| <b>BOSNIA AND HERZEGOVINA</b>                                                           |             |             |             |             |             |             |             |             |             |             |             |               |
| <b>Phare, OBNOVA i CARDS</b>                                                            |             |             |             |             |             |             |             |             |             |             |             |               |
| 0.21                                                                                    | 0.65        | 229.77      | 211.16      | 190.50      | 118.36      | 90.30       | 105.23      | 71.90       | 63.00       | 65.00       | 49.4        | 1195.48       |
| <b>ECHO (humanitarian assistance)</b>                                                   |             |             |             |             |             |             |             |             |             |             |             |               |
| 495.26                                                                                  | 145.03      | 142.45      | 105.00      | 87.95       | 58.90       | 0.40        | 0.75        |             |             |             |             | 1035.74       |
|                                                                                         | 70.00       | 65.40       | 39.90       | 15.00       | 30.90       | 3.96        |             |             |             |             |             | 225.16        |
| <b>Democracy &amp; Human Rights</b>                                                     |             |             |             |             |             |             |             |             |             |             |             |               |
|                                                                                         | 0.70        | 4.80        | 4.80        | 1.80        | 0.80        | 0.60        | 0.80        | 2.30        | 2.00        | 2.00        |             | 20.60         |
| <b>Balance of payments support (1)</b>                                                  |             |             |             |             |             |             |             |             |             |             |             |               |
|                                                                                         |             |             |             |             | 25.00       | 10.00       | 25.00       |             | 15.00       | 35.00*      |             | 110.00        |
| <b>Total EC assistance</b>                                                              |             |             |             |             |             |             |             |             |             |             |             |               |
| 495.47                                                                                  | 216.38      | 442.42      | 360.86      | 295.25      | 233.96      | 105.26      | 131.78      | 74.20       | 80.00       | 102.00      | 49.4        | 2586.98       |

<sup>36</sup> See more at EC Delegation to BiH web site: [www.delbih.cec.eu](http://www.delbih.cec.eu)

<sup>37</sup> See: "Facts and Figures", [www.delbih.cec.eu](http://www.delbih.cec.eu)

In the next table, support by sectors is presented within the Economic Regeneration Programme (CARDS, OBNOVA, PHARE).<sup>38</sup>



The table shows the distribution of the commitment over time between the six sub-sectors and the implementation of the programme components are shown. The following key features should be noted:

- A major part of the budget on economic regeneration has been through support to financial instruments and SME finance. This has been a constant feature throughout the period. Over half of EC assistance has been in support to financial instruments, with some element of institution and capacity building, but mainly in the form of SME finance.

<sup>38</sup> See: D. Smith, C. Weltzien, N. Vujočević, "Evaluation of EC-financed support to Economic Regeneration in BiH 1996-2003, Final Report, for EC Delegation to BiH; Global Partners for Economic Development, July 30, 2004.

- 'Bottom up' initiatives to support enterprise restructuring and SME development were a feature up to 2000, but have been replaced by greater emphasis on the enabling environment.
- Measures to support the enabling environment in a more structured way only effectively started with the CARDS 2004 programme as earlier measures were more about access to resources (e.g. support to redundant workers under the payment bureau project) and some institution building of FIPA, rather than improving the environment for foreign investment.

### **2.5.2. World Bank**

Since 1996, the World Bank has committed a total of US\$1.1 billion<sup>39</sup> to BiH through 53 projects – more than for any other post-conflict country to date on a per capita basis. Most of these funds have been provided through IDA "soft" loans. In addition to an active portfolio of over \$300 million, the new World Bank Country Assistance Strategy (CAS) for BiH, adopted in September 2004, provides additional \$35 million annually to support the implementation of the country's 2005-07 Medium-Term Development Strategy (MTDS). Other agencies from the World Bank Group also contributed to the reconstruction and development process in BiH.

- "The International Finance Corporation (IFC) fosters economic growth by financing private sector investments with its own resources, without government guarantees. Since 1997, IFC in BiH has so far invested nearly US\$71 million through 12 investment and 25 technical assistance projects.

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<sup>39</sup> This is about WB Group funds. As pointed out, WB managed in the period 1996-2000, 5.1 billion US \$ of planned funds of different donors

- Foreign Investment Advisory Service (FIAS), an IFC affiliate, has completed a study on Commercial Legal Framework and Administrative Barriers to Investment in BiH. IFC also assists the small and medium enterprises in the region through a US\$25 million multi-donor South East Europe Enterprise Development (SEED) initiative, by providing small and medium enterprises with investment advisory services and capacity building programs.
- The Multilateral Investment Guarantee Agency (MIGA), which promotes foreign direct investment flows by providing guarantees and/or investment marketing services, has provided companies with guarantees worth US\$63 million, thus sending a signal to the international community that BiH is a viable place to do business".<sup>40</sup>

The Country Assistance Strategy for BiH builds on previous CASs and lays out three overarching objectives to be pursued from 2004-2007:

- To create conditions for sustainable and balanced economic development, and achieve partial creditworthiness in the international capital markets;
- To reduce poverty by one fifth;
- To accelerate EU integration.

This CAS supports the country's Medium Term Development Strategy (MTDS/PRSP) priorities, by focusing on three mutually reinforcing pillars: a) improving public finance and strengthening institutions; b) promoting sustainable private sector-led growth; and c) investing in key, social and economic infrastructure.

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<sup>40</sup> WB official, written answer on the question from an interview. More details WB web site [www.worldbank.org](http://www.worldbank.org)

### **2.5.3. USAID**

The US is the largest bilateral donor, with USAID managing about 60 % of total US SEED assistance. USAID collaborates closely with the World Bank, as well as SIDA, EC, and EBRD, by providing technical assistance for restructuring the power sector and creating a unified regulatory body. USAID is co-financing its activities in local government and anti-trafficking with Swedish SIDA. USAID is also discussing a joint activity with Norway to support information and communications technology development for SMEs.

USAID's \$890 million in assistance from 1996 to 2000 had two principal objectives: Repair war-damaged infrastructure to facilitate minority refugee and IDP returns and recreate multi-ethnic communities, and jump start the private sector in the face of a collapsed banking system by injecting liquidity and assisting small and medium enterprises. Under its 2001-2005 Strategic Plan, USAID provided another \$200 million for three strategic objectives for supporting minority returns; assisting economic restructuring; and aiding in building democratic institutions.

USAID's strategy for assisting Bosnia and Herzegovina beginning with FY 2006 builds on the assistance USAID and other donors have provided and on the progress the country has made over the past decade. The assistance strategy will formally move beyond its post- conflict reconstruction character and focus on BiH's current need to deepen economic reform, strengthen its institutions for democracy and governance, and build a viable state. The implementation of the current strategy has, in fact, already evolved from post-conflict assistance toward transformational development.

The USAID program directly supports the overriding U.S foreign policy interest in BiH as defined in the U.S. Government's Mission Performance Plan, which is to change this multi-ethnic

country from a source of regional instability to a peaceful, viable state on the road to European integration.

USAID will continue to assist in the following basic areas. It is helping to reform the BiH governance system from one designed to make a patchwork country of estranged peoples into one where state and local level institutions operate like a modern democracy. It is helping to establish the rule of law to ensure fair and transparent judicial processes and the protection of human and property rights. And it is promoting economic growth by improving the environment for private investment in small and medium enterprises, and by increasing incomes, competitiveness, and employment. USAID is also strengthening the BiH government's capacity to combat trafficking in persons, a US government priority. The Mission's work to restructure the power sector supports the US Presidential Initiative for Global Climate Change. The strategy will work to build on the current stable economic situation and support the development of a longer term effort that aims at EU accession. It will also take into account the fact that, as well as addressing transformational problems, the USAID programme will focus on reducing and eliminating weaknesses at the core of BiH's fragility – the governance structure.<sup>41</sup>

#### **2.5.4. SIDA**

In addition to humanitarian aid provided during the war, Sweden has disbursed 143 million EUR in Bosnia and Herzegovina since 1996. Sweden's estimated contribution to the multilateral EU programmes (OBNOVA and CARDS) for the period 1995–2001 amounted to approximately 53.5 million EUR.

Swedish support for Bosnia and Herzegovina, initially in the form of humanitarian aid, dates

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<sup>41</sup> More details see: Strategy Statement-USAID Bosnia and Herzegovina (Revised 11/21/05); web site: [www.usaid.ba](http://www.usaid.ba)

back to 1992. Consignments of food and sanitary supplies were supplemented in 1993 by attempted reconstruction projects in central Bosnia and Herzegovina. 1994 saw the introduction of a housing programme for internally displaced persons in Srebrenica, the largest project then being implemented in the enclave.

Following the signing of the peace agreement in December 1995, Swedish development assistance was redirected to projects aimed at reconstruction in the private housing sector. In collaboration with its co-operation partners, SIDA developed a model for reconstruction, the Integrated Area Programmes (IAP). These programmes are not only concerned with rebuilding but also address the restoration of essential infrastructure (water supply systems, electricity, landmine clearance and, in some cases, schools), as well as measures, including agricultural support and micro-credits, aimed stimulating the recovery of the local economy. IAPs remain the largest project funded by Sweden.

Relationships between co-operation partner institutions in Bosnia and Herzegovina are important factors when assessing development co-operation. Sweden has only rarely signed agreements with government institutions, preferring to channel support through international NGOs, Swedish institutions and consultancies. The bodies responsible for implementation are in their turn responsible for dealing with institutions and aid recipients inside the country. There are a number of programmes aimed at boosting institutional capacity in Bosnia and Herzegovina. Examples of these include institution-building projects implemented in collaboration with the government authority responsible for statistics, the national audit agency, the central police college, the land survey authority and the railway system.

Civil society has received extensive support, mainly aimed at strengthening human rights and democracy. Key areas for Swedish support have included independent media, programmes

in support of women and gender equality, youth projects and democracy training. City twinning programmes have been less successful. The IAPs have played a significant role in efforts to ensure the sustainable return of refugees, in supporting the economy at local level and in specific reconciliation projects.

Guiding principles for Swedish development co-operation in Bosnia and Herzegovina are:

- Rapprochement towards European structures via support for the SAP. Swedish bilateral support should be co-ordinated with and complement the CARDS programme.
- The adoption of a regional perspective that furthers co-operation within the region through structures such as the Stability Pact for South East Europe.
- The creation through co-operation of conditions favourable to the sustainable return of refugees and displaced persons in accordance with Annex 7 of the Dayton Agreement, including the return of Bosnians now living in Sweden who wish to return.
- The application of a long-term approach combined with flexibility.
- The principle that co-operation should facilitate the establishment of lasting ties between Swedish players and their local counterparts.
- The importance of gender equality considerations and the need to take account of gender equality issues in all projects and programmes.
- The need to evaluate all projects and programmes from an environmental perspective.

- Engagement of the Swedish resource base in all cases where Swedish implementation bodies (companies, institutions or organisations) are deemed to enjoy a comparative advantage.
- The importance of supporting the presence of the Swedish business sector in the region through development co-operation.

As the situation in the Western Balkans returns to normal and stabilises, the character of Swedish support, as well as support through CARDS, will gradually change from the application of large, capital-intensive physical investment linked to for example infrastructure, to efforts aimed at institution building. This applies to Bosnia and Herzegovina although the process of normalisation is still proceeding far too slowly in many parts of the country. Sweden considers that the need for reconstruction projects in Bosnia and Herzegovina – to ensure the all important return of minorities –is still so great that these endeavours should continue. While the number of sectors will not be smaller than in the previous strategy period, Swedish support will be restricted to certain areas.

- Economic and social development
- Democratic governance (institution building, strengthening the judiciary, human rights and democracy)
- Reconstruction (integrated area programme) and return
- Healthcare
- Culture
- Environment <sup>42</sup>

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<sup>42</sup> See: SIDA; Country Strategy for development cooperation-Bosnia and Herzegovina, January 2003-December 2005, ([www.sida.gov.se](http://www.sida.gov.se))

Development Cooperation with Bosnia and Herzegovina in 2004<sup>43</sup> :

| <b>Payments</b>                                      | <b>SEK</b>     |
|------------------------------------------------------|----------------|
| Human rights and democratic governance               | 49.216.000     |
| Social sectors (education, health, etc.)             | 9.424.000      |
| Infrastructure, private sector and urban development | 117.670.000    |
| Natural resources                                    | 44.729.000     |
| Other sectors                                        | 6.083.000      |
| <b>Total</b>                                         | 227.122.000    |
| <b>Total in EUR</b>                                  | 25.235.000 EUR |

## **2.6. Donors Implementation Policies and Practice - Comparative Section**

2.6.1. From 2000, donors reoriented their strategies and basic sectors' policy supports in BiH. Until 2000, the focus of support was reconstruction and return; after that attention was directed on strengthening institutions, support for macroeconomic stability and reforms in various sectors. This change was normal and in accordance with BiH needs.

At the same time since 2000, there has been a significant decrease of inflow by donors support to BiH. (See: Graphic in Annex 3). Documents by which donors are defining their strategies and funds for BiH are, usually, Country Assistance Strategies, for periods of three to four years.

2.6.2. For analysing donors' implementation policies and practices and to understand the system of aid in place, mechanisms of implementation are not the most important issues. More important is the basis of support policies – the aid system. Mechanisms are a consequence and not the fundamental nature of the problem.

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<sup>43</sup> See: [www.sida.gov.se](http://www.sida.gov.se), "Cooperation in Figures", updated January, 2006.

In chapter 2.7., with an overview of official strategy documents, two strategy guidelines, presented very transparently by the biggest bilateral donors in BiH, are very important:

- The USAID programme directly supports the overriding U.S. foreign policy interest in BiH; and
- Sweden (SIDA) has only rarely signed agreements with government institutions, preferring to channel support through international NGOs, Swedish institutions and consultancies.

These two basic elements of bilateral financial support in greater or less measure are defining policies of other donors too. Within this context it is hard to expect efficiency of support policies, particularly in relation to sustainability and local ownership.

2.6.3. Mechanisms of the project implementation and disbursement of funds express this orientation. Surely, in this context, in formal and legal matters, everything is fine. The institutions responsible for developing co-operation of donor country announce an Expression of Interest. Short-listed companies are invited for tender and a “winner” gets elected, with whom the contract is closed based upon the procurement rules (EU countries have the unique rules), and implementation is started. Contractors send reports on regularly basis, receiving suggestions from the donor, and official evaluations are also prepared - depending on the length and time frame of the project this happens once or twice (a mid-term evaluation and a final evaluation). Evaluation is done by donors, using consultants and donors’ representatives.

Two things can be clearly observed:

- Almost without exception, companies from the donor's country win the bid.
- There is almost no example of a negative evaluation

This confirms the above mentioned two basic elements of support policies (2.8.2), and gives grounds for naming development assistance and other international support policies an "aid industry", which has enormous profitable rates for contracting companies. In original project documents, the foreign consultant honorarium is, as a rule, approximately 1000 US \$ per day (of which the contracting company will take 50% for "overhead costs").<sup>44</sup> Because of such implementation mechanisms, less than 50% of donation is really spent on the beneficiary. All rest goes "back" to the country of the donor.

It is not about classic corruption but about the system, which does not run in accordance with its aims - aid to people and development assistance. From the point of view of its aims, the "aid industry" system itself is "corrupted".

2.6.4. Risks of corruption, above all, "invisible" (indirect) within this "aid system", are very large, for example:

- Staff working in development assistance institutions, after the expiration of their contract tend to become consultants and have an interest in being employed by some of the contracting companies. There is a risk that in the decision-making process of a particular tender, the staff might not complete full due diligence on a prospective contractor, precisely because the staff harbours future hopes of employment.
- Consultants working for a contracting company in a certain part of the world will often be engaged as a

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<sup>44</sup> Original documentation of some project available to IBHI.

member of the evaluation team in another project, which is implemented by the same company.

2.6.5. On the other side, international organizations are very bureaucratic and dogmatically oriented without internal motives for the adjustment of policies. Their lack of co-ordination, including that of bilateral donors, and frequent "competitiveness", expresses their bureaucracy and various interests that have nothing to do with their official aims and in the end this leads to low cost-effectiveness.

The organization, planning, and implementation of the programmes of international organizations have confirmed the above criticisms, with regard to their bureaucracy. Therefore, this is not simply a matter of bureaucratic and inefficient operation. The problem is much more serious. It is that the bureaucracy separates the international organizations and their support policies from their objectives (which are still to support peace and reconstruction of countries and war-affected peoples). Bureaucracy forms its own independent but active objectives for the organizations, according to which the organizations are an objective in and of themselves as well as, of course, their staff. The lack of co-ordination amongst the activities of different international organizations in BiH, more about which can be found in part 2.9., results from these interests that lie in the background.

However, it is also a serious question as to how much international personnel in international organizations are motivated to strengthen local capacities and sustainability, because by doing so, they lose their working positions and very high salaries. This is, among other things, the inter-organizational motivation of bureaucracy, and behaviour in accordance with the interests – rather than the objectives – of the organization. The interest of the organization is to exist and to be developed. For this the best situation is one where the beneficiary country is dependent on international assistance.

This is, of course, directly in opposition to the official objectives of international organizations.

## **2.7. Donor Coordination**

As can be seen, there are many attempts at coordination but little actual effective coordination between donors.<sup>45</sup>

The Economic Task Force (ETF) in 1998 was an early vehicle for co-ordinating donor efforts for economic regeneration. The ETF consisted of The World Bank Group, the EC and the most important bi-lateral donors such as USAID, GTZ, DFID, Swedish SIDA. Whilst the ETF in theory provided the donor community with a vehicle to co-ordinate their efforts, it turned out in practice to highlight the differences in approaches and views on priorities for economic development and regeneration. The limitations may have been down to the personalities involved, however it soon highlighted the fact the ETF was of limited effectiveness as a forum for donor co-ordination. One of the reasons for this may have been the absence of government as a counterpart to this debate and the setting of national level economic development priorities. The failure of the ETF to co-ordinate the various approaches and set priorities for the donor community, and to support the country in agreeing priorities for economic development, resulted in donor co-ordination being poor until 2001.<sup>46</sup>

For the reconstruction process itself, it can be said that coordination among donors does not exist because they are all "coordinated" separately by their "centres". This has surely contributed to the low level cost-effectiveness of general assistance to BiH.

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<sup>45</sup> "There was a try of coordination through OSCE and OHR with poor results. Every international organization has its own agenda and wants to make decisions independently. It seems that the problem exists in the lack of joint strategy but in the certain competition among the international organization." (answer from an interview).

<sup>46</sup> See: D. Smith, C. Weltzien, N. Vujočević, *ibid*, p. 47

## **2.8. Government**

A very small part of foreign aid went through government institutions. Aid consists of donations which are based on bilateral contracts between BiH and the donor country. These donations are registered. But it does not mean that all these donations are available to government institutions. Most of them are implemented by foreign contractors but as support to government institutions. Optimistic estimation for the whole period is that this does not go beyond 20% of total assistance<sup>47</sup>. Another problem is that the financial aid that went through the government has been conditioned, often in ways that do not take BiH's particular situation into consideration.

The basic problem is that relations between the government of BiH and international donors are not based on partnership,<sup>48</sup> and transparency is very poor. Bad practice in project implementation is not the only reason for the absence of partnership. (See more in Section 1.3. and 2.4.). The true problem, the cause of the 'absence of partnership' lies in the global system of international support policies, and bad practice is only a part of the system. Because of such a 'system' in BiH, there is no relevant data on diversion of funds and non earmarked funds; on deferred money transfers on unjustified grounds; excessive wages and honorariums not recorded in the original documentation; irrational expenditures and inappropriate interference of fund providers with the process of implementation.

Ten years after signing of the Dayton Peace Agreement, the process of stabilization and association has become an important aspect of the new situation in BiH, which is a

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<sup>47</sup> IBHI Team's estimation based on comparison of different information.

<sup>48</sup> A good illustration of the true situation was made by the Chairman of the Council of Ministries, Mr. Adnan Terzić, at the occasion of signing the Agreement with EU on CARDS Programme for 2005: „ We are signing this Agreement that has been offered to us following the principle „Take it or leave it“, Nezavisne novine, 26/07/2005.

requirement for gradual integration into the EU. This is the process that requires sustainability and accountability in the development of the country, of all institutions at the level of state, civil society, and society in all its aspects and capacities.

The support policies of international organizations (WB, UN agencies *et al.*), donor countries, UN and OECD member states, are formally and legally based on the adopted international documents and regulations; however, such documents do not foresee partnership, nor do they prevent subordination. Even the donations, or project financing on the basis of international treaties or agreements with international organizations, place domestic authorities in the "take or leave it" position.

On the other side, there are many indications that in sectors where the governments have sole responsibility, notwithstanding international donations, many important businesses are obtained without transparency and with corruption.

So, for example, the privatization of "Energopetrol" (the biggest petrol trade network) became an affair because there are indicators that within the government of F BiH, there are special interests for majority state ownership to be sold to the cooperation Ina-Moll (Croatia/Hungary).<sup>49</sup> At the same time, in the same government, there are ongoing activities to decrease the Financial Police F BiH entitlement.<sup>50</sup>

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<sup>49</sup> See: Senad Pećanin, "Cartel Hadžipašić-Vrankić", magazine "BH Dani", No. 461, (14.04.2006). (Ahmet Hadžipašić is the prime minister of F BiH government and Dragan Vrankić is vice president of the government and minister of finance.

<sup>50</sup> Vildana Selimbegović, interview with Zufer Dervišević, chief inspector, "Vrankić wants to destroy evidence about criminal activities of politicians", magazine "BH Dani", No. 460 (17.04.2006).

## **2.9. Foreign Contractors**

A significant part of this topic is analyzed in previous chapters. Foreign contractors are financed from the projects' budgets that are financed by donations and implemented in a way previously mentioned.

As we could see, their project staff are paid a large daily fee accompanied by big DSA for every day they spend in BiH. In addition to this, operational costs are covered by overhead costs no matter how big they are, and they are leaving enormous profits for the constructing companies' owners.

Foreign contractors are delivering services, i.e. project implementation, depending on the sector that is prioritized by the donor's country (See: 2.7.). International staff deal with project management and technical assistance. Local staff are employed for administrative and logistical services.

The real problem is in the fact that foreign consultants, who should deliver technical assistance, are often on a low professional level and often without basic knowledge of BiH, its institutions and general situation.

It is very often the case that one project is implemented by two to three foreign contractors. In recent years, in the Consortiums for implementations, we have cases on the engagement of local NGOs or research institutions. So, for example GAP (Government Accountability Project), which is jointly financed (20 million US \$) by USAID and SIDA, the leading members of Consortium are DAI (US Consulting Company), SALA (Swedish consulting company) with the symbolic participation of two local NGOs, IBHI and EDA.

## **2.10. International NGOs**

At the beginning of war in 1992, many different international organizations arrived in the country, before all humanitarian

organizations, which mostly performed humanitarian care for the population and health-social care. Out of 123 countries that recognized the independence of BiH, 34 of them participated in humanitarian cooperation with BiH through non-governmental organizations. Germany had the biggest number of engaged organizations (54), followed by USA (47 engaged organizations), Great Britain (41), Italy (26) and France (24). NGOs completely overtook all kinds of humanitarian work and aid, and became an important factor in overcoming the difficult situation the country found itself in. Existing non-governmental organizations themselves have mostly been the ones researching the work and actions of civil society groups<sup>51</sup>.

Larger International NGOs, such as CARE International, Oxfam, and the International Rescue Committee work in Bosnia and Herzegovina and other post-conflict countries, as well as in developing societies, and run a series of projects including an opportunity for local organisations to get funds too.

The table below gives an idea about existing figures of international nongovernmental organisations (INGOs) operated in Bosnia and Herzegovina in past 10 years. The data is presented by International Council of Voluntary Agencies (ICVA) in BiH through their Directory. At the beginning of ICVA's work in BiH, the Directory was published each year, but in recent times it takes place once in two years. Approximately 90% of INGOs in BiH are covered by this Directory.<sup>52</sup>

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<sup>51</sup> See: Reima Ana Maglajlić, "Political participation-is there full participation of citizens in public life?", OSF BiH "Assessment of Democracy in BiH", Sarajevo, March 2006.

<sup>52</sup> ICVA Directory, Sarajevo, 1996-2005

| <b>No.</b> | <b>YEAR</b> | <b>NUMBER OF INGOs IN BOSNIA AND HERZEGOVINA /1996 – 2005/</b> |
|------------|-------------|----------------------------------------------------------------|
| <b>1</b>   | 1996/1997   | 220                                                            |
| <b>2</b>   | 1997/1998   | 212                                                            |
| <b>3</b>   | 1998/1999   | 185                                                            |
| <b>4</b>   | 1999/2000   | 136                                                            |
| <b>5</b>   | 2000/2001   | 173                                                            |
| <b>6</b>   | 2002/2003   | 86                                                             |
| <b>7</b>   | 2004/2005   | 65                                                             |

INGOs were, following donor priorities, changing their field of activities and services provision. Many of the larger international NGOs have become 'multi-mandated'<sup>53</sup>, using their comparative advantage from the emergency relief phase, when they provided immediate and short-term survival assistance to the victims of violent conflict, to engage in a range of development tasks including "support for local NGOs". This seems, in many ways, to be less of a principled commitment than a concern to maximise income in the midst of changing realities and donor priorities. Few such agencies have really studied the complex issues of how to support local NGOs or whether their assumptions are appropriate to the Bosnia and Herzegovina context, and seem much more oriented to competing for large development contracts than articulating a coherent and explicit social vision.

Similar to foreign contractors, they are financed through getting projects on bids of donors. Salaries of foreign staff in INGOs are similar to salaries of foreigners in international organizations, i.e. around 6000 EUR per month, and adding to this the Heads of Office in BiH got much higher salaries.

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<sup>53</sup> Duffield, M., *the Symphony of the Damned: racial discourse, complex political emergencies and humanitarian aid*. University of Birmingham, School of Public Policy, Occasional Paper, 2, 1996.

## **2.11. Local NGOs**

2.11.1. Following the development of NGOs at the beginning of 90s is their inadequate definition and lack of a clear role of NGOs in BiH.<sup>54</sup> Due to the fact that there was no experience in the model of work, context and actions of the NGOs, in the beginning, they were constituted as humanitarian and aid organizations, and later on others appeared with different interests, context of work, model of performance and ideas and activities.

The first local NGOs appeared in 1993. Many of them have grown up from projects started by international organizations aiming to maintain the continuation of certain activities, or as initiatives by local staff in these organizations. Significant contributions for the development of BiH NGOs given out by the EC-Office for humanitarian issues, as well as other countries - before all Canada, France and Holland, which initiated financial donations through their embassies for local NGOs. During 1996 and 1997, USA joined these countries.

The number of NGOs significantly increased after 1995. According to recent research,<sup>55</sup> most of the international NGOs (43%) were registered for the first time in the period 1996-2000, while the greatest number of local NGOs were registered for the first time in the period 2001-2004 (40%).

2.11.2. The total number of registered NGOs in BiH is 9095 but only half of them are really active, i.e. 4629<sup>56</sup>. In comparison with other countries, this number should not be ignored. Counting the registered NGOs in BiH, for one NGO there are 417 citizens, in Great Britain there are 426 citizens and in Hungary

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<sup>54</sup> See: Reima Ana Maglajlić, *ibid.*

<sup>55</sup> See more: DFID, IBHI, BSAL „Qualitative Study 3 – Employment, Social Service Provision and the Non-Governmental Sector: Status and Prospects for BiH, Analysis and Policy Implications“, May 2005.

<sup>56</sup> DFID, IBHI, BSAL, *ibid.*

250 citizens. Certainly, the picture is bad if we take into consideration only active NGOs. In this case, for one NGO there are 820 citizens.

The total estimated income of the NGO sector in BiH creates 4.5% of GDP while consumption of the NGO sector amounts to 2.4% of GDP. Now we come to the very interesting comparison, participation of the NGO sector in our GDP. It is close to 1/5 of the participation of BiH industry in GDP (industry participates in 18% and it is not far from the participation of the agriculture in GDP, which is 40%). Therefore, the economic power and significance of the NGO sector are enormous.

The number of full time employees in the NGO sector is 26,668 (also taking into account the number of part time employees), i.e. 2.3% of the active labour force. If we add to this the number of full time volunteers - 63,129, which is 5.36% of active labour citizens - we can get the right picture: 7.66% of active labour citizens work in the NGO sector, either for a salary or voluntarily. Income in GDP just from the volunteers is 3.2%. In accordance with international standards, these numbers are very high. Analyses of employment (for salary or voluntarily) in 24 countries, indicates that the average is 7.30%, from 20.6% in Holland to 0.6% in Mexico.

In order to make comparison, there are 43,405 citizens in BiH employed in sector of transport and communication.

NGOs in BiH provide services to 29% of citizens in BiH. And it is not just the case for services; it also illustrates the transfer of donors' money to the beneficiaries. This is in connection with information that 60% of NGOs operate at a local community level which is very close to the situation in Great Britain where 70% of NGOs operate at a local community level.

2.11.3. It seems that these numbers strongly confirm the significance of the NGO sector in BiH and provide the authorities in BiH with the new and real picture of the NGO sector and civil society. In other words, the NGO sector can no longer be

underestimated or to be held at the margins of the society development. Its significance requires defining NGO sector development policy. It also shows that social policy can strongly rely on the NGO sector. In the last ten years, the development of the NGO sector in BiH has been financed by foreign support, directly from donors or from international NGOs (INGOs).

Partnership development between the NGO sector and governmental sector in BiH is particularly important because with the decrease of foreign donations, local NGOs will have serious problem regarding their sustainability.

2.11.4. An interesting point is the distribution of activities among local NGOs (the number of NGOs engaged in certain areas of activities according to NACE Classification). (Statistical classification of the economic activities in EU)<sup>57</sup>

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<sup>57</sup> See: DFID, IBHI-BiH, BSAL, *ibid*.

**Table: Numbers of Non Governmental Organisations in NACE Classification done by the Statistical Institutes of F BiH, RS and District of Brčko.**

| NACE CODE    | NACE DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | FBIH        | RS*         | BIH         |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|-------------|
| 85.3         | Social Work Activities (with and without accommodation) not undertaken by government or private sector                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 961         | 93          | 1054        |
| 91.11        | Business and Employers organisations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 157         | 25          | 182         |
| 91.12        | Professional organisations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 220         | 179         | 399         |
| 91.20        | Trade Unions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 1270        | 25          | 1295        |
| 91.31        | Religious organisations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 138         | 10          | 148         |
| 91.32        | Political organisations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 722         | 39          | 761         |
| 91.33        | Other Membership organisations. This includes:<br>- Activities of organisations directly affiliated to a political party furthering a public cause or issue by means of public education, political influence, fund raising etc<br>- Special interest groups such as touring clubs and automobile associations and consumer associations<br>- Associations for the purpose of social acquaintanceship such as rotary clubs, lodges etc<br>- Associations of youth, young persons associations, student associations, clubs and fraternities etc<br>- Associations for the pursuit of a cultural or recreational activity or hobby (other than sports or games)<br>- Associations for protection of animals | 2039        | 1381        | 3420        |
| 92.62        | Other Sporting Activities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 1151        | 685         | 1836        |
| <b>TOTAL</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>6658</b> | <b>2437</b> | <b>9095</b> |

\* Includes 121 organisations registered in Brčko.

Dependence on foreign donations can be seen from following data<sup>58</sup>:

### **Ranked sources of income**

| <b>Sources of income</b>  | <b>% of total mentions</b> |
|---------------------------|----------------------------|
| 1 Membership fees         | 27%                        |
| 2 Government donations    | 21%                        |
| 3 International donations | 21%                        |
| 4 Domestic donations      | 18%                        |
| 5 Contracted services     | 9%                         |
| 6 Municipal funds         | 2%                         |
| 7 Other                   | 2%                         |

2.11.5. In the last few years, serious initiatives have grown up regarding networking of NGOs in BiH and regulation of their relationship with government. An NGO Conference was held in December 2004, where the following documents were adopted:

- Agreement on Cooperation between Council of Ministries BiH and NGO sector in BiH
- Quality standards of services among government and non-government sector in BiH
- Behaviour codex for the NGO sector in BiH
- Strategic directions of NGO sector's development in BiH

An Agreement is currently forwarded for reading to the Ministry of Civil Affairs and Ministry of Justice BiH. The Council of Ministries is the institution in charge of signing the Agreement, based on the recommendation of the Ministry of Justice in BiH. These processes are led by the Coalition of NGOs "Work and Succeed Together". This Coalition has developed since 2001, with an aim to create conditions for sustainable development and development strategy for the NGO sector in BiH. This

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<sup>58</sup> See: DFID, IBHI-BiH, BSAL, *ibid*.

Coalition had 300 members from all of BiH organized in 15 regional referent groups.

A network of NGOs in BiH is established through the coordination of regional referent groups that are connecting NGOs from both entities.<sup>59</sup> Establishment of institutional cooperation between government and the NGO sector showed itself as priority issue for the future for numerous reasons:

- Solving ranking/status questions in BiH legislation according to the policy of country members of the Council of Europe by establishing tangible cooperation, from the local community to the state level, will provide a greater influence of the NGO sector on public policy making.
- Establishing Office within Council of Ministries BiH for the cooperation with NGO sector.

The launching of a Resource Centre is planned as an institution for NGO development and a tool for regular communication and coordination of NGO activities. A five years strategy development plan for NGOs in BiH is in the process of preparation.

## **2.12. Local Economy**

2.12.1. What is apparent instantly to anyone living in Bosnia and Herzegovina is the way in which the physical and social fabric, changed so much by the conflict, is also changed by the presence of large numbers of international agencies, reflected in the large numbers of white Jeeps, and the proliferation of signs in the English language outside the offices of these agencies and on signs in particular locations announcing a particular reconstruction project. Usually, this 'invasion' is discussed anecdotally or seen as a diversion from real issues in development assistance. However in a number of ways, just by

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<sup>59</sup> Banja Luka, Bihać, Brčko, Čapljina, Doboj, Goražde, Livno, Mostar, Prijedor, Sarajevo, Trebinje, Travnik, Tuzla, Zenica and Zvornik.

existing in such large numbers, international agencies and their staff produce a number of unintended consequences which merit serious attention. A massive foreign presence can lead to major sectoral price increases, particularly in rental prices for offices and private accommodation, and to a distortion in the economy towards an urban-based service sector, in which particular kinds of retail outlets, restaurants, and so on, grow up to cater for the influx of international agencies. In Sarajevo, the fact members of such agencies who receive an income two or three times an average salary can easily afford apartment rents has produced a new displaced population and the phenomenon of several generations living together in cramped conditions on the outskirts of the city. A real decline in living standards for local people - a product of war which needs a long time-scale to be corrected - is therefore compounded by price inflation, and also the symbolic effects caused by the presence of large numbers of international staff whose salaries are extraordinarily high by local standards and even in the context of normal Western salaries. It is not uncommon for a worker in a middle management position with a larger supranational agency to be earning in excess of 6000 EUR per month, to which is often added a number of daily allowances reflecting the 'hardship' of living in Bosnia and Herzegovina.

2.12.2. The need for international staff in such large numbers is itself, of course, a contentious issue. Whilst it may well be true that, in the phase of emergency relief, and in the immediate post-war context marked by 'neither war nor peace' in Bosnia and Herzegovina, there is a need for international staff if only in terms of safety and freedom of movement, this need should have declined over time.

In addition, international agencies contribute to distortions in the local labour market through their need to recruit local people to work at different levels of the organisation, thereby diverting scarce domestic skills from the public sector, the private sector, and from an emerging non governmental sector. Indeed, as drivers and interpreters can earn over 700 EUR per

month (without payment of pension and health insurance) working with some of the bigger international agencies, Bosnia's reputation of 'having some of the best qualified drivers and interpreters in the world' continues to grow. In order to compare, an average salary in BiH was by the end of 2005 around 250 EUR per month, the average salary of civil servant was around 500 EUR and a minister's salary around 1000 EUR per month (with payment of pension and health insurance).

The salary structures of both international and local staff working in international agencies in Bosnia and Herzegovina should be scrutinized in terms of rationality, efficiency, and economic and social implications. International agencies, wherever possible, should agree to pay their staff according to local rates, with adjustments only where it is necessary to recruit people with particular definable skills and talents. International staff should only be recruited where it is demonstrable that local staff can not perform such work. Interventions of international agencies have a tendency to reproduce particular forms of colonisation rather than partnership, in terms of their relationships with a range of local actors and agencies. This is rather an extreme position to take and, therefore, needs to be accompanied by a number of caveats. Most importantly, it is vital to disaggregate the two central categories, that of 'international agencies' and of 'local NGOs'. Both categories cover a very wide range of organisations in terms of size, objectives, principles, and practices. Within this wide range, there are examples of good practice which can be seen as closer to 'partnership' models. Nevertheless, overall, a more pessimistic picture remains. In addition, it is important to recognise that structures of colonisation are usually far from the intention of international agencies but are rather reproduced through a failure to recognise, or when recognised, to adequately compensate for, dominant structures of power,<sup>60</sup>

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<sup>60</sup> IBHI-BiH *Basic Tenets of Humanitarian Action in Emergency Situations*, IBHI, Sarajevo.

where the biggest groups of people are in poverty or suffer other forms of social exclusion.

"Colonisation" may be defined as 'an asymmetry based on an unequal distribution of symbolic and financial power between two categories of actors',<sup>61</sup> in this case between international agencies and local NGOs. This asymmetry, then, leads to outcomes which reinforce the dominance of international actors, their frameworks, assumptions, meanings and practices.

"Partnership" can be seen as 'an exchange among equals working towards a mutual goal'.<sup>62</sup> This definition, perhaps, should be seen more as an ideal in the context of fundamental power imbalances, both financial and symbolic, and the fact that 'inequality never built capacity'.<sup>63</sup> It may be better to see partnership in terms of aspiring to more equal relationships, the outcome of which is the development of local NGOs which are sustainable, diverse, and based on local agendas and priorities.

There are increasing "chains" of intermediaries which might be inefficient and, certainly, raises complex questions of power, accountability and control. Whilst not typical, a situation where a large bilateral agency provides money through a UN agency as administrator, to an international NGO as prime grant holder, who then finds, or creates, a large 'partner' local NGO which disburses funds to smaller local NGOs, appears increasingly common and challenges many theoretical and practical assumptions about aid and development. There is a need for international NGOs involved in providing assistance to local NGOs to articulate clearly the reason for their involvement in

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<sup>61</sup> Csepeli, G., Orkeny, A., and Scheppele, K. L., 'Acquired Immune Deficiency Syndrome in Social Science in Eastern Europe: the Colonisation of East European Social Science', *Replica*, pp. 111-124, 1996.

<sup>62</sup> Clayton, A., Oakley, P., and Pratt, B., *UNDP Guidebook on Participation*, UNDP, CBD. 1997.

<sup>63</sup> Manji, F., 'Collaboration with the South', quoted in Eade, D., *Capacity-Building: an approach to people-centred development*, p. 9, Oxfam: Oxford, 1997.

this work and to promote a critical scrutiny of whether, indeed, they are the best agencies to offer such support<sup>64</sup>.

### **2.13. Local Ownership**

2.13.1. Local ownership can be developed through partnership between donors and the receiving country in determining goals, criteria, and implementation and in particular, project management. These are conditions for the sustainability (feasible results that can be produced without international assistance i.e. that can turn into domestic practice) without which there is no domestic ownership (full responsibility for one's development).<sup>65</sup>

Partnership and transparency calls for a change in the approach and policies of proponents of international support in BiH, including an understanding of their role by local stake holders, and by themselves as well. This is reflected, first of all, in the following:

- International organizations, in particular those that were created exclusively for BiH for specific reasons, have been, and still are, the main internal factor of the country's political, economical and social development.
- There is an absence of specific mechanisms to realise accountability of international organizations before the citizens of BiH. This is a very important presupposition in order to make BiH citizens feel responsible for the overall situation and development in the country.
- Partnership with local public institutions and civil society, and participation of domestic players in designing of the

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<sup>64</sup> See: IBHI-BiH: "The Local NGO Sector within Bosnia and Herzegovina-Problems, Analyses and Recommendations" (Discussion Paper), Sarajevo, October, 1998.

<sup>65</sup> Žarko Papić, "The Bosnian Case: Lessons can be learned for South-Eastern Europe", *GASSP Conference Globalisation, Regionalization and Making of Social Policy in South-Eastern Europe*, Thessalonica, September 2003.

reform policy, is the only way to develop their responsibility for their own situation and development.

- Civil society organizations, politically independent ones, should be organized in such a manner as to be able to monitor and assess policies of both domestic and international stake holders, thus strengthening the responsibility of both parties.

2.13.2. If it is true that the reforms are necessity for BiH, it is likewise true then that the character of reform and policies must be adapted to its specific features. A doctrine or universal models cannot give proper results.

In the case of BiH, development support does not have as its objective and criterion the strengthening of domestic capacities. Nor is it realized in co-operation with domestic authorities. The policy of 'conditioning' has not proved itself to be efficient anywhere. It must be replaced by the policy of local ownership. This is a condition for creating economic and social sustainability in the countries that are being supported.<sup>66</sup> It is evident that cost effectiveness of international support policies should be enhanced. To achieve this, such policy must be based on an integrated approach - they must be co coordinated, transparent, and be relevant for the beneficiaries.

### **3. INTEGRITY AND CORRUPTION IN THE RECONSTRUCTION PROCESS**

Corruption is spread widely in BiH. Surely, it is the one of reasons for very low trust and confidence from citizens in domestic authorities and institutions.<sup>67</sup>

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<sup>66</sup> For more information see: Achieving Sustainability, Poverty Elimination and the Environment, DFID, October 2000.

<sup>67</sup> Only 38.1% of citizens expressed confidence in the Presidency on the BiH Parliament, while 39.9% did in the Council of Ministries. In the judiciary, confidence expressed 50% and in the police 52.6% (See: UNDP BiH, «Early Warning System», Quarterly Report 2005, July-September, p.13)

### **3.1. Causes of Corruption**

The main causes of corruption in BiH are:

3.1.1. The root of the current corruption is in the war situation. In the period of "war economy", all forms of criminal behaviour were possible if they were connected to "lords of war". It was this period when corruption got its strong foundation.

"Centres of power during the war are still more or less the same. The assumption is that those who provided corruption during the war did that after the war too, where and whenever they could" (answer from an interview).

3.1.2. BiH is highly dependent on huge foreign support. The state of dependence and huge foreign aid, as in many other countries in a similar situation, is very fruitful soil for corruption.

As Vera Devine very well analyzed,<sup>68</sup> some instances of corruption arose from international intervention. Reconstruction aid was vulnerable to being misdirected in several ways. Nationalist, and in many cases criminal, politicians, who had become the key interlocutors for the international community and their principal entry points into local communities, often controlled the local market, i.e. the potential suppliers of goods and services. So, for example:

- International agencies could be forced into contracting cronies of the local elite at inflated prices, as other potential bidders were threatened or blackmailed not to participate in the tendering process for reconstruction contracts. International agencies could be powerless to stop this.

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<sup>68</sup> V. Devine: "Corruption in Post-War Reconstruction; The Experience of Bosnia and Herzegovina: (Corruption in Post-Conflict Reconstruction: Breaking the Vicious Cycle)", [www.tiri.org](http://www.tiri.org)

- Sometimes a range of companies would be 'allowed' to bid, but it was widely suspected that the successful bidder would have to give a certain percentage of the overall contract value to local leaders. Again, international agencies could do little if they were determined to undertake the project.
- In other cases, corruption was more subtle. NGOs that had received funding to rebuild houses in a municipality for returning minorities needed support and even legal permission from local leaders. These leaders might insist that in return for their support, the NGO would undertake a 'balancing' project, which they would select. Thus, as well as repairing returnee houses, NGOs could be coerced into, for example, improving local roads or even assisting local businesses. This had two negative effects: it diverted international funding from the real priorities, and strengthened the power of these corrupt local leaders because the majority of the population believed that they could deliver.

### **3.2. Opportunities for Corruption**

3.2.1. "As we could see, international assistance is providing opportunities for corruption. In the period between 1996 and 1999, the World Bank, IMF, EU, US and a few others committed US \$407.4 million in budget support to the Federation and the Republika Srpska. However, for the disbursement of these funds, the international community depended heavily on local politicians and administrative structures. Much of the general budgetary support was not controlled or audited, making it difficult to assess what happened to this money. Even when the entities or the state provided details of how the money was spent (on teacher salaries for example), the international community found it difficult to independently verify the information. There was also a more fundamental problem with direct budgetary support in Bosnia. The assistance provided by

the international community substituted revenue lost to state and entity budgets through corrupt activities such as customs fraud and tax evasion. In some ways, the provision of direct budgetary support hid the problem created by corruption. The combined annual loss to the budget through tax evasion and customs fraud has been estimated at KM 1.4 billion. The loss through customs fraud alone has been estimated at KM 600 million. This amounts to one and a half times the entire state budget”.<sup>69</sup>

Vera Devine also presented types of corruption within the International Community in BiH.

- “In the first years after the war in particular, there were very few open recruitment procedures for international organisations and NGOs. Members of staff were mostly chosen on the basis of recommendations from friends and family already employed by these organisations.
- Internationals, in their diplomatically accredited vehicles, were regularly seen to speed or ignore other traffic regulations, and generally behaved as if they were above the law.
- There were few mechanisms in place to control the payment of items such as per diems inside international organizations”.

These examples may seem petty, but the messages they send to the local community are very important. On the other side, there are much worse types of corruption related to the international community.

There is no transparency despite the public bidding process, but bidders have no right to complain, whereas the donor’s role should be to develop process of transparent investments, but they do not work in a transparent way. They even do not invite

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<sup>69</sup> Vera Devine, *ibid*

bidders to public openings of applications, which are common with local biddings. E.g.:

- USAID LUMP project – a grant of \$6 million was allocated to 3 micro-credit organizations without a bidding or verification process, but it is known that behind those 3 organizations work international companies. The bigger the donor, the less transparency.
- EURED – not after 3 months did not announce winners of bidding, much less you have right to complain.” (Answer from an interview)

A separate issue is “indirect corruption”, i.e. the situation when high officials from influential international organizations are politically lobbying, or more precisely, they act by putting pressure on local government in order for something to be adopted (for example in the privatisation of state enterprises) in favour of foreign companies from their own countries. The story often ends up that after the mandate in BiH, these high officials become advisers to these companies or to “sister companies”.

3.2.2. It is a fact that in BiH the strongest political parties are the ethnically based parties (SDS, HDZ, SDA), who have “experience” of the paralegal ways of control from war times. This makes the existing political system very specific. Sometimes it creates the impression of a parallel existing triple “one party system” where everyone is attempting to control the part of the territory or public enterprises or institutions where their representatives are in office. These parties, most often in the weak coalition, conflict each other, producing internal coalitions, political crises when electing public companies directors or due to the privatization of public companies. This kind of “specificity” makes BiH institutions weak and their transparency very low.

“The key cause of extremely high level of corruption is involvement of the political elites in illegal activities, because of

that, lack of will of these political elites for the fight against omnipresent corruption”.<sup>70</sup>

“In the post war period, since 2003, BiH has constantly been falling down on the rating list despite the legislation system and institutions that have been established. There are circles governing from the shadow, and there is a close connection between organized crime and the political elite. Big public enterprises such as Telecom, Power Distribution Company, RS Forests etc. have huge losses and no one is processed before courts. Political will is behind corruption”. (answer from an interview)

3.2.3. Involvement of the political elite in corruption is especially notable in privatisation. Slow privatisation process creates line of problems in the functioning of the BiH economy, and also creates an endless space for corruption, mistreatment of public position, and bonds between public policy and state companies, the basic purpose of which is to generate income resources for political parties, and in the process of power apportionment created the ability to appoint company directors, i.e. right to have control over certain companies.

While the privatization of strategic companies is currently awaited (estimations are that it is not going to be completed in the following three years), in this transition period there are two key problems: irresponsible company management and various kind of mistreatment of public companies, as well as discouraging the investments of potential foreign investors. In this process, public companies are totally devalued, giving a bad image to BiH, where company can be bought for 1 EUR.

One of the familiar cases of privatisation is the selling of the Kristal Bank for 1 EUR in April, 2002 by method of direct

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<sup>70</sup>Transparency International, Press Conference on “Corruption Perception Study 2005, Bosnia and Herzegovina”, “Oslobođenje”, Daily Newspaper, February, 26, 2006.

settlement. The contract of this sale was signed by the Minister of Finances RS at that time in the government of RS. According to the Report of major RS reviser activities of the RS government and Ministry of Finance RS, in negotiating the sale of state capital in the Kristal Bank, were not in accordance with Acts 1 and 2 of the Law on Privatisation and Act 5 of the Book of Rules on direct sales. In the opinion of the reviser, "due to the possible effects of activities, which are not in accordance with regular legislation, activities of RS government, Ministry of Finance RS and Unit for the privatization of banks in RS, are not set free of material mistakes in the procedure of the privatization of state capital in Kristal Bank AD Banja Luka".<sup>71</sup>

### **3.3. Anti-Corruption Laws**

3.3.1. There is a necessity for a formal-legislative framework for combating corruption in BiH. In the last couple of years, this is one of the priorities of international organizations too.

Basic legislation frameworks are:

- Law on Court of Bosnia and Herzegovina, on which Department II for Organized Crime, Economy Crime and Corruption is based (from 2000, amended in 2002 and 2003).
- Law on Prosecution of B&H, on which the Special Department for Organized Crime, Economy Crime and Corruption is based (2003).
- Law on State Investigation and Protection Agency - SIPA (2004)
- Law on Free Access to Information (2001)
- Law on Money Laundry Prevention (2004)
- Law on Public Procurement (2004)

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<sup>71</sup> Boris Divjak: "Minimising Corruption" (in OSF BiH "Assessment of Democracy in BiH"), Sarajevo, March 2006.

The separation of public functions from privileges of political parties and private and family interest is regulated by the Law on Conflict of Interests in the government of BiH. There are also: the Law on State Service in Federation BiH and the Law on Administrative Service in the government of RS, and Laws on ministry, government and other appointments in BiH, F BiH and RS.

But there was not a significant impact on combat against corruption. "Before the Public Procurement Law was adopted, it was total chaos, but the Law will happen once the Law is implemented. The Agency for Public Procurement, although founded last year, has not started to work yet. The state should have the main role, but NGOs should have a big role too. There are no public debates; transparency is not at a satisfactory level. The degree of application of the Law on Free Access to Information is little bit over 50 %" (answer from an interview).

3.3.2. On the other hand, the above-mentioned legislation framework created opportunities for opening criminal procedures against high officials in BiH. t levels of state was corrupted

Three BiH Presidency members, who were elected after 2000 have been convicted or are awaiting trials on corruption charges. Ante Jelavić has been convicted for 10 years, Mirko Šarović is free from charges. Dragan Čović is convicted for 5 years. All three of them were, at various times, removed from office by the High Representative at the beginning of their trials due to their refusal to resign.

In the fifth and last Report of Election Commission to the Presidency of BiH, there is the following information related to implementation of the Law on Conflict of Interest: from the moment of the implementation of this Law from May 15, 2005, there were 785 resignations, 374 resignations were made on elected or appointed duties and 411 resignations were related to another duty. In the mentioned period, the Commission gave

out 625 opinions based upon requests of elected officials, carriers of executive functions, advisers and other submitters of requests. Most of elected officials have acknowledged most of opinions given out. By May 15, 2005, the Commission undertook 66 actions based on the suspicion that regulations of the Law on Conflict of Interests had been mistreated. Out of this number, 41 cases were dropped, and in 15 cases the decision on breaking this Law was brought up. Other cases are still in process. In eight cases, the Election Commission of BiH forbade a person to become candidate for any indirect or direct elected duty, with additional financial sanctions of between 1000 KM and 10.000 KM<sup>72</sup>. These sanctions are not enough to combat corruption in a suitable way.

### **3.4. Incidences of Corruption**

3.4.1. In the last few years, as Boris Divjak observed,<sup>73</sup> there have been some positive changes in BiH regarding corruption. Corruption has left the anonymity and the sphere of taboo issues and has become a usual topic in the media as well in conversations among citizens on a daily basis. A change of attitude toward corruption has resulted in the decrease of asking for bribes by about 6% in the last two years, and at the same time, citizens are less willing to pay it (around 15% less of citizens would pay the bribe for daily legally regulated services). On the other hand, the average of bribery amounts has increased, and numerous services still have their "price".<sup>74</sup>

For the first time, BiH got its position on the Global Corruption Perception Index (CPI) in 2003. Even though this position is not flattering, receiving a rating still has means that foreign investors started to take a more serious interest in BiH, which in earlier years was not the case. But slow reforms and the lack of systematic solutions - mentioned earlier in the text - brought

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<sup>72</sup> Boris Divjak, *ibid.*

<sup>73</sup> Boris Divjak, *ibid.*

<sup>74</sup> Report for media TI BiH, "BiH corruption in slightly decrease", March 11, 2004.

stagnation, so BiH took 82-84 ranking place in 2004 out of 146 total ranking countries, in comparison with 70-75 position out of 137 countries in 2003.<sup>75</sup> In 2005, BiH has fallen again on the corruption scale, BiH takes 88-96 position among 159 countries.

Previously mentioned information is corroborated by the newest World Bank Report (WB) 'Management Indicators', published in May, 2005. This Report presents a comparative overview of several key areas of governments in 209 countries in the period 1996-2004. Areas where BiH showed positive trends compared with 1998 are responsibility of government in the sense of political, civil and human rights; government efficiency in the sense of bureaucracy and quality of public services; quality of market regulation; rule of law, i.e. quality of contracts implementations, police, judiciary and decrease of probability of crime and violence. But, in two areas, there are negative trends. These are about political stability and the area of corruption control. In the area of corruption control, the level of mistreatment of power for achieving private goals is used as an indicator, by which 'small' and 'big' corruption is measured.<sup>76</sup>

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<sup>75</sup> TI Corruption Perception Index (CPI) has existed for ten years, ranking countries according to the level of corruption from the less corrupted to the most corrupted countries, and in 2004 it listed 146 countries according to the perception level of corruption of public officials and politicians. This is a complicated index whose design used various researches and surveys conducted by respectable independent institutions (minimum three researches for each country) among business people and analytics, including population surveys, local and foreign. (See: TI BiH "Corruption Perception Study-2004-Bosnia and Herzegovina", Banja Luka/Sarajevo, June, 2004).

<sup>76</sup> "Small corruption" or "corruption for the sake of survival" is corruption among public administrators, who might be underpaid or are dependent on small payments by beneficiaries of services in order that they can provide food to their families and pay for scholarships. This type of corruption helps companies and individuals too in order to respond to the government's requests- e.g. decreases for being late, or avoiding the baggage of certain regulations and taxes. "Big corruption" is corruption among high public officials and it is often related to high international bribes and hidden bank accounts. Jeremy Pope, TI Source Book 200, Berlin, p. 22.

3.4.2. Therefore it is normal that the corruption perception in BiH is very high. From 2002 until now, for about 90% of BiH population, bribery and corruption are present "to a very great extent" and "to a great extent". Corruption was placed as the second biggest problem in BiH society in 2004. For 20% of interviewed persons in a Transparency International Survey, corruption is the biggest problem and for 26% of them, the greatest problem is unemployment<sup>77</sup>.

## **4. CONCLUSION**

Our opinion is that a conclusion can be made that during the war from 1992 to 1995 in BiH, basic, informal networks and influence groups were created that led to corruption in the post-war period.

International financial support for reconstruction of the country in the post-war period has created the cumulating effects of:

- Pressure in order that donations must be spent, by donors on one side, and local authorities on the other;
- Weak institutions of BiH in general, especially at the state level;
- Construction and other projects' "boom";
- Lack of oversight and coordination among donors;
- Absence of partnership with local stakeholders, especially with BiH authorities;
- Underestimation of local, particularly human capacities and instead actually drowning the country with huge number of foreigners;
- Conceptual weaknesses in the implementation of international support policies, i.e. their "aid industry" distinctiveness.

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<sup>77</sup> TI, *ibid.*

The combination of these factors means that corruption is rife in post-war settings with incredibly negative consequences for the sustainability of the reconstruction process, and the economic, social and institutional development of Bosnia and Herzegovina.

## 5. LIST OF ACRONYMS

|                |                                                                           |
|----------------|---------------------------------------------------------------------------|
| <b>BiH</b>     | Bosnia and Herzegovina                                                    |
| <b>BHAS</b>    | Agency for Statistics of BiH                                              |
| <b>BSAL</b>    | Birks Sinclair & Associates Ltd.                                          |
| <b>CARDS</b>   | Community Assistance for Reconstruction,<br>Development and Stabilization |
| <b>CAS</b>     | Country Assistance Strategy                                               |
| <b>CB BiH</b>  | Central Bank of Bosnia and Herzegovina                                    |
| <b>CPI</b>     | Corruption Perception Index                                               |
| <b>DFID UK</b> | Department for International Development                                  |
| <b>DSA</b>     | Daily Subsistence Allowance                                               |
| <b>EC</b>      | European Commission                                                       |
| <b>ETF</b>     | Economic Task Force                                                       |
| <b>EU</b>      | European Union                                                            |
| <b>FBiH</b>    | Federation of Bosnia and Herzegovina                                      |
| <b>FIAS</b>    | Foreign Investment Advisory Service                                       |
| <b>FIPA</b>    | Foreign Investments Promotion Agency                                      |
| <b>FOS</b>     | Federal Office for Statistics                                             |
| <b>GAP</b>     | Governance Accountability Project                                         |
| <b>GDP</b>     | Gross Domestic Product                                                    |
| <b>GFAP</b>    | General Framework Agreement for Peace                                     |
| <b>HDZ</b>     | Hrvatska demokratska zajednica                                            |
| <b>HVO</b>     | Hrvatsko vijeće odbrane                                                   |
| <b>IAP</b>     | Integrated Area Programmes                                                |
| <b>IBHI</b>    | Independent Bureau for Humanitarian Issues                                |
| <b>ICVA</b>    | International Council of Voluntary Agencies                               |
| <b>IDA</b>     | International Development Assistance                                      |
| <b>IFC</b>     | International Finance Cooperation                                         |
| <b>ILO</b>     | International Labour Organization                                         |
| <b>IMF</b>     | International Monetary Fond                                               |
| <b>INGO</b>    | International Non-Governmental Organization                               |
| <b>IPA</b>     | Instrument for Pre-Accession Assistance                                   |
| <b>KM</b>      | Convertible Mark                                                          |
| <b>LSMS</b>    | Living Standards Measurement Survey                                       |
| <b>MIGA</b>    | Multilateral Investment Guarantee Agency                                  |

|                |                                                             |
|----------------|-------------------------------------------------------------|
| <b>MTDS</b>    | Mid-Term Development Strategy                               |
| <b>NACE</b>    | Statistical Classification of Economic Activities in the EU |
| <b>NGO</b>     | Non-Governmental Organization                               |
| <b>NHI</b>     | Nova hrvatska inicijativa                                   |
| <b>OECD</b>    | Organization for Economic Cooperation and Development       |
| <b>OHR</b>     | Office of the High Representative                           |
| <b>OSCE</b>    | Organization for Security and Cooperation in Europe         |
| <b>OSF</b>     | Open Society Fund                                           |
| <b>PRSP</b>    | Poverty Reduction Strategy Paper                            |
| <b>RS</b>      | Republika Srpska                                            |
| <b>RSIS</b>    | Republika Srpska Institute for Statistics                   |
| <b>SAA</b>     | Stabilization and Association Agreement                     |
| <b>SDA</b>     | Stranka demokratske akcije                                  |
| <b>SDP BiH</b> | Socijaldemokratska partija BiH                              |
| <b>SDS</b>     | Srpska demokratska stranka                                  |
| <b>SEED</b>    | South East Europe Enterprise Development                    |
| <b>SIDA</b>    | Swedish International Development Agency                    |
| <b>SIPA</b>    | State Police Agency                                         |
| <b>SME</b>     | Sector of Small and Medium Enterprisers                     |
| <b>SNSD</b>    | Savez nezavisnih socijaldemokrata                           |
| <b>UNDP</b>    | United Nations Development Programme                        |
| <b>USAID</b>   | US Agency for International Development                     |
| <b>TI</b>      | Transparency International                                  |
| <b>WB</b>      | World Bank                                                  |

## ANNEX 1: BASIC INFORMATION ON BOSNIA AND HERZEGOVINA

|                                              |                                                                                                                                                                                                                                                             |                 |                    |
|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------|
| <b>Official name:</b>                        | Bosnia and Herzegovina (BiH)                                                                                                                                                                                                                                |                 |                    |
| <b>Geographic location:</b>                  | Bosnia and Herzegovina is situated in the western part of the Balkan peninsula                                                                                                                                                                              |                 |                    |
| <b>Neighbouring countries:</b>               | Croatia to the north, west, and south; Serbia to the east; Montenegro to the southeast                                                                                                                                                                      |                 |                    |
| <b>Administrative division:</b>              | BiH is divided into two entities – the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) – and Brčko District                                                                                                                           |                 |                    |
| <b>Entity structure:</b>                     | FBiH is administratively divided into 10 cantons. Cantons are divided into a total of 84 municipalities.<br><br>Republika Srpska is administratively divided into 64 municipalities.<br><br>The town of Brčko is a distinct administrative unit (District). |                 |                    |
| <b>Territory</b> (km <sup>2</sup> )          | Total: 51,209.2<br>Land: 51,197      Sea: 12.2                                                                                                                                                                                                              |                 |                    |
| <b>Population</b>                            | 3,798,336 (estimate)                                                                                                                                                                                                                                        |                 |                    |
| <b>Population density</b>                    | 74.2 inhabitants/km <sup>2</sup>                                                                                                                                                                                                                            |                 |                    |
| <b>Population by ethnicity</b>               | Bosniaks, Croats, Serbs, and other ethnic groups                                                                                                                                                                                                            |                 |                    |
| <b>Population by sex</b>                     | 51.64% female                                                                                                                                                                                                                                               | 48.36% male     |                    |
|                                              | 1,961,461                                                                                                                                                                                                                                                   | 1,836,875       |                    |
| <b>Population by age and sex</b>             | 0 – 14                                                                                                                                                                                                                                                      | 15 –64          | over 65            |
| <b>total</b>                                 | 18.4%                                                                                                                                                                                                                                                       | 68.0%           | 13.6%              |
| <b>within age group</b>                      | 49.7% m/50.3%f                                                                                                                                                                                                                                              | 49.4% m/50.6 %f | 41.5% m/58.5%f     |
| <b>Average life expectancy</b> (years)       | average 73                                                                                                                                                                                                                                                  | 76 for women    |                    |
|                                              |                                                                                                                                                                                                                                                             | 71 for men      |                    |
| <b>GDP/pc</b>                                | US\$ 1,852                                                                                                                                                                                                                                                  |                 |                    |
| <b>Vital statistics</b> (rates per thousand) | birth rate 9.9                                                                                                                                                                                                                                              | mortality 8.0   | natural growth 1.9 |
| <b>Human Development Index HDI</b>           | 0.744                                                                                                                                                                                                                                                       |                 |                    |
| <b>Gender Development Index GDI</b>          | 0.731                                                                                                                                                                                                                                                       |                 |                    |

Source: UNDP-BiH Human Development Report 2003-Millennium Development Goals

## ANNEX 2: BOSNIA AND HERZEGOVINA: SELECTED ECONOMIC INDICATORS, 2000-2005

|                                                    | 2000.  | 2001.  | 2002.  | 2003.  | 2004.  | 2005.  |
|----------------------------------------------------|--------|--------|--------|--------|--------|--------|
|                                                    |        |        |        | Est.   | Est.   | Proj.  |
| Nominal GDP (KM million)                           | 10.086 | 10.986 | 11.636 | 12.261 | 12.997 | 13.829 |
| Gross national saving (In percent of GDP)          | 8.1    | 2.2    | -1.3   | 2.2    | 3.0    | 4.1    |
| Gross investment (In percent of GDP)               | 20.6   | 18.8   | 20.4   | 19.9   | 20.3   | 20.8   |
| (percent change)                                   |        |        |        |        |        |        |
| Real GDP                                           | 5.5    | 4.3    | 5.3    | 4.0    | 5.7    | 5.4    |
| Index of industrial production (Period average) 2/ | 9.3    | -2.0   | 11.5   | 3.0    | 12.4   | ...    |
| Gross wages (Period average) 2/                    | 12.9   | 6.8    | 6.9    | 8.2    | 2.8    | ...    |
| CPI (Period average) 2/                            | 5.0    | 3.2    | 0.3    | 0.6    | 0.4    | 1.0    |
| Money and credit                                   |        |        |        |        |        |        |
| Broad money (End-of-period)                        | 14.0   | 89.2   | 7.0    | 10.0   | 24.3   | 20.2   |
| Total credit (End-of-period) 3/                    | 13.0   | 6.7    | 37.4   | 25.4   | 31.1   | 21.4   |
| Of which : Credit to the private sector 3          | 11.1   | 13.7   | 36.2   | 24.8   | 27.5   | 20.3   |
| General government budget (in percent of GDP)      |        |        |        |        |        |        |
| Revenue                                            | 55.4   | 53.8   | 49.7   | 49.6   | 48.9   | 47.8   |
| Of which: grants                                   |        |        |        |        |        |        |
| Expenditure (on a commitment basis) 4/ 5/          |        |        |        |        |        |        |
| Of which: investment expenditure                   | 11.3   | 11.1   | 6.4    | 5.2    | 3.7    | 3.1    |
| Overall balance 4/ 5/                              | 64.5   | 58.8   | 53.4   | 51.0   | 50.0   | 47.8   |
| Of which: investment expenditure                   | 14.9   | 14.7   | 9.3    | 8.1    | 6.4    | 5.6    |
| Overall balance 4/ 5/                              | -9.0   | -4.9   | -3.7   | -1.3   | -1.1   | 0.1    |
|                                                    |        |        |        |        |        |        |
| External public debt                               | 41.6   | 39.8   | 37.7   | 33.3   | 31.1   | 30.0   |
| NPV of external public debt                        | 31.8   | 30.4   | 28.9   | 25.5   | 23.7   | 22.9   |
| Total public debt 6/                               | 41.9   | 40.1   | 38.3   | 33.7   | 31.4   | 30.3   |

INTEGRITY IN RECONSTRUCTION  
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|                                                                    |                             |       |        |        |        |        |
|--------------------------------------------------------------------|-----------------------------|-------|--------|--------|--------|--------|
| NPV of total public debt 5/                                        | 32.2                        | 30.7  | 29.4   | 25.8   | 24.1   | 23.3   |
| Balance of payments                                                | (in millions of US dollars) |       |        |        |        |        |
| Exports of goods and services                                      | 1.285                       | 1.309 | 1.354  | 1.808  | 2.231  | 2.706  |
| Imports of goods and services                                      | 2.749                       | 2.961 | 3.418  | 4.025  | 4.716  | 5.421  |
| Official current grants                                            | 46                          | 18    | 33     | 28     | 6      | 10     |
| <i>Of which: budget support</i>                                    | 46                          | 18    | 33     | 28     | 6      | 10     |
| Current account balance                                            | -596                        | -835  | -1,219 | -1,258 | -1,431 | -1,592 |
| (In percent of GDP)                                                | -12.5                       | -16.6 | -21.7  | -17.7  | -17.3  | -16.8  |
| Gross official reserves                                            | 479                         | 1,249 | 1,295  | 1,765  | 2,389  | ...    |
| (In months of imports)                                             | 2.1                         | 5.1   | 4.5    | 5.3    | 6.1    | ...    |
| Net international reserves (in percent of private sector deposits) | 47.5                        | 87.2  | 70.3   | 69.7   | 68.3   | ...    |
| External debt service                                              | 96                          | 80    | 125    | 148    | 144    | 174    |
| (In percent of exports of goods and services)                      | 7.5                         | 6.1   | 9.2    | 8.2    | 6.5    | 6.4    |

Sources: Data provided by the authorities; and IMF staff estimates.

1/ Data refer to the entire country.

2/ Based on weighted averages for the Federation and Republika Srpska.

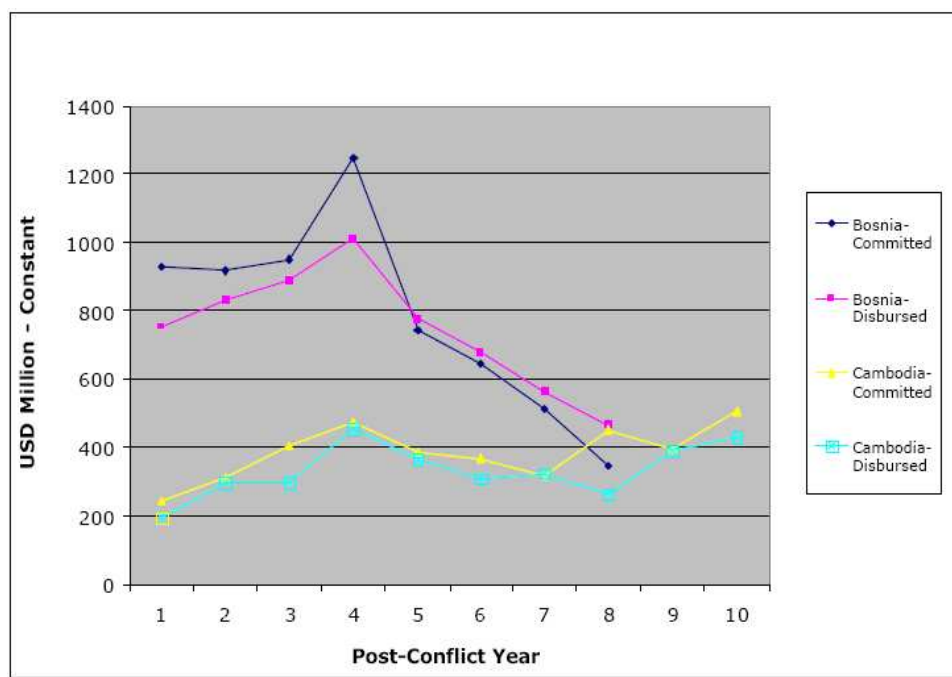
3/ Data have been adjusted to correct for a structural break caused by the takeover of old bank claims on RS enterprises by the RS govt.

4/ 2004 data includes one-time payments for military severance. Also, in 2004 KM 68 million of expenditure (0.5 percent of GDP) represents the cost of recapitalizing a state owned bank.

5/ 2005 expenditure projections assume the authorities take measures, in addition to those already budgeted, to deliver a primary surplus of one percent of GDP

6/ Excludes the large stock of domestic claims on government, pending court decisions on the parameters for restructuring the claims.

### ANNEX 3: OFFICIAL DEVELOPMENT ASSISTANCE -BOSNIA AND CAMBODIA



Source: Astri Suhrke, Julia Buckmaster: **"Aid, Growth and Peace: A Comparative Analyses, CMI Working Paper, [www.cmi.no](http://www.cmi.no), Publication).**

## **ANNEX 4: INTERVIEWEES**

### **Interviewed persons for Tiri/IBHI questionnaire:**

Dobrila Govedarica, Executive Director, OSF BiH

Srđan Dizdarević, President of Helsinki Committee for Human Rights BiH

Dužanka Basta, Head of Department for Projects of Economic Reconstruction and Development, Ministry of Foreign Trade and Economic Relations BiH

Srećko Latal, Head of External Affairs Office, World Bank in Bosnia and Herzegovina

Zlatko Hurtić, Adviser to Chairman of the Council of Ministries BiH

Pavle Paunić, Assistant Minister, Ministry of Health and Social Protection RS

Damir Miljević, Director of BGO "Sinergija", President of the RS Association of Private Entrepreneurs

Nada Uletilović, Program Manager, NGO "Zdravo da ste"

Dužanka Jovanić, Head of Development Division, Banja Luka City Administration

Srđan Blagovčanin, PR, Transparency International BiH

Zoran Stjepanović, Assistant Minister, Ministry of Economic Affairs and Coordination RS

Marcus Cox, Senior Editor, ESI

Vladimir Pandurević, Project Officer, EC Delegation to BiH



## CASE STUDY

### **Reforming the Systems and Structures of Central and Local Social Policy Regimes in Bosnia and Herzegovina**

#### **Report Authors**

Ranka Ninković, dr. Žarko Papić  
Independent Bureau for Humanitarian Issues (IBHI-BiH)

Bosnia and Herzegovina, 2007

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## 1. INTRODUCTION

Over the past 10 post-war years, Bosnia and Herzegovina (BiH) has received an enormous amount of international help and support. There are no exact figures concerning the amount of funds that BiH has received thus far, but \$50 billion is the estimated amount. The direct material damage to industrial facilities has been estimated at \$50-60 billion.

At the same time, in the BiH case, it has been possible to evaluate international support policies and develop recommendations for their improvement. BiH's experiences, as well as recommendations for the transition of international agencies and support policies based thereon, can be very useful to other SEE countries.<sup>78</sup>

This paper will try to illustrate:

- *A new project model based on full partnership and ownership implemented in BiH within the framework of a DFID social policy project*
- *The outcomes of the project which clearly demonstrate that it is possible to efficiently and successfully implement international support policies through the involvement (partnership – ownership – sustainability) of local communities.*
- *The experiences of lessons learned in BiH and the possibility of their use in other SEE countries.*

The future of BiH inhabitants depends primarily on themselves and their full participation in the provision of their own welfare

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<sup>78</sup> For more details see: Ž. Papić (ed), "International Support Policies to South-East European Countries – Lessons (not) Learned in BiH", OSF BiH/Muller, Sarajevo, 2001.

as well as in all matters of public significance. There simply is no "centre", domestic or international, nor will there ever be, that solves the problems of individuals or local communities or society at large. Individuals, civil society organisations, public institutions and governments all need to take responsibility for the country's progress.

Such an approach requires a change in attitude with regard to the policies of international support to BiH. This includes a change in the way domestic actors see the role of the international organisations; equally important, however, is a change in the way international organisations see that role. Within this context, the EU integration process has great significance. Fulfilling EU standards will be a formidable challenge for BiH.

## **2. UNDERSTANDING LOCAL CAPACITIES**

### **2.1. Regional and Local Government**

BiH has a highly complex and decentralized structure, effectively creating two distinct political and territorial entities. There are currently 142 municipalities in BiH, of which 80 are in the Federation (FBiH) and the remaining 62 in the Republika Srpska (RS). Following an international arbitration process in 1999, the District of Brčko was created on 8 March 2000 as a single administrative unit of local self-government within a sovereign BiH, but under international supervision. While there is no intermediary level of government in the RS, the Federation is further split into 10 Cantons. Similar to the entities in their relationship with the state, the Cantons are responsible for all other tasks not explicitly designated to the Entity by the Entity constitution.<sup>79</sup>

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<sup>79</sup> Bosnia and Herzegovina- Integrity in Reconstruction-Reconstruction Survey-Bosnia and Herzegovina", IBHI-BiH/TIRI, Sarajevo, January, 2007.

In terms of local government, the constitution grants municipalities "self-rule" in all matters delegated to them by the Cantons in FBiH or the RS. The problem of delegating responsibilities to the municipalities has been exacerbated by inadequate provision of funding. Most of the municipalities are under funded, although the situation in the RS may appear to be somewhat better, since a larger portion of the RS budget is spent at the municipal level (15 % compared to the Federation which spends only 8 %). There have even been instances in which Cantons would interfere in the revenue allocation process so as to diminish the municipalities' key revenue source (i.e. property tax).<sup>3</sup>

In general, one can observe a genuine tendency by municipal government to make a good and lasting impression on the citizens as much of the service delivery takes place at this level and therefore elected officials tend to show more effort in delivering their election promises than their counterparts at higher echelons of government. Some municipal governments have gone as far as seeking to obtain certificates in order to attest the quality of their service provision.<sup>80</sup>

Moreover, at the municipal government level, some of the good practice from before the war has been preserved. For example, if citizens are dissatisfied with their municipal government's performance they can organise a referendum in order to impeach their mayor. This is not the case with Cantons which have been established as a result of the peace settlement between Croats and Bosniaks in 1994 and therefore have little or no tradition of governance from a period prior to the war.<sup>81</sup>

Laws on local self-governance regulate local governance issues. There are two such laws in the country, namely one for the Federation and the other for Republika Srpska. BiH has also

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<sup>3</sup> Bosnia and Herzegovina- Integrity in Reconstruction-Reconstruction Survey-Bosnia and Herzegovina", IBHI-BiH/TIRI, Sarajevo, January, 2007.

<sup>80</sup> Ibid

<sup>81</sup> Ibid

ratified the European Charter on Local Self-Government in April of 2002. The country, however, has failed to implement some of the key principles which are contained in the Charter, including those which concern the issue of fiscal decentralisation.<sup>82</sup>

Municipalities contribute to social protection of their citizens through funding and assistance programmes. Centres for Social Work (CSWs), established in three of the four pilot municipalities, are funded by municipal budgets in RS (and also by cantons in FBiH) to: assess, process and make social assistance benefit payments (social security, exceptional payments and other cash allowances or subsidies); and provide placement, supervision, advice and counseling services for older people, adults with disabilities, children with special needs, custody issues, divorce cases and juvenile justice.<sup>83</sup>

In addition to CSWs, municipalities provide for social protection through: special assistance to vulnerable groups; funding local NGOs, such as the Red Cross and associations of persons with disabilities; and exceptional emergency payments.<sup>84</sup> Throughout BiH, there are approximately 30,000 persons receiving benefits from the municipal level social protection services.<sup>85</sup>

## **2.2. The BiH NGO Sector**

Following the end of the war in 1995, the NGO sector in BiH greatly expanded with the emergence of donor-funded programmes and grants. Today, there are approximately 4629 active local NGOs. In a region of high unemployment (16.4%) and dependency<sup>86</sup>, the NGO sector accounts for 18% of the BiH GDP and 7.66% of working citizens (salaried employees and

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<sup>82</sup> Ibid

<sup>83</sup> BSAL/IBHI-BiH, Consolidated Municipal Level Review and Analysis Consultation Document, Sarajevo, October, 2002.

<sup>84</sup> Ibid

<sup>85</sup> Ibid

<sup>86</sup> In Zenica, for example, there are 18,200 pensioners, approximately 3,500 people disabled at work and an estimated 9,000 civil victims of war.

volunteers). Facing new challenges in the aftermath of war, including the treatment of displaced persons, veterans and 'wait listed' workers, NGOs provide services to 29% of citizens in BiH. They ensure the transfer of donors' money to the beneficiaries, as 60% of NGOs operate at a local community level.

Given their significant contributions to the economy and civil society, local NGOs have an instrumental role to play in the development of policy and practice. In a climate of privatisation, restructuring and decreasing international humanitarian aid, partnerships between the BiH NGOs and the governmental sector, between local and foreign organisations, are important to build effective and sustainable social policy regimes in BiH.

### **3. THE DFID SOCIAL POLICY PROJECT**

#### **3.1. Partnership – Local Ownership/Responsibility – Sustainability**

A DFID social policy project<sup>87</sup> was implemented from May 2001-2005 throughout BiH in the pilot municipalities of Gornji Vakuf-Uskoplje and Zenica in the Federation of Bosnia Herzegovina (FBiH) and Banja Luka and Trebinje in Republika Srpska (RS). The project budget sum was GBP 4 million.

The implementing organisations, Birks Sinclair & Associates Ltd. (BSAL UK) and the Independent Bureau for Humanitarian Issues (IBHI-BiH) were jointly involved in the review and implementation phases of the project. They used an innovative bottom-up approach referred to as the 'new project model'. Through this novel partnership approach, IBHI-BiH not only provided services during the implementation phase, it also had equal influence on the implementation policy. As a local intermediary, it ensured the acceptance of the project by local

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<sup>87</sup> Project "Reforming the Systems and Structures of Central and Local Social Policy Regimes in Bosnia and Herzegovina", supported by UK Government's Department for International Development (DFID).

stakeholders and greatly increased the efficiency of the foreign consultants, in turn strengthening partnership with local stakeholders, as well as local ownership and sustainability.

#### **4. PROJECT OBJECTIVE AND ACTIVITIES**

The Project objective was to strengthen social policy regimes and the involvement and commitment of stakeholders at all levels:

- State of BiH
- Entity
- Canton (in FBiH)
- Municipality
- Centres for Social Work (CSWs)
- Civic society

This objective was to be attained through the promotion of effective and efficient social policies, which are fiscally sustainable and innovative, and contribute to the mitigation of poverty, inequality and social exclusion. The Programme aim was to achieve this objective by: improving social policy planning, social welfare management and administrative capacities of Entity level institutions; strengthening municipal (and in FBiH, Cantonal) social policy management and social service delivery; and developing partnership and community action projects between civil society and municipalities in four pilot areas. In this way, conditions would be created for improvement of social policy at the BiH level.

The Project facilitated the participation and ownership of stakeholders through: extensive consultation with Entity and municipal authorities, CSWs and NGOs in pilot communities; short workshops; training on principles of policy development

and delivery; and frequent informal liaison (taking into account the time constraints of BiH officials) to obtain maximum feedback.<sup>88</sup>

## 5. PARTNERSHIP MECHANISMS

**Municipal Project Management Boards** (PMBs) supported, advised and managed Project activities and ensured the active involvement of all actors at the municipal level. They reviewed and provided recommendations on project management issues relevant to the municipality, provided guidance to the DFID team on municipal (and in FBiH, Cantonal) factors pertaining to the Project, and promoted joint working initiatives within and with the municipality. Their work was supported by Municipal Planning Development Officers (MPDOs).

The Boards consisted of representatives from: Canton ministries from pilot sites in FBiH; Municipalities from the pilot sites; CSWs from the pilot sites; NGOs; and other public institutions in the social sector. DFID's Social Policy Task Manager in BiH and the World Bank were invited to the quarterly Board meetings as observers, while Birks Sinclair and IBHI were present to support the process and facilitate discussions.<sup>89</sup>

At the Entity level, **Project Coordination Groups** (PCGs) were established to oversee project management issues; promote joint working; discuss recommendations from Entity forums and exercise policy influence as required; plan dissemination of lessons learned; participate in project reviews; and plan for future developments following the termination of the Project.

Horizontal partnerships were developed not only between local actors and the project team, but more importantly, between

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<sup>88</sup> <http://www.birks-sinclair.com/BiH279.htm>

<sup>89</sup> Please see the Terms of Reference for the PMB at <http://www.birks-sinclair.com/Bosnia279Docs/PMB%20TORs.pdf>

various organisations active in social protection in the municipalities.

Vertical partnerships were accomplished through **Social Policy Advisory Groups** (SPAGs) at the Entity level in RS and FBiH. SPAGs were consultative advisory groups set up in line with international best practice. Their members were representatives of pilot Municipalities, Cantons in FBiH i.e. CSWs, NGOs, municipal administrators, and representatives of responsible ministries. Chairs of SPAGs were ministers from RS and FBiH responsible for social policy.

SPAGs had an early focus on laws, finances and services in social protection; promoted reforms that are not only driven negatively by financial constraints, but which are focussed upon improvements in the equity, targeting, nature and effectiveness of expenditures and directions of social policy. They adhered to the BiH Constitutional Structure and focussed upon efficiency and communication across and between institutions of both entities and all Cantons. SPAGs were solidly based in participative and consultative processes of partnership, with decision-making by consensus and a broad membership of social policy stakeholders. Using lessons learned in pilot municipalities, they informed discussions with the international community on social policy related matters; propagated effective and efficient social policy principles and processes in social policy; developed a welfare mix of a pluralistically delivered set of services; and reinforced a client based social protection system and set of policies.

The structure of Project processes and the development of the social policy cycle are presented in Figure 1, 2 and 3. The figures illustrate the 'new project model' (bottom up approach of partnership, ownership and sustainability) and its contribution to the development of international support policies in BiH.

## 6. PROJECT OUTCOMES

The outcome of the project review phase was the publication of the policy document **“Consolidated Municipal Level Review and Analysis Report”**<sup>90</sup>, which contained the recommendations for the social policy reform. The interaction of local social providers and their relationship to the process of forming social policy at the Entity level was analysed in this document. For example, at the municipal level, working groups of local stakeholders provided materials for policy recommendations to a Project Management Board who then gave policy advice to the municipality. The municipal administrators exchanged feedback with the Canton who in turn interacted with the Social Policy Advisory Group and the FBiH Government. (Figure 2)

The implementation phase outcomes were the development of **Municipal Social Protection Development Plans (MSPDPs) and Community Action Projects (CAPs)** at the local level. Project assistance was directed toward achieving the management of change and supporting key actors in the creation and development of plans at the municipal level.

As a result of this key component, **Municipal Social Protection Development Plans (MSPDPs)** for the period 2003-2005 and 2005-2008 were unanimously adopted by the Municipal Assemblies in all four project municipalities. They were prepared by working groups of local stakeholders, including CSWs, local NGOs and municipal administrators, and adopted as a proposal by PMBs.

Contrary to the Poverty Reduction Strategy Papers (PRSPs), which emphasized economic growth, the MSPDPs focused on the social sector, especially management of social policies and their

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<sup>90</sup> BSAL/IBHI-BiH, «Consolidated Municipal Level Review and Analysis Report», Sarajevo, October, 2002.

reform at the local level. The aim of the Plans was to: promote social policy planning; strengthen municipal management of the social sector; develop and facilitate partnership at the community level; promote and develop efficient and sustainable methods and forms of support for beneficiaries that start with their needs; focus on the beneficiary; raise the level of local government transparency and inform local communities and professionals in social protection with an aim of raising awareness; and improve local self-government and ownership of the reform process. Based on these plans for reform implementation, particularly those regarding social protection in the Municipalities, stakeholders recommended changes to laws and policies at the RS and FBiH Entity level.

It is important to point out that local/municipal budgets for social protection increased to over 1 million KM (GBP 350 000) through specific DFID-funded budget lines for Community Action Projects (CAPs). In addition, networks of partnerships developed, with the greater role of NGOs and public institutions, and the expansion of private sector provision, including privately owned kindergartens and contributions to social protection, both in kind and with funds. These networks and the increased awareness of the needs of specific marginalised groups are features that were sustained beyond the Project period.

**Community Action Projects (CAPs)** were specially financed by the DFID social policy project. Through a process of public bidding, selection by a committee consisting of local members, and monitoring by Project Management Boards, CAPs supported and developed partnership, innovation and sustainability.

Partnership among governmental and non-governmental sectors was provided through the tender conditions. Proposals for CAPs would only be taken into consideration if they entailed partnerships with public institutions involved in social protection (Centres for Social Work, schools, etc.) and non-governmental organisations with a defined joint implementation and management structure.

CAPs provided for innovation and sustainability by encouraging the active participation of beneficiaries in the design and implementation of activities. Through this client-based approach, local stakeholders became increasingly engaged in the financing of the CAPs over the project period. Out of three rounds of CAPs, the Project (DFID) entirely financed round I; round II was jointly financed by the municipality/the City and the Project (50%-50%); and in round III the municipality/the city financed 64% of the total budget for all CAPs. At the end of the Project (May 2005), municipalities/the city entirely took over financing of CAPs. By the fourth year, all four municipalities had taken over the financing of their activities completely through the municipal budget.

The following data, covering all three rounds during three years, demonstrate the importance of CAPs for beneficiaries and the reform:

*In Banja Luka, 40 CAPs with a total budget of 1,026,288 KM had been implemented.*

- Out of this number, the contribution of the city was 395,128 KM or 38, 5% (this refers to the total budget for all three rounds, where the city co-financed rounds II and III).
- 109 organisations / actors (64 NGOs, 39 public institutions, 6 private entrepreneurs) participated in the CAP implementation.
- Projects encompassed access to education to Roma children, diagnostics and rehabilitation of speech for preschool children, mental health programs, prevention of family violence, promotion of foster families, shelter for homeless children, Older brother- Older sister programs, home care, and services to persons with amputations and disabilities.

- CAPs had 3,810 direct beneficiaries in the period 2003-2005.

*In Trebinje 25 CAPs with a total budget of 573,707 KM had been implemented.*

- Out of this number, the contribution of the municipality was 232,366 KM or 40, 5%.
- 58 organisations/actors (27 NGOs and 31 public institutions) participated.
- Projects supported the integration of children with special needs into the community, prevention of drug addiction among adolescents, neighbourly help, and integration of elderly in homes for the elderly.
- The number of direct beneficiaries was 3,100 in the first two rounds and estimated 3,000 in round III, i.e. 6,100 all together.

*In Zenica 32 CAPs with a total budget of 824,000 KM had been implemented.*

- Out of this number, the contribution of the municipality was 313,000 KM or 38%.
- 75 organisations/actors (50 NGOs, 16 public institutions, and 9 private entrepreneurs) participated in CAP implementation.
- Projects involved home care to elderly persons, training in upholstering and tailoring to women and girls, socio-pedagogical support to single-parent families, marriage and family counselling, youth participation in the MSPDP, NGO development, support to the Roma Community, and preparation of children from socially disadvantaged families for school admission.

- The number of direct beneficiaries was around 10,000.

*In Gornji Vakuf – Uskoplje 12 CAPs with a total budget of 297,767 KM had been implemented.*

- Out of this number, the contribution of the municipality was 64,756 KM or 22%
- 53 organisations/actors (9 NGOs, 21 public institutions, 5 private entrepreneurs) participated.
- Projects supported sports activities to discourage drug use, assistance to single mothers, and programs for people with visual impairments. Due to the particularly difficult situation in this area, a CSW was established with the Project's support during the Project implementation.
- The number of direct beneficiaries was 1,503

*In total for all pilot municipalities / the city, figures are as follows:*

- Total budget of 109 CAPs is 2,751,762 KM. The Project contributed 1,746,760 KM (63, 5%), and municipalities / the city contributed 1,005,002 KM (36, 5%).
- In their implementation, 277 organisations / actors (with some overlap) participated, including 150 NGOs, 107 public institutions and 20 private entrepreneurs.
- The number of direct beneficiaries during the three-year period (bearing in mind that the criteria are specific by area) is 20,703.

## 7. LESSONS LEARNED

According to the Final Participatory Impact Evaluation Report<sup>91</sup>, the key elements of the project that have been sustained are: knowledge; experience; networks; the ethos of partnership; and an awareness of the needs of marginalised people. Some services, including counseling, were maintained in accordance with organisational capacities. New networks have been developed which continue to provide support today. There has been more consultation in the policy and programme development process and a great number of indirect beneficiaries (eg. families) as social protection improved.

On the other hand, according to the Evaluation Report<sup>92</sup>, some stakeholders felt that municipalities were not as involved as they could be in CAP activities. Volunteering remains difficult, given financial constraints, and concerns have been raised regarding the expertise and funding to sustain project activities.

In general, it is important to highlight the partnership between the UK based BSAL and the local organisation IBHI-BiH. As illustrated in the project management structure, the partners were equally involved in the project. This resulted in the synergy of foreign operational knowledge and local operational experiences which "opened the door" for the development of partnerships with all local stakeholders. This is thus a good example of "local demand driven" project implementation.

Within the BiH context, such partnership is crucial to build the capacities of local organisations and overcome the challenges posed by high levels of poverty, unemployment, dependency and social exclusion. This approach could have broader regional significance and be applied in the Balkan and SEE countries as a

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<sup>91</sup> *Final Participative Impact Evaluation Report, 26 April, 2005*  
[http://www.birks-sinclair.com/Bosnia279Docs/279%20FPIER%20Main\\_final.pdf](http://www.birks-sinclair.com/Bosnia279Docs/279%20FPIER%20Main_final.pdf)

<sup>92</sup> Idem

better model of international support. Donors should therefore maintain this project implementation approach, thereby emphasizing partnerships between foreign and local implementing organisations and the contributions of local stakeholders.

## **8. BIBLIOGRAPHY**

Birks Sinclair and Associates Ltd., and the Independent Bureau for Humanitarian Issues in BiH. 'Bosnia and Herzegovina Reforming the Systems and Structures of Central and Local Social Policy Regimes: Consolidated Municipal Level Review and Analysis Consultation Document', 11 October, 2002 Available at:

< <http://www.birks-sinclair.com/Bosnia279Docs/Consolidated%20Report%20public.doc> >

Birks Sinclair and Associates Ltd., and the Independent Bureau for Humanitarian Issues in BiH. 'Bosnia and Herzegovina Reforming the Systems and Structures of Central and Local Social Policy Regimes: Final Participative Impact Evaluation Report', 26 April, 2005. Available at:

< [http://www.birks-sinclair.com/Bosnia279Docs/279%20FPIER%20Main\\_final.pdf](http://www.birks-sinclair.com/Bosnia279Docs/279%20FPIER%20Main_final.pdf) >

Independent Bureau for Humanitarian Issues BiH: 'Bosnia and Herzegovina- Reconstruction National Integrity System Survey', IBHI-BiH, 2007.

Ž. Papić (ed), 'International Support Policies to South-East European Countries – Lessons (not) Learned in BiH', OSF BiH/Muller, Sarajevo, 2001.

## 9. LIST OF ACRONYMS

|                 |                                               |
|-----------------|-----------------------------------------------|
| <b>BiH</b>      | Bosnia and Herzegovina                        |
| <b>CAP</b>      | Community Action Project                      |
| <b>CSW</b>      | Center for Social Work                        |
| <b>DFID</b>     | UK Department for International Development   |
| <b>IBHI BIH</b> | Independent Bureau for Humanitarian Issues    |
| <b>F BiH</b>    | Federation of Bosnia and Herzegovina          |
| <b>KM</b>       | Convertible Mark                              |
| <b>MSPDP</b>    | Municipal Social Protection Development Plans |
| <b>NGO</b>      | Non-Governmental Organization                 |
| <b>PMB</b>      | Municipal Project Management Board            |
| <b>RS</b>       | Republika Srpska                              |
| <b>SPAG</b>     | Social Policy Advisory Group                  |

**Figure 1: Reforming the Systems and Structures of Central and Local Social Policy Regimes**

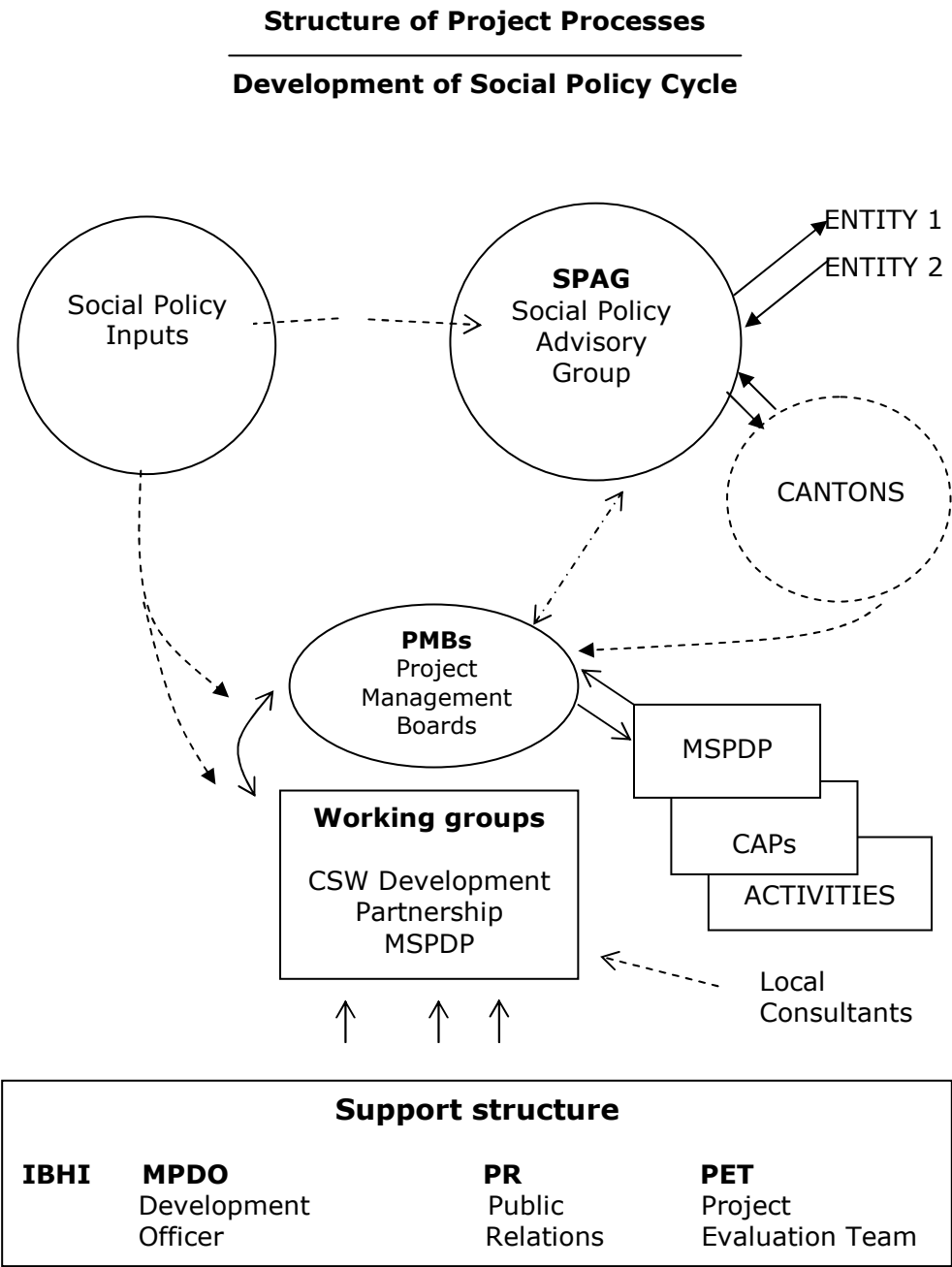


**Figure 2: Reforming the Systems and Structures of Central and Local Social Policy Regimes**

**Some Processes of Social Policy Advisory Groups**

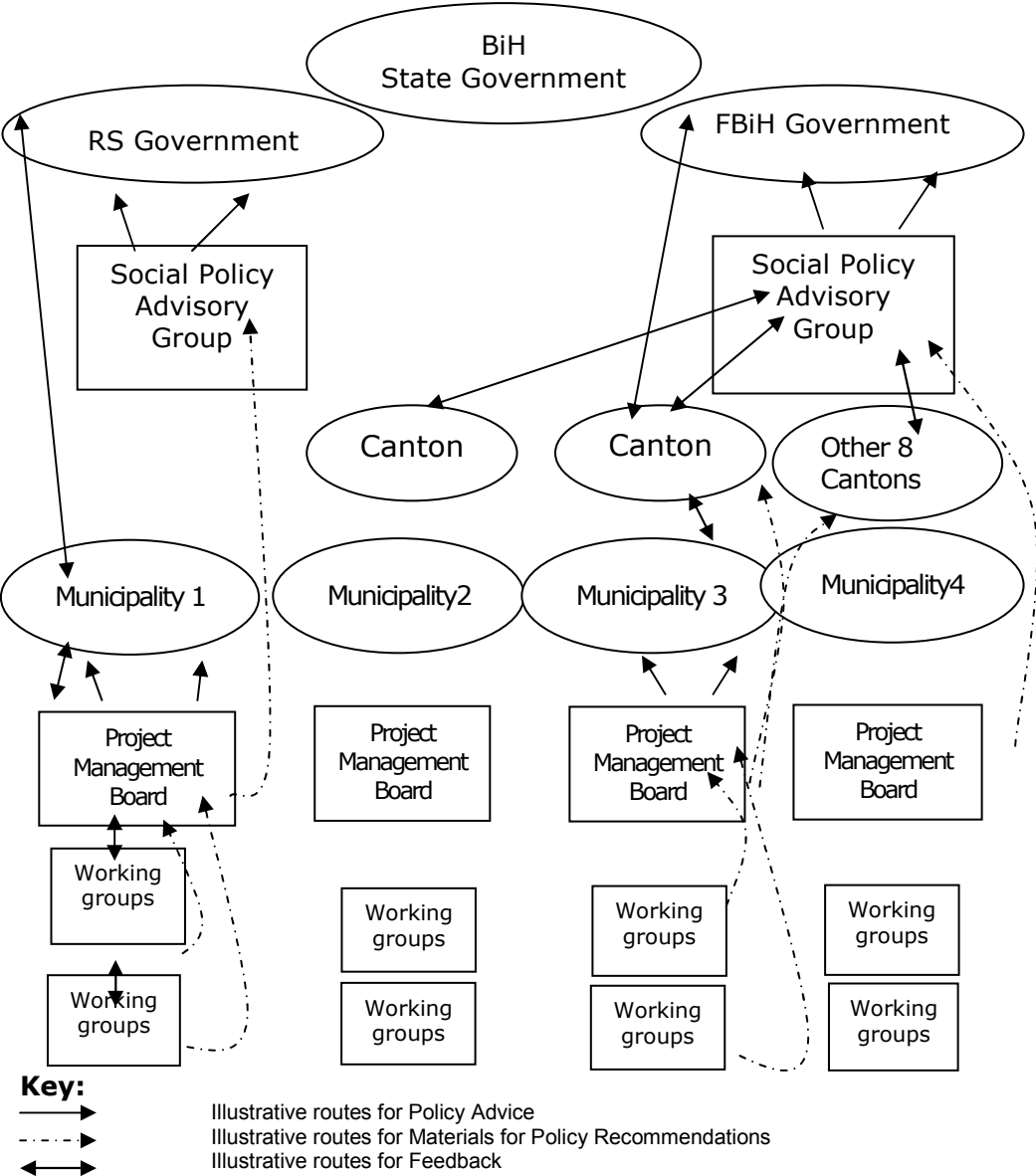
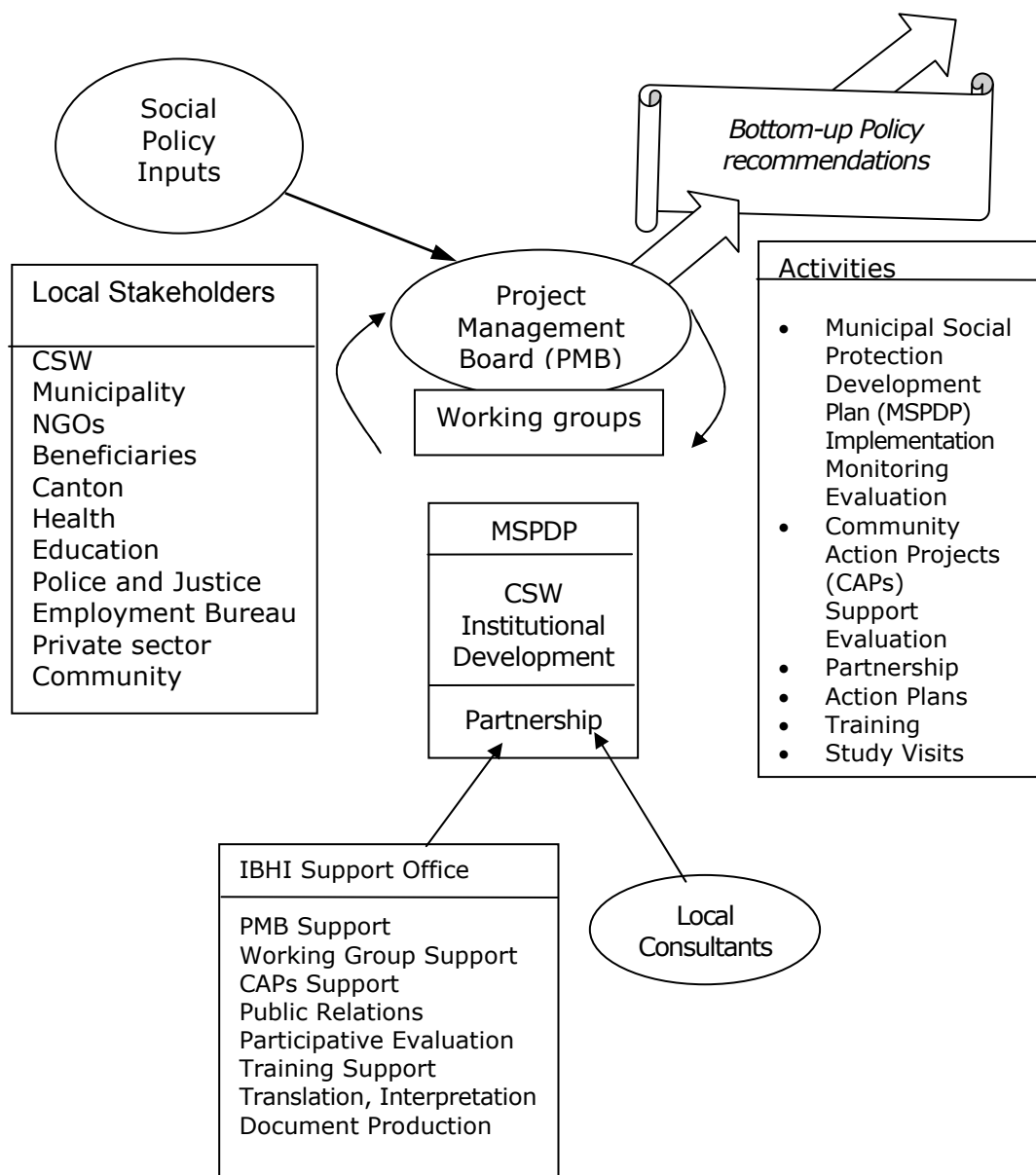


**Figure 3: Reforming the Systems and Structures of Central and Local Social Policy Regimes**

**Municipal Structures**





## **Reconstruction National Integrity System Survey in Bosnia and Herzegovina**

### **Report Authors**

Omer Čar, dr Žarko Papić  
Independent Bureau for Humanitarian Issues (IBHI-BiH)

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## **The National Integrity System**

The National Integrity System (NIS) approach was developed by Jeremy Pope to understand the weaknesses of state institutions and the failings of previous reform initiatives by asking about corruption from a number of perspectives: the causes of corruption; the relationships of the Executive to other state institutions; key areas where corruption occurs or where democratisation is constrained; those institutions or areas with a role to play in promoting reform and democratisation, and for dealing with corruption; progress with government strategy and donor anti-corruption initiatives; and the relative strengths and weaknesses of these institutions or areas on an individual and collective basis to ensure their own capacity to be free from corruption ('corruption-proofing') as well as to promote a more integrated approach to dealing with corruption.

The Reconstruction NIS (RNIS) takes the approach further by using it to assess post-conflict countries as they rebuild the state and move toward democratisation. The RNIS provides a framework through which to assess the impact and legacies of conflict, the multiple political and institutional issues, and the role of donors, not only generally in terms of reconstruction, anti-corruption development, and priorities but also in terms of the often complex and continuing issues of power, corruption and democratisation.

The RNIS country studies worked to a common template, requiring a country overview and corruption profile, supported by evidence of patterns, levels and causes of corruption. This approach requires discussions of the steps taken by institutions and key areas – usually the executive; legislature; elections/political party funding; audit; judiciary; civil service; police and prosecutors; public procurement; ombudsman; investigative/watchdog agencies; media; civil society; regional and local government – to prevent corruption as well as

information on the effectiveness of such steps and the relations between institutions, and on issues such as political penetration of institutions, legacies from previous regimes, the role of donors in supporting and cooperating on the reform process in general and anti-corruption in particular, and the politicisation of donor-friendly reforms such as decentralisation and democratisation.

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## **1. EXECUTIVE SUMMARY**

The study focuses on the issue of integrity in the context of post-war reconstruction of Bosnia and Herzegovina (BiH). It is an attempt to analyse and examine the role of international and local actors in developing integrity pillars (i.e. legislative, executive and judicial branch, the media, civil society and so on). The study also provides for an evaluation of the extent of which each of the integrity reforms have been successful.

There are two underlying stories that emerge from the study and are important for understanding the evolution of the BiH National Integrity System. The first is that of a focus on the speedy implementation of a massive reconstruction process in the early post-war period (1996-1999), that is paralleled by an emphasis on speedy economic reforms, which seem to have come at the expense of institutions and systems that are needed to ensure the integrity sustainability of the reconstruction process. Most of the reforms designed to strengthen the National Integrity System were started well after much of donor money had already been dispensed with for the purpose of post-war reconstruction. The second important aspect is that of, what appears to be, a conflict between the goals of post-war-reconstruction and that of a democratisation process as envisaged by the international community during this period. Namely, the manner by which the international community engaged in the implementation of the reconstruction programme was inadvertently and simultaneously aiding the system of governance it was ultimately hoping to do away with. This has ultimately led to significant frustration and a heavy handed approach to state building via use of the, so called, Bonn Powers (i.e Office of High Representative's (OHR's) drive to bypass the political process by imposing legislation and sacking public officials in an unsystematic fashion), which in turn opened up new dilemmas and led to a crisis of democracy of sorts. This era however seems to have come to an end as one can now observe glimpses of a transition process that is

underway, namely one in which the post-war protectorate is being phased out and substituted by the EU integration process. Yet, the overall governance process is still shaped by the inability of the ruling political establishment to resolve major issues without resorting to a crisis-like political conflict that still continues to be defined by unwavering aspirations of the Serbs and their political representatives to protect the integrity of Republika Srpska even at the cost of Bosnia's future in the EU. This is best exemplified by the recent failures to redefine the country's constitution and agree on the terms of police reform, currently a key sticking point in the country's aspirations to join the EU.

In terms of the quality and strength of individual integrity pillars there are degrees of difference between them, which in some instances are quite prominent. The most successful reform story is the media reform in light of it having significantly undermined the political grip on the media. The success has been guaranteed by an early recognition of the problem (media reform was initiated as early as 1997) and the establishment of an effective and implementable regulatory framework which to this day continues to ensure media integrity and has been highly conducive to the overall peace process efforts. Today the media remains fairly uninhibited in its efforts to bring public attention to the potential and alleged cases of corruption. Other pillars have also had their share of success in strengthening and contributing towards the NIS success including the Central Election Commission and the Supreme Audit Institution.

At the other end of the spectrum, however, stands the *civil service* reform, which has been amongst the last donor initiated integrity reforms and arguably the least successful. Very little good has come from this reform beyond having merely formalized the application procedures for those willing to enter the civil service. An outsider applying for a civil service job stands little chance of being hired in spite of a seemingly rigorous application procedure. What usually happens is that those with connections get test questions before their

competition and therefore have a considerable and undue advantage. Moreover, the tests are designed in such a manner which tests only a candidate's bureaucratic propensity rather than skills that may be integral to a particular civil service post. One of the key sticking points seems to be inability of civil servants to achieve career progress through existing procedures which prompts them to seek ways to 'dodge the system'. All in all, the reform has had a negligible effect on the civil service culture in BiH and thus requires a further reform agenda in the context of the country's EU integration efforts.

What seems to be key to the Bosnian experiment is whether an institution imposed from the outside can gain legitimacy over time. Certain institutions such as the Electoral Commission, the High Judicial and Prosecutorial Council and the Communication Regulatory Agency seem to suggest that this is indeed possible.

## **2. COUNTRY OVERVIEW**

### **2.1 Current Overview**

The Constitution of Bosnia and Herzegovina is set forth in Annex 4 of the Dayton Peace Agreement (DPA), a document which was signed in Dayton (USA) in order to end the 1992-95 war in the country and form basis for post-war nation-building and reconciliation between the warring parties. DPA effectively defines BiH as a state of three constituent peoples - Bosniaks (Muslims), Serbs and Croats and as a loose union of two entities, namely Croat and Bosniak run *Federation of BiH* and Serb run *Republika Srpska*, both of which have significant autonomy over how affairs are conducted on their respective territories.

The two entities are structured in quite a different manner. The Federation BiH which covers 51% of the country's territory is divided into 10 Cantons. These cantons have their own governments and parliaments. Three remain under the control of Croat majority, while five are under the control of Bosniaks.

The remaining two for a while enjoyed a special status in the sense that Croat and Bosniaks in them had separate and parallel structures of governance. The Federation is further broken down into 82 municipalities.

In contrast the Serb entity of Republika Srpska is fairly centralized with no intermediate levels of governance between the central entity level and municipalities. There are 62 municipalities in Republika Srpska which cover the remaining 49 % of the country's territory.

In addition to the two entities, there is also the District of Brčko a single administrative unit of local self-government existing under the sovereignty of BiH and under the tight supervision of the OHR.

Both entities have judicial, legislative and executive branches of government. In the Federation BiH the ten Cantons also have all three branches of government.

The top echelon of BiH government, namely the so called Common Institutions of BiH is accorded with limited powers under the DPA and their authority in essence is not to extend beyond the issue of foreign policy, foreign trade, customs and monetary policy. This however has changed over time as a result of intense donor pressure and now BiH Institutions are also responsible for defence, intelligence, state border control and the collection and administration of indirect taxes among others. BiH Institutions consist of a tripartite Presidency (with a member from each ethnic group) and Council of Ministers (with a series of ethnically balanced Ministries and Agencies whose work it supervises). In addition there are two courts at this level of government, namely the Constitutional and BiH Court.

In order to protect the interests of the three groups, the BiH Institutions are organized ethnically therefore guaranteeing representation to all three sides and including the protection of national vital interests.

One notable aspect of the Dayton Peace Agreement is that it accords significant powers to the Office of High Representative (OHR). This institution acts on behalf of the Peace Implementation Council (PIC), a body of 55 donor nations and international organizations formed to take charge of overseeing the post-war nation-building effort. These powers were increased over time so that the High Representative became the country's supreme authority with sweeping powers including the power to bypass and overrule local parliaments, impose legislation and sack government officials *as he saw fit*. These powers were granted to the High Representative by the PIC in December of 1997. They are generally recognised as 'Bonn Powers'. The use of the Bonn Powers has evolved over time. At first, Bonn Powers were resorted to:

put together the most fundamental building blocks of a state; identity symbols and integrationist legislation of the state, (such as the citizenship law, the flag, the national anthem, currency, licence plate etc) and to dismiss from office local officials who blocked the return of refugees or the aforementioned reforms. From 2000 and onwards, the trend towards using the High Representative's mandate on other reform areas became more visible, as decisions targeted the setting up of new state institutions (i.e. State Border Service) and reforming the socio-economic environment (reforms on wage taxes, privatisation, payment systems etc.). The individuals removed from office were no longer mostly community-level officers, but included politicians who were obstructing economic and media reforms and privatisation. The 2001 clamp-down on the initiative for a third Croat entity is also an important milestone illustrating the use of the Bonn Powers as an instrument for maintaining the constitutional basis and balance of the DPA. The Croat member of the BiH Presidency, Ante Jelavić, was removed from office for promoting a separate Croat Entity along the lines

of the war-time Croat mini-state inside BiH. At the same time, the financial heart of the self-government movement, the Hercegovačka Banka, was put under international administration. (Lexau, 2004, p.5)

From 2002 the then newly appointed High Representative Lord Paddy Ashdown initiated the process of introducing:

new standards for "political responsibility" with the 2002 dismissal of the FBiH Finance Minister. The reason for removing someone from a public position was no longer obstructionism of the DPA, but violation of European standards of ethics and failure to maintain the confidence of the general public. (ibid., p.5)

The change in the nature of international involvement in the process of post-war state building is perhaps best illustrated by the increase in the number of decisions passed by the High Representative over time:

#### **HR Decisions 1997.12-2003.1**

|                     | <b>1997</b> | <b>1998</b> | <b>1999</b> | <b>2000</b> | <b>2001</b> | <b>2002</b> | <b>2003</b> | <b>Total</b> |
|---------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| <i>Total</i>        | 1           | 31          | 92          | 86          | 54          | 153         | 1           | 418          |
| <i>o/w economic</i> |             |             |             |             | 5           | 15          |             |              |

|                       | <b>Bildt</b> | <b>Westendorp</b> | <b>Petritsch</b> | <b>Ashdown</b> |
|-----------------------|--------------|-------------------|------------------|----------------|
| <i>Total</i>          | 0            | 76                | 250              | 96             |
| <i>Ave. per month</i> | 0            | 4                 | 12               | 14             |

Source: ESI, 2006

However, the era of authoritarian rule of the High Representative seems to have come to an end. On his departure in the beginning of 2006 Ashdown pardoned a fair many of the previously sacked officials. On the other hand the new High Representative Christian Schwartz Schilling has pledged not to resort to Bonn Powers<sup>93</sup> for the duration of his mandate, which too is about to come to an end, in all likelihood, during the course of 2007. The final decision regarding the forthcoming closure of the OHR is anticipated in February of 2007. However, any decision is likely to be influenced by Ahtisary's recommendations regarding the future status of Kosovo and the manner in which these recommendations will resonate with the Serb population in Bosnia and their politicians.

## **2.2 Conflict Context**

### **The War**

In Bosnia both politics and economics go along ethnic lines and it has been so for the past 15 years. The three major ethnic groups, namely Bosniaks, Croats and Serbs and their respective political parties, pursue quite different agendas concerning the future of Bosnia and Herzegovina.

After the first democratic elections in 1990 HDZ, SDA and SDS, parties representing Croat, Bosniak and Serb ethnic groups respectively, took to power and immediately started to quarrel over what the future of Bosnia should look like. Disagreements were facilitated by a hostile environment in SFR Yugoslavia in general and the inability of its constituent republics and their representatives to reach a political agreement on the future of the state, prompting Croatia and Slovenia to declare their independence.

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<sup>93</sup> See "I won't impose laws" article in *Nezavisne Novine*, February 6, 2006. Available from: [http://www.esiweb.org/pdf/esi\\_bosnia\\_press\\_10.pdf](http://www.esiweb.org/pdf/esi_bosnia_press_10.pdf)

Subsequently, in 1992 when SDA and HDZ called for a referendum on independence from what had been left of Yugoslavia<sup>94</sup>, the SDS and the Serbs refused to take part and were prepared to use all means necessary to make sure no independent country of Bosnia and Herzegovina could emerge.

Following the results of the referendum in which almost all Bosniaks and Croats voted in favor of independence, Bosnia and Herzegovina was internationally recognized as an independent country in March of 1992. SDS with the aid of JNA (Yugoslav National Army<sup>95</sup>) whose troops had already amassed in order to prevent such an outcome moved on to fulfil the stern warning made by the then SDS President Radovan Karadzic, who had promised physical obliteration of the Bosniak population if they were to push for the country's independence.

Serb forces aided by the Yugoslav National Army outgunned Bosniaks and Croats by a vast margin and quickly took over around 70 percent of the country, engaging in ethnic cleansing and genocide. The atrocities reached their climax when some 8,000 Bosniak men and boys from Srebrenica, a small enclave in eastern part of the country, were executed following their surrender to the Serb forces in the summer of 1995.<sup>96</sup> This in turn provoked Western nations into action. NATO bombed Serb military positions and installations, forcing them to the negotiating table. NATO intervention was followed by the peace negotiations which culminated in the signing of the Peace Agreement in Dayton which marked the end of the war. Although the representatives of Bosniaks, Serbs, and Croats

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<sup>94</sup> By then Slovenia and Croatia had already seceded from Yugoslavia, while Macedonia was also contemplating on doing so.

<sup>95</sup> This was no longer a multiethnic force but one where only Serbs were taking part. Croats and Bosniaks refused service in the army after the JNA attacked Slovenia and Croatia.

<sup>96</sup> In 1993 Croats and Bosniaks also engaged in a mini war. The war is said to be the result of a deal between Slobodan Milosevic, the then president of Serbia and Croatian President Franjo Tudjman who were keen to carve out and annex the parts of Bosnia and Herzegovina controlled by Serb and Croat forces, leaving a small enclave in central Bosnia to Bosniaks.

were ultimately the signatories on the Dayton Peace Agreement, each again, and to a different degree, continued to pursue their own vision of what Bosnia should and should not look like. This time round instead of military force, a variety of political and economic means were resorted to in order to ensure a beneficial outcome for their respective ethnic communities.

This ultimately would have completely eliminated the prospect of Bosnia becoming a viable state were it not for the large presence of international institutions, both military and civilian, who took an active part in ensuring peace and order while at the same time attempting to facilitate Bosnia's transformation into a viable democracy and market-economy. Yet the resultant pervasive involvement of the international community in the internal affairs of the country has brought about problems of its own. Some of these problems, including the lack of vision, coordination and coherence on the part of the donor community, have been brought to light during the course of numerous post-war reforms. These issues will be explored in more detail in the following sections.

### **Costs of Conflict**

The consequences of the war in BiH are vast and incalculable. Reliable data still do not exist about the measurable consequences and no one dares estimate the immeasurable ones.<sup>97</sup> The data that follow pertain to the end of 1998. In the meantime, no significant changes regarding these basic data have taken place.

Estimates of the number of dead and missing persons range from around 100,000 to 258,000 (the higher number is approximately equal to 5.9% of the pre-war population).<sup>98</sup> Other estimates are that the dead and missing, counting also

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<sup>97</sup> For more information see: UNDP *Human Development Report (HDR) (1998)*.

<sup>98</sup> According to FBiH Public Health Institute estimate.

the increase in mortality rate, number 269,800 inhabitants (of which 152,900 were Bosniaks, 72,350 Serbs, 31,060 Croats and 13,500 were of other origin).<sup>99</sup> According to the State Commission for Missing Persons, 27,371 persons have been declared missing to date. The International Red Cross estimates that 19,000 persons are missing.<sup>100</sup>

During the war, 1995 was the peak year in terms of the sheer number of displaced persons when they numbered 1,282,000. By 1998 the number had decreased gradually to 816,000.<sup>101</sup>

There were 1.2 million refugees from BiH at the end of the war. Now it is estimated that 712,555 of the total number of refugees have found permanent solutions abroad and that 611,969 refugees are still without a permanent solution and are potential returnees.<sup>102</sup> Approximately 50% of the 1991 population of BiH has changed their place of residence.

In addition, the economy was essentially brought to the point of total collapse. The precise extent of the physical damage is difficult to obtain, and estimates have been wide ranging, from as low as 15 billion to as much as 100 billion US Dollars.<sup>103</sup> Ultimately the rapid decline in the level of industrial production over the course of the three years of war, which had by 1995

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<sup>99</sup> According to estimates from an unpublished study by Dr. Ilijas Bošnjović and a group of researchers, *Demographic Changes in Bosnia-Herzegovina from 1991 to 1998*. See also the Forum Bosnae's, (1999): *Return of Displaced Persons and Refugees as a Condition for the Survival of Bosnia-Herzegovina*.

<sup>100</sup> See: Helsinki Committee for Human Rights in BiH, *Report on the Human Rights Situation in BiH, January-December 1998*, Sarajevo, December 1998.

<sup>101</sup> See: UNHCR, *The State of the World's Refugees*, 1995, and UNHCR, *The Operation of Return 1998*, 1998.

<sup>102</sup> See: UNHCR, *The State of the World's Refugees Seeking Asylum*, 1995, and UNHCR, *Populations of Concern to UNHCR - 1997 Statistical Overview*, 1998.

<sup>103</sup> See for example: UNDP, *Reconstruction, Reform and Economic Management in Bosnia-Herzegovina*, Vienna, January 1997.

dwindled to less than 5% of the level recorded in 1990, provides for a telling story<sup>104</sup>.

Indirect effects, such as the destruction of the governance system, the interruption of economic development, education and development of technology, as well as the "brain drain", although immeasurable, are undoubtedly colossal.

Destruction of society, social ties, tolerance and coexistence, the breakdown of families and small communities and the general collapse of social values and normal life are the most enduring consequences of the war, which cannot be mitigated in a short time. It has been almost 12 years now since the war ended and the country's post-war experience speaks volumes, showing just how much more difficult it is to reconstruct the social fabric than rebuild the bridges and roads.

### **Corruption and Conflict**

A consequence of war (or rather, the nature of the peace agreement) is also a very specific structure of governance. The general problem of weak and inefficient State institutions in ex-socialist countries is greatly amplified in BiH. During the war, there was practically no legal system in any part of the territory in BiH. Warlords had complete power over smaller or bigger territories under their control. Those were ideal conditions for criminality as a normal way of behaviour. Participants were, with often a leading role, warlords and political or military top officials. It is about a phenomenon that is much worse than corruption in the usual sense; it is about "legalized" organized crime.

A significant source of it was aid arriving from abroad for the Army BiH, the Military of RS and the Croatian Council of Defence (HVO). Mostly, it was trafficked through personal channels without any control.

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<sup>104</sup> See World Bank and EBRD (1995, p. 41).

At the same time, in the condition of siege (as it was with the capital, Sarajevo) with a veto on weapons supply and a lack of food, the black market was the most frequent type of market. Informal networks formed at that time continued to function after the war. They are the basis and generator for the corruption today in BiH.

The international arms embargo and other sanctions, together with the siege conditions in much of the country, created a particularly lucrative market in smuggling of arms, fuel, foodstuffs etc, including between the warring parties. Local commanders/war lords used smuggling to finance their military activities and enrich themselves. In some cases (e.g., the Croats), this made the logistical wing of the military particularly powerful, because it controlled financing. Following the lifting of sanctions, some of these networks mutated into organised smuggling rings, with the proceeds used to fund political parties and other illegal activities, such as sheltering of war criminals. Thus, the nature of the war economy helped to shape the corruption problem in the post-war period.

### **Consequences of Conflict**

As previously mentioned, much of the power in the immediate aftermath of the war continued to rest in the hands of the three ethnic based parties, namely the Bosniak SDA, Croat HDZ and Serb SDS. Their power, as Cox (2001, p.7) notes, did not rest on formal constitutional design but rather on "the redistribution of the spoils of war, in the form of scarce public-sector employment, housing, or invalids' and veterans' benefits (which were) used to buy political support from key constituencies".

The three parties pretty much exercised direct control over all the branches of government and hence, given that most of the enterprises were still state owned, much of Bosnia's economic life. These power dynamics were not given much attention in the early post-war period as the donor community was mostly concerned by the task of managing a 60,000 strong and NATO-

led Implementation Force (IFOR) in order to keep peace in the country. Moreover, the need for an institution building agenda was further clouded by the challenge of having to implement a more than US\$5 billion aid package in order to rebuild much of the devastated infrastructure and allow for large-scale refugee return within a short period of time. As Cox (2001) further notes the World Bank, the lead coordinator of the post-war reconstruction programme entered Bosnia in a "post-natural-disaster" mode which left little space for addressing the issue of institutional building allowing the ethnic *nomenclature* to consolidate their power:

In order to carry out urgent reconstruction in the post-conflict environment, the international agencies tended to bypass the new constitutional structures and deal directly with whichever local authorities had direct control over the physical infrastructure. Aid was disbursed at local level by implementing agencies, or via municipal, cantonal or entity authorities. This enabled local warlords and separate ethnic power structures to benefit from the reconstruction program – both materially, through control of construction companies and the provision of goods and services to international reconstruction agencies, and politically, by being able to nominate the beneficiaries of international aid....During this phase, whenever the international community needed to address a political problem, it demanded action directly of the nationalist parties, ignoring the proper constitutional channels and reinforcing the parallel structures. The containment and reconstruction phase was therefore one of consolidation for the wartime regimes, with international programmes carried out in such a way that there was no financial or political cost to obstruction of the state-building process. (ibid, pp. 11-12)

What institution building measures were implemented during this period essentially focused on the establishment of a basic legal framework in order to initiate the development of the key attributes of a functioning and democratic state such as holding democratic elections, engaging in media reform, establishing central state institutions including the Council of Ministers and the Central Bank and making sure that BiH was in the position to fulfil its international obligations.

The fact that much of the wealth and power rested in the hands of HDZ, SDA and SDS and their cronies was not perceived to pose a serious obstacle for creating a viable state. The prevailing consensus among the international community was that holding democratic elections would drive them out power and bring in more benign political forces. As this failed to materialize after the first couple of election rounds the international community took a u-turn in its approach by deciding to interfere more directly with the country's political process. This was done through resorting to so called "Bonn Powers"<sup>105</sup>, the use of which by the High Representative became quite pervasive over time and especially immediately after the general elections in 2000 when the High Representative:

Imposed 38 laws and binding decisions on an ever-expanding range of subjects, from privatization to travel documents to witness protection. This compares to 45 laws imposed by the former High Representative Carlos Westendorp over his entire two-year term, showing the rapid acceleration of international involvement. Over the same period, OHR dismissed eight public officials, including a

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<sup>105</sup> Powers given to the High Representative by the Peace Implementation Council in December of 1998, including the power to impose legislation and sack elected officials as the High Representative sees fit.

member of the presidency and a former prime minister. (ESI, 2001, p.4)<sup>106</sup>

In this period international representatives started to assume:

an increasingly assertive role in domestic politics, brokering new governments at State and Federation level and setting the initiative in economic affairs, from approving budgets, restructuring pension funds and reforming the payments system, down to ordering audits of particular companies and investigating individual allegations of corruption. (ESI, 2001, p.4)<sup>107</sup>

A number of new government institutions were established during this period and in many instances as a result of direct or indirect involvement of the OHR and other international agencies. Amongst the first institutions to be established was the Independent Media Commission with a mandate to regulate editorial and technical aspects of electronic media. The most important reason behind its creation was to limit the spread of hatred through the media and the influence which radical nationalists might have on the electronic media outlets. Just before its creation in 1998 the High Representative was given powers to suspend media which were considered to be in violation of the Dayton Peace Agreement.

In 2000 OHR and other international agencies began changing the structure of the country's financial system. A key outcome of the reform was an elimination of the Payment Bureaux<sup>108</sup>

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<sup>106</sup> Reshaping international priorities in Bosnia and Herzegovina, Part Three The end of the nationalist regimes and the future of the Bosnian state 22 March 2001. Available at: [http://www.esiweb.org/pdf/esi\\_document\\_id\\_14.pdf](http://www.esiweb.org/pdf/esi_document_id_14.pdf)

<sup>107</sup> Reshaping international priorities in Bosnia and Herzegovina, Part Three The end of the nationalist regimes and the future of the Bosnian state 22 March 2001. Available at: [http://www.esiweb.org/pdf/esi\\_document\\_id\\_14.pdf](http://www.esiweb.org/pdf/esi_document_id_14.pdf)

<sup>108</sup> Institutions which used to exercise a complete control over financial transfers in former Yugoslavia and were essential performing the same function in postwar Bosnia and Herzegovina.

system and, in its stead, the creation of treasury departments within Ministries of Finance at all levels of BiH government.<sup>109</sup> One of the important reasons for this reform was a deep suspicion that the Payment Bureaux were used to illegally fund political parties but also a prevalent belief on the part of the international community that these institutions were a major hindrance for the development of a sound commercial banking system. Year 2001 marked the beginning of a range of reforms which resulted in the establishment of supreme audit institutions, civil service agencies and perhaps the most contentious of all reforms, an attempt by the international community to establish an independent judicial system. These reforms and their effects are discussed in greater detail in Chapters 6 and 7.

### **The Donors and Funding**

There are no reliable official figures on the overall amount of donor spending in Bosnia to date. What figures are readily available concern some of the largest multilateral and bilateral donors, namely the European Union, World Bank, USAID and SIDA. The cost of Organization for Security and Co-operation in Europe's (OSCE's) mission to BiH is presented in section 6.3.

### **European Union**

Almost €2.5 billion of European Community funds have been committed to Bosnia and Herzegovina since 1991. From 1991 to 2000 humanitarian assistance provided by ECHO, the European Commission's Humanitarian Aid Office, totalled €1.032 billion. In the period 1996 - 2000 Bosnia and Herzegovina received assistance under the OBNOVA and Phare programmes amounting to €890.7 million. In addition the EU member states

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<sup>109</sup> For more information regarding the Payment Bureaux reform see: USAID, 'Payments Bureaus in Bosnia and Herzegovina: Obstacles to development and a strategy for orderly transformations', Sarajevo, 15 February 1999.

contributed over €1.8 billion in assistance between 1996 and the end of 2001.<sup>110</sup> Basic areas of support included:

- Reconstruction of infrastructure
- Return of refugees and displaced persons
- Democratization, social cohesion and development
- Institutional building
- Economic regeneration
- Creating a market economy and a vibrant private sector
- Poverty alleviation through local development measures
- Co-operation with the European Investment Bank
- Humanitarian assistance

In 2001 the European Commission adopted a Country Strategy for BiH which covers the period 2002-2006 and provides a framework for EU assistance. Since 2001 assistance of more than €240 million has been committed under the CARDS (Community Assistance for Reconstruction, Development and Stabilization) Programme, supporting BiH's participation in the Stabilization and Association Process.

In 2002, the Government of Bosnia and Herzegovina and the EC agreed on the [Country Strategy for BiH 2002 - 2006](#). €195 million was earmarked for the first three years 2002 - 2004. The focus was on the following five key areas:

- Democratic stabilization
- Administrative capacity building
- Economic and social development

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<sup>110</sup> See: D. Smith, C. Weltzien, N. Vujočević, "Evaluation of EC-financed support to Economic Regeneration in BiH 1996-2003, Final Report, for EC Delegation to BiH; Global Partners for Economic Development, July 30, 2004. General facts and figures on the EU spending in Bosnia and Herzegovina can also be obtained from [www.delbih.cec.eu.int](http://www.delbih.cec.eu.int)

- Environment and natural resources
- Justice and home affairs

Funding is now mainly provided through the *CARDS* programme (successor to Phare and OBNOVA), which is supplemented with Macro-financial assistance and financial support from other Community budget lines (e.g. European Initiative for Democracy and Human Rights, LIFE – Third countries).

## **World Bank**

Since 1996, the World Bank has committed a total of US\$ 1.1 billion to BiH through 53 projects – more than for any other post-conflict country to date on a per capita basis. Most of these funds have been provided through IDA “soft” loans. In addition to an active portfolio of over \$300 million, the new World Bank Country Assistance Strategy (CAS) for BiH, adopted in September 2004, provides additional \$35 million annually to support the implementation of the country’s 2005-07 Medium-Term Development Strategy (MTDS). Other agencies from the World Bank Group also contributed to the reconstruction and development process in BiH as follows:

- “The International Finance Corporation (IFC) fosters economic growth by financing private sector investments with its own resources, without government guarantees. Since 1997, IFC in BH has so far invested nearly US\$71 million through 12 investment and 25 technical assistance projects.
- Foreign Investment Advisory Service (FIAS), an IFC affiliate, has completed a study on Commercial Legal Framework and Administrative Barriers to Investment in BiH.<sup>111</sup> IFC also assists the small and medium enterprises

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<sup>111</sup> The study is available at:

[http://www.fias.net/ifcext/fias.nsf/AttachmentsByTitle/FIAS\\_Resources\\_Bosnia\\_and\\_Herzegovina\\_MThomas/\\$FILE/Bosnia+&+Herzegovina-](http://www.fias.net/ifcext/fias.nsf/AttachmentsByTitle/FIAS_Resources_Bosnia_and_Herzegovina_MThomas/$FILE/Bosnia+&+Herzegovina-)

in the region through a US\$25 million multi-donor South East Europe Enterprise Development (SEED) initiative, by providing small and medium enterprises with investment advisory services and capacity building programs.

- The Multilateral Investment Guarantee Agency (MIGA), which promotes foreign direct investment flows by providing guarantees and/or investment marketing services, has provided companies with guarantees worth US\$63 million, thus sending a signal to the international community that BiH is a viable place to do business”.<sup>112</sup>

The Country Assistance Strategy (CAS) for BiH builds on previous CASs and lays out three overarching objectives to be pursued from 2004-2007:

- To create conditions for sustainable and balanced economic development, and achieve partial creditworthiness in the international capital markets;
- To reduce poverty by one fifth; and
- To accelerate EU integration.

This CAS supports the country's Medium Term Development Strategy (MTDS/PRSP) priorities, by focusing on three mutually reinforcing pillars: a) improving public finance and strengthening institutions; b) promoting sustainable private sector-led growth; and c) investing in key, social and economic infrastructure.

## **USAID**

The US is the largest bilateral donor and its \$890 million in assistance from 1996 to 2000 had two principal objectives:

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[+Commercial+Legal+Framework+&+Admin.+Barriers+-+MThomas++Oct+2001.pdf](#)

<sup>112</sup> WB official, written answer on the question from an interview. More details available at WB web site: [www.worldbank.org](http://www.worldbank.org)

- Repair war-damaged infrastructure to facilitate minority refugee and IDP returns and recreate multi-ethnic communities, and
- jump start the private sector in the face of a collapsed banking system by injecting liquidity and assisting small and medium enterprises.

Under its 2001-2005 Strategic Plan, USAID provided another \$200 million for three strategic objectives that: supported minority returns; assisted economic restructuring; and aided in building democratic institutions.

USAID's strategy for assisting Bosnia and Herzegovina beginning with 2006 builds on the assistance USAID and other donors have provided and on the progress the country has made over the past decade. The assistance strategy will formally move beyond its post-conflict reconstruction character and focus on BiH's current need to deepen economic reform, strengthen its institutions for democracy and governance, and build a viable state. The implementation of the current strategy has, in fact, already evolved from post-conflict assistance toward transformational development.

The USAID program directly supports the overriding U.S foreign policy interest in BiH as defined in the U.S. Government's Mission Performance Plan, which is to change this multi-ethnic country from a source of regional instability to a peaceful, viable state on the road to European integration.

USAID will continue to assist in the following basic areas. It is helping to reform the BiH governance system from one designed to make a patchwork country of estranged peoples into one where state and local level institutions operate like a modern democracy. It is helping to establish the rule of law to ensure fair and transparent judicial processes and the protection of human and property rights. And it is promoting economic growth by improving the environment for private investment in small and medium enterprises, and by increasing incomes,

competitiveness, and employment. USAID is also strengthening the BiH government's capacity to combat trafficking in persons, a USG priority. The Mission's work to restructure the power sector supports the US Presidential Initiative for Global Climate Change. The strategy will work to build on the current stable economic situation and support the development of a longer term effort that aims at EU accession. It will also take into account the fact that, as well as addressing transformational problems, the USAID program will focus on reducing and eliminating weaknesses at the core of BiH's fragility – the governance structure<sup>113</sup>.

## **SIDA**

In addition to humanitarian aid provided during the war, Sweden has disbursed 143 million EUR in Bosnia and Herzegovina since 1996. Sweden's estimated contribution to the multilateral EU programmes (OBNOVA and CARDS) for the period 1995–2001 amounted to approximately 53.5 million EUR.

Swedish support for Bosnia and Herzegovina, initially in the form of humanitarian aid, dates back to 1992. Consignments of food and sanitary supplies were supplemented in 1993 by attempted reconstruction projects in central Bosnia and Herzegovina. 1994 saw the introduction of a housing programme for internally displaced persons in Srebrenica, the largest project then being implemented in the enclave.

Following the signing of the peace agreement in December 1995, Swedish development assistance was redirected to projects aimed at reconstruction in the private housing sector. In collaboration with its co-operation partners, SIDA developed a model for reconstruction, the Integrated Area Programmes (IAP). These programmes are not only concerned with rebuilding but also address the restoration of essential

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<sup>113</sup> For more details see: *Strategy Statement-USAID Bosnia and Herzegovina (Revised 11/21/05)*. Available at: [www.usaid.ba](http://www.usaid.ba)

infrastructure (water supply systems, electricity, landmine clearance and, in some cases, schools), as well as measures, including agricultural support and micro-credits, aimed stimulating the recovery of the local economy. IAPs remain the largest project funded by Sweden.

Relationships between co-operation partner institutions in Bosnia and Herzegovina are important factors when assessing development co-operation. Sweden has only rarely signed agreements with government institutions, preferring to channel support through international NGOs, Swedish institutions and consultancies. The bodies responsible for implementation are in their turn responsible for dealing with institutions and aid recipients inside the country. There are a number of programmes aimed at boosting institutional capacity in Bosnia and Herzegovina. Examples of these include institution-building projects implemented in collaboration with the government authority responsible for statistics, the National Audit Agency, the Central Police College, the Land Survey Authority and the railway system. Civil society has received extensive support, mainly aimed at strengthening human rights and democracy. Key areas for Swedish support have included independent media, programmes in support of women and gender equality, youth projects and democracy training. City twinning programmes have been less successful. The IAPs have played a significant role in efforts to ensure the sustainable return of refugees, in supporting the economy at local level and in specific reconciliation projects.

As the situation in the Western Balkans returns to normal and stabilises, the character of Swedish support, as well as support through CARDS, will gradually change from the application of large, capital-intensive physical investment linked to for example infrastructure, to efforts aimed at institution building.

## Reconstructing the State

As already mentioned the years that followed the signing of the Dayton Peace Agreement have seen a large influx of foreign aid aimed at nation building. The plethora of international agencies at the forefront of which stood the Office of High Representative, the ultimate interpreter of Bosnia's internationally brokered constitution, had produced immediate success stories. In the first years much of the donor money was directed towards physical reconstruction. Other efforts were taking place in parallel in order to bring about a viable economic recovery, at least according to the Washington Consensus precepts. Almost overnight, Bosnia had domestic currency in circulation backed by a *currency board* arrangement which by and large unified the monetary space of the country thus ending the dominance of the Deutsch Mark, BH Dinar, Croatian Kuna and Yugoslav Dinar, prevalent means of tender during wartime. Although the Central Bank and its IMF appointed governor did not have much discretion in managing the money supply<sup>114</sup> and could not act as a lender of last resort, the currency board arrangement served as an integrating factor in a highly divided society (UNDP, 2002). According to the World Bank, one of the key architects of Bosnia's post-war economic policies, speed was of the essence, as the country was perceived as trailing significantly behind other countries in the region. So in terms of privatization policy, another cornerstone of post-war reform effort, it noted:

"...the rapid pace at which the rest of the world privatized during Bosnia and Herzegovina's civil war places a high priority and a short time-frame on privatization work." (World Bank, 1997, p.42)

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<sup>114</sup> The only discretion it has is over the rate of required level of reserves in the commercial banks.

Moreover, the implementation of property legislation designed to return property to its pre-war owners (primarily relating to the houses and apartments belonging to their pre-war occupants) was fully completed by the end of 2002. This only refers to the return of residential property, which, following ethnic cleansing, was relatively quick and successful. Privatisation of socially owned enterprises, through sale or liquidation, has been extremely complex and slow, contrary to the World Bank's and other donors' advice and expectations.

However, the bottom line of these post-war policies is that the means of livelihood for much of Bosnia's population could not be restored with ease and in many instances not at all. A recent study provides for a vivid illustration of the degree of deindustrialization that has taken hold on the Bosnian economy:

Nine years after the end of the war, the former mainstays of Bosnian industry have not recovered. Very little secondary wood processing takes place in Bosnia, and the timber industry is reduced to export of logs. Agro-processing is severely limited by overcapacity in old facilities such as dairies, and by a shortage of domestic agricultural produce. The chemical industry has largely collapsed. Textiles and leatherworking, sectors developed in the 1970s to boost employment in the rural areas and among women, have been rendered largely uncompetitive by Bosnia's high wage costs. Metalworking, previously centred on military production, is in deep crisis. The big names of Bosnia's industrial history - Energoinvest, Unis, Šipad, Bratstvo - are little more than hollow shells, whose decline has continued throughout privatization process. (ESI, 2004, p.20)

In addition to the 'swift economic' reforms the international community has also been extensively engaged in the process of 'instant democratization' as holding frequent elections was hoped to phase the nationalists out of power. The nature and

the degree of the inherent conflict between the international community's goals, and the resultant dilemmas are taken up in section 7.

## **Reconstruction Issues**

Many important inroads have been made towards the overall aim of creating a sustainable and democratic society over the course of the last 10 years. The country is fairly safe and the number of peacekeeping troops in the country has declined rapidly over the years. As of this year the three ethnic armies and the entity level ministries have ceased to exist giving way to a single state-level ministry to take care of the merged military forces. In particular, local authorities have conducted several elections and are now in charge of the country's electoral process. What is more, the judiciary mostly operates without political interference. And, according to Reporters without Borders (2006), the country ranks amongst the top 20 in the world when it comes to the freedom of the media (press in particular) beating the likes of the UK, USA and all of the countries in the region. As previously mentioned, the High Representative too has proclaimed that he would refrain from resorting to the "Bonn Powers" except for instances in which peace and security in the country may be in jeopardy therefore allowing democracy to flourish uninterrupted. Yet in spite of all the progress many of the reforms have yet to strike a chord with ordinary citizens many of whom struggle to make ends meet in spite of the fairly high economic growth rate (averaging over five percent in the recent years).

On the other hand, when it comes to the issue of the government's effectiveness and accountability, some 2 years ago the *European Stability Initiative* (ESI) passed the following verdict:

After eighteen months of studying the effectiveness of BiH institutions at different levels of government, our conclusion is that the dominant feature of

government in Bosnia and Herzegovina is its passivity in the face of this social and economic crisis. In the most critical development areas – industrial policy, agriculture, infrastructure development, natural-resource management, education and training, social welfare – we have found a vacuum of credible policies. All too often, government policies in Bosnia and Herzegovina are little more than broad statements of good intentions. They are not based upon hard information, or any real analysis of the problems. They are not developed in consultation with the groups they are supposed to help. They do not affect what public institutions actually do. Nor do they affect the way public money is actually spent. (ESI, 2004)

The verdict remains just as valid today. Moreover, the very character of BiH Constitution continues to pose a major problem absorbing much of the stamina of local politicians. The democratic quality of BiH Constitution which elevates the status of the three ethnic groups at the expense of anyone who may feel differently, has been a subject of a fierce political debate especially during the recent election campaign. The debate has highlighted much of the resentment which majority of Serbs and, to an extent, Croats feel towards the state of Bosnia and Herzegovina, allowing a never ending nationalist rhetoric to yet again decide on the election outcome in spite all the social and economic problems that the majority of BiH citizens continue to face.

### **3. CORRUPTION PROFILE**

The causes of corruption in Bosnia and Herzegovina cannot be easily defined in precise terms. While corruption in many respects existed before the 1992-1995 war, the root causes of corruption in BiH today have much to do with the legacies of the

war-time regimes and also with huge influx of reconstruction funds to an economy collapsed by war and characterised by an extremely weak institutional environment.

As already mentioned war-time smuggling networks managed to persevere during its aftermath often with either blessing, or direct involvement, from individuals in high positions of power. It is now widely recognized that even the most senior government officials took advantage of the war situation in order pursue their interests at the expense of the wider public. A recently published book titled 'State Secret'<sup>115</sup> documents one of the most notorious examples whereby the Minister of Interior of Bosnia and Herzegovina allegedly smuggled truckloads of goods into the besieged capital and the President, who was aware of his actions, did not consider the matter worthy of even a serious reprimand. Such tolerance of supposed criminal behaviour has continued into the years after the end of the war and has mostly transpired through an ill conceived privatisation programme.

The privatisation process is replete with claims of alleged criminal behaviour. Some of the more dubious privatisation cases have been duly responded to. This has been the case with the sale of Holiday Inn hotel in Sarajevo, one of the most prized real-estate assets whose sale had to be overruled after a public outrage. The company was sold afterwards for more than twenty times the price fetched during the first, and crooked, sale. On the other hand, many other suspicious privatisation deals have yet to be dealt with. The most notorious example is that of an aluminium smelter in the city of Mostar. The company was turned over to its Croat workers and management in 1997 in order to make sure that no workers of Bosniak and Serb ethnic background could claim their rights and eventually return to their work place. Many of them had been forced out as a result of ethnic cleansing policies of the wartime Croat mini-

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<sup>115</sup> See Halilović (2006).

state of Herzeg-Bosna.<sup>116</sup> More recent dubious privatisation examples concern a number of banks which after they had originally been sold for symbolic amounts under suspicious circumstances were later resold for enormously larger sums of money.<sup>117</sup>

On the other hand, while focusing solely on the speedy implementation of a massive reconstruction process and certain economic reforms (i.e. privatization) in the early post-war period (1996-1999), the international community was neglecting institutions and systems that are needed to ensure the integrity sustainability of the reconstruction process. A direct corollary of this neglect on the part of the international community is that some of its key economic recovery policies, again privatisation offering most prominent of examples, have been taken hostage by these networks especially during the early post-war period. Consequences of the lack of attention and measures to address integrity issues in the early post-war period are quite evident today as many of the manifestations of social unrest in Bosnia and Herzegovina today, such as frequent hunger strikes and road blockages can, to a degree, be traced to the failure of donor organisations to define and prioritise integrity measures within the post-war reconstruction process.

The international community has eventually learned its lessons and modified its course to a degree by focusing its efforts on a series of institution building measures. The process which began to accelerate in 2000 is beginning to have an impact on the levels of corruption in the country. This is according to a recently completed Business Environment and Enterprise Performance Survey (BEEPS), a joint World Bank and the European Bank for Reconstruction and Development survey of 200 business managers and owners in BiH. Namely, while in 2002 businesses reported about having to pay close to 1 per cent of their total sales to bribe officials, in 2005 this figure was

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<sup>116</sup> For more details regarding this privatisation case see: Pećanin (2007).

<sup>117</sup> See for example article in *Nezavisne Novine* (2005) titled "Kupljena za 1,6 miliona prodana za 50 miliona".

reduced to less than 0.4 percent. According to Anderson and Grey (2006, p.8) the incidence of corruption has also diminished (though it is still quite large) as about 47 per cent of surveyed companies in 2005 cited corruption as a major problem as compared to 2002 when this figure was close to 60%. To put things further in perspective, in this regard Bosnia compares favourably to a group of prospective EU member countries such as Macedonia, Serbia and Montenegro, Romania and even the Czech Republic, a country which has become an EU member and has done quite well during the period of economic transition, however it trails marginally behind other prospective EU members such as Croatia and Bulgaria.

In spite of the progress there is still long way to go before corruption ceases to be a major problem for the business community and wider public in BiH.<sup>118</sup> The following paragraphs provide some insight into where progress has been made, but also identify some of the major areas which have yet to be tackled effectively.

## **4. ANTI-CORRUPTION ACTIVITIES**

### **4.1 Government**

The latest domestic effort to combat corruption comes under the umbrella of the country's Poverty-Reduction-cum-Midterm-Development Strategy. In the policy document, which now is in the process of being revised, it is recognised that corruption is a serious problem and that there are institutional constraints which prevent the problem from being dealt with in a systematic fashion. Therefore the strategy calls for a range of measures such as the establishment of an anticorruption agency, preparation of a detailed action plan, harmonisation of the

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<sup>118</sup> Corruption, to a smaller or larger degree, affects much of BiH society. When it comes to education, for example, a survey of students in the University of Banja Luka in 2005 showed that 11.4 percent of the surveyed students had directly paid bribes either to pass their university entrance exams or the course exams. On this see TI BiH (2005).

relevant legislation as well as the measures to deal with the issue of internal control in the use of public funds to take place.<sup>119</sup>

The fact that the issue of corruption is being addressed by one of the key policy documents in the country is mostly a result of strong pressure from civil society whose representatives were involved in its preparation. This, in itself, is an encouraging sign. On the other hand it must be noted that efforts to combat corruption in Bosnia and Herzegovina to date have barely managed to exit the realm of paper reforms and it remains to be seen what the latest effort will produce. Just to illustrate briefly, the issue of establishing an anti-corruption agency has been on the government's agenda for the past six years and yet no concrete steps have been made to date to address the issue insofar as addressing the problem does not mean only mentioning it in policy documents which never get implemented.

Perhaps the only concrete effort to date to address the issue of corruption was the establishment of an ad hoc Commission by the Federation Parliament in 1997. However the Commission did not have much power. For instance, it could not subpoena any public official for questioning nor order him or her to produce relevant documents. Soon after, the Commission came under a strong pressure from both the representatives of the international community and government officials. For instance, Rory O'Sullivan, the then World Bank Resident Representative was quite vocal in his criticism of some of the Commission's findings asserting that they were groundless.

Where concrete efforts have taken root in terms of establishing institutional prerequisites to fight corruption, they have been either a result of a heavy international pressure or in fact the part and parcel of donor activities in the country.

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<sup>119</sup> p. 37, Mid-Term Development Strategy of B&H 2004-2007 (MTDS), revised document for public discussion.

## 4.2 Donors

The majority of initiatives to fight corruption in post-war Bosnia and Herzegovina have been spawned by international organizations operating in the country.

In 1999, after a number of warnings had been given from various corners of the international community that corruption was a major obstacle for economic development and institutional revival in Bosnia and Herzegovina, a major effort under the umbrella of so called "Comprehensive Anti-corruption Strategy"<sup>120</sup> was mounted in order to limit opportunities for corruption.

The effort was to be spearheaded by OHR's Anti Fraud Unit. The unit itself was formed as a result of the then mounting pressure that something had to be done about the problem. The very fact that the unit was formed epitomised the level of disillusion and distrust on the part of the international community that the domestic institutions were not capable of effectively engaging the problem.

In retrospect, the strategy in itself is very important document for understanding the course and evolution of the anticorruption efforts in Bosnia and Herzegovina. This in light of the fact that most of the subsequent institutional and legal reforms which have taken place over the course of the past six years have in fact been envisaged by this very document.

The document identified four pillars of intervention including education and raising awareness about corruption, elimination of opportunities, ensuring transparency and finally instituting control mechanisms and ensuring that those who are found to be responsible are penalized. It called for institutional reforms in a number of areas, including the establishment of an external

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<sup>120</sup> Available at: [http://www.ohr.int/ohr-dept/afd/ac-cor-strat/?content\\_id=5240](http://www.ohr.int/ohr-dept/afd/ac-cor-strat/?content_id=5240)

audit function, initiation of civil service reform, transformation of the country's financial system and so forth.

The development of this strategy had coincided with the inauguration of the third High Representative, Mr. Wolfgang Petrich who regarded the fight against corruption as a make or break issue for the future of Bosnia and Herzegovina. Just to put things further in perspective, another major event preceded the launch of the anticorruption strategy. An infamous article by Chris Hedges in the *New York Times* which was interpreted as accusing the ruling political establishment of allegedly siphoning off \$1 billion in reconstruction funds ended up stirring emotions left and right prompting Mr. Alija Izetbegovic, the then Chairman of BiH Presidency to sue the journalist and the *New York Times* for false reporting.<sup>121</sup>

It is however indicative to state that the major anticorruption campaign was only launched after about 80 percent of \$5.1 billion pledged by the international community for post-war reconstruction in Bosnia and Herzegovina had already been spent.<sup>122</sup>

## **5. THE NATIONAL INTEGRITY SYSTEM**

### **5.1 Executive**

#### **Background**

BiH's central institutions in the executive branch of BiH Government, are organized so to preserve the principle of ethnic balance and thus protect the interests of the Constituent Peoples. This principle has been inherited from former

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<sup>121</sup> The article was rather misleading, as the \$1 billion was an attempt to estimate lost revenues from inefficient customs administration, rather than stolen reconstruction funds.

<sup>122</sup> Source: OHR Press Release, 18 August 1999. Available at : [www.ohr.int](http://www.ohr.int)

Yugoslavia's system of governance which also emphasized the issue of ethnic quotas. The scope of the central level Executive branch of BiH government is defined in Article V of the Constitution. It includes the Presidency and the Council of Ministers whose scope has been expanded over the years under pressure from the international community (primarily directed towards the RS due to its predilection to oppose the creation of new institutions at the central level).

The Presidency consists of 3 Members, one Bosniak and one Croat, each directly elected from the territory of the Federation and one Serb directly elected from the territory of the Republika Srpska. Elected Members have a four year mandate. They appoint a Chair, which is rotated every 8 months. According to Article V.4.b of the BiH Constitution, the Presidency nominates the Chair of the Council of Ministers (the title has been changed to that of Prime Minister). The incumbent for the position of Prime Minister nominates the Ministers (nominations are usually based on an agreement between political parties which enter into a power-sharing agreement) who are to take office upon the approval of the House of Representatives. According to the Constitution, the Government consists of the Chair of the Council of Ministers (i.e. the Prime Minister), a Foreign Minister, a Minister for Foreign Trade and other Ministers nominated by the Chair as appropriate. A Law on the Council of Ministers (imposed by the OHR in Dec 2002), provides for a non-rotating Chairman for the full mandate of the Assembly. Each minister has a deputy from a different ethnic group. The number of Ministries has gradually increased: the current Government consists of 8 Ministries. Additional increases are currently being debated including the addition of two new ministries, the Ministry of Agriculture and Ministry of Science and Technology.

The Constitution of the Federation (Art. 4 Chapter IV B) states that "the Government of the FBiH (Prime Minister and 16 Ministers) shall be composed of 8 Bosniak, 5 Croat and 3 Serb Ministers. One other Minister may be nominated by the Prime Minister from the quota of the largest constituent people. The

Government shall have a Prime Minister/President of the Government who shall have two Deputy Prime Ministers from different constituent peoples selected from among the Ministers". These provisions are "transitional" until Annex 7 of the Dayton Agreement (on Refugees and Displaced Persons) is "fully implemented"; thereafter "a minimum of 15% of the Members of the Government must come from one constituent people. A minimum 35% of the Members of the Government must come from two constituent peoples, but one Member of the Government must come from the group of the Others". No Deputy should be from the same Constituent People as his/her Minister. This principle, while ensuring equal representation, gives rise to some concern as the Deputy, being from another ethnic group, may well replace his/her Minister in Government meetings, thereby changing the ethnic balance: for this reason Deputies are not allowed to vote in place of their Minister.

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

Institutionalized interactions and relations between State and Entity Levels, as well as between FBiH and Cantons, are only now beginning to emerge, though through a great deal of difficulty. One example is the establishment of National Fiscal

Council with the task to oversee the collection of indirect tax revenues. This feature which is common in most federal systems is regarded as a precondition for proper governance.

### **Integrity Framework in the Executive**

Important strides have been made in ensuring adequate behaviour of those holding executive positions at BiH central government level. Many of these changes are fairly recent, and the following paragraphs illustrate the nature of the changes in the legal/institutional framework over the course of the last couple of years. The kind of transformation that is taking root offers some basis for further progress which is still necessary in order to tip the balance strongly away from just mere satisfaction of the legal form, towards which there is a clear tendency in the institutions of governance in Bosnia and Herzegovina in general at present, and especially in its executive component.

On January 24, 2003 Paddy Ashdown the then International High Representative issued a decision enacting the Criminal Code of Bosnia and Herzegovina<sup>123</sup>. The decision was a part of a wider justice sector reform, more of which will be said in the forthcoming paragraphs.

The Criminal Code sets forth rules which, among others, treat the issues of corruption, abuse of office, fraud and embezzlement in the Institutions of Bosnia and Herzegovina.<sup>124</sup> Should such offences be proved in the court, relevant provisions of the Criminal Code under the Chapter 19 allow for fairly rigorous punishment not only against those in the executive, but also against officials in the legislative and judicial branch of BiH Government at the state level. Sanctions include prison sentences ranging from six months to ten years and depend on

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<sup>123</sup> Available at: <http://www.ohr.int/decisions/judicialrdec/doc/HiRep-dec-101-law-crim-code-bih.doc>

<sup>124</sup> Similar legal frameworks also exist in the two entities.

the severity of the offence and also include forfeiture of any gifts and other benefits received by a public official who is found to be in breach BiH Criminal Code.

Imposition of BiH Criminal Code has thus far yielded fairly tangible results as some of the most well known political figures have been charged for having abused their public positions on different grounds.

One such high profile case is that of the former member of the BiH Presidency who was first forced to resign from the BiH Presidency by the international community insisting that he take responsibility for illegal arms trade with Iraq, then was sacked by the High Representative from his position as the Vice President of the Serb Democratic Party (SDS) and he was on trial for having allegedly embezzled significant amounts of money through a local bank in order to fund the hiding of Radovan Karadzic (the notorious fugitive who is charged by the UN War Crimes Tribunal in the Hague for being the mastermind of the crimes of genocide in BiH).

Another well-known case is that of Dragan Čović the President of Croat Democratic Party (HDZ). He is also a former member of BiH Presidency who was removed from the post by the High Representative after charges had been brought against him for having allowed a local company to obtain illegal tax breaks. The trial was recently concluded and Mr. Čović sentenced to a five year prison term.

While these examples may serve to illustrate that important inroads have been made in terms of strengthening the rule of law, and today even those in the highest of government echelons now have to think twice before misusing their office, there are still many grey areas which remain to be addressed before one could say that the system of governance in Bosnia and Herzegovina holds a strong chance of upholding the highest standards of integrity. One such area of concern, and perhaps the most important, is that of conflict of interest.

However, it must be first said that important improvements have been made in this realm as well, as public officials are today fairly restricted in terms of the number and type of functions they may perform simultaneously while at the same time performing a ministerial or other similar executive type function. These limitations are dictated by the Law on Conflict of Interests in the Institutions of Government of Bosnia and Herzegovina (LCI BiH)<sup>125</sup> which, when entering into force following the completion of the general elections in Bosnia and Herzegovina in October of 2002, constituted a huge step forward in its own right.

Article 4 of the Law on Conflict of Interests defines the following incompatibilities which are the same for all officials whether appointed or elected:

1. Serving on the management board, steering board, supervisory board, executive board, or acting in the capacity of an authorised person of a public enterprise is incompatible with serving the public as an elected official, an executive officeholder or an advisor.
2. Serving on the management board or directorate, or as director, of a privatisation agency is incompatible with serving the public as an elected official or an executive officeholder.
3. Involvement in a private enterprise under circumstances that create a conflict of interest is incompatible with serving the public as an elected official, an executive officeholder or an advisor.
4. The involvement of close relatives of elected officials, executive officeholders and advisors in circumstances set out in paragraphs 1, 2 and 3 also creates situations of conflict of interest for the official, officeholder or advisor.

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<sup>125</sup> Available at: <http://www.ohr.int/ohr-dept/legal/oth-legist/doc/LAW-ON-CONFLICT-OF-INTEREST.doc>

Implementation the LCIBiH has significantly reduced the number of instances in which elected or appointed officials were holding even up to a dozen incompatible positions simultaneously. This in fact was not an entirely uncommon occurrence during the first two rounds of post-war general elections.<sup>126</sup> Moreover, since entering into force 600 resignations have been tendered by individuals running for public office.<sup>127</sup>

On the other hand, more subtle forms of conflict of interest have yet to be addressed appropriately. In particular what is meant here is the issue of post-ministerial employment, which except for a one year long prohibition in state owned enterprises, has not been treated in an appropriate fashion by the existing LCIBiH. The implementation of this law is being overseen by the Central Election Commission.

Another issue which has not been given sufficient attention is that those who assume Ministerial or other politically appointed posts in the executive branch of government are not required by the existing legislation to dispose of their financial interests in private companies before their ministerial appointment. It must be said however that the LCIBiH does require officials to disclose all of their financial interests and specifies that they are prohibited from casting a vote on the matters which concern companies in which they or their close relatives have a disclosed financial interest.

### **Implementation Issues**

There are a number of issues which complicate the implementation process. The Central Election Commission (CEC)

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<sup>126</sup> Interview with Muriz Kodžaga, former Advisor to the Central Election Commission and Implementation Officer with the OSCE's Provisional Election Commission. Sarajevo, February 13, 2006.

<sup>127</sup> Interview with Irena Hadžiabdić, Executive Director of BiH Association of Election Officials.

is supposed to carry out the task. However the CEC lacks capacity to implement all of the LCIBiH provisions. In particular, this concerns the issue of gifts and hospitality. Although the LCIBiH does address the issue as it stipulates that all gifts received by government officials in excess of 100 KM (used to be 50 KM) must be reported and surrendered to the CEC, to date no by-law<sup>128</sup> has been adopted and no gift register established which would allow for proper implementation of this legal provision. It is also telling that there has only been one single reported case of a public official receiving gifts in excess of the legally mandated figure, namely "that of a lady surrendering a silk scarf and a purse"<sup>129</sup>. Moreover, the law seems to be so confusing that it would appear that there is no common agreement on the interpretation of its full text among CEC members. Hence, LCIBiH is not being implemented in what one might consider a strict manner, nor does it induce officials to act in the spirit thereof.

## **5.2 Legislature**

### **Background**

Legislative authority on the State Level is vested in the bicameral Parliamentary Assembly of BiH. Namely, the Assembly is comprised of two chambers, the House of Representatives and the House of Peoples.

The House of Peoples has 15 Delegates, two-thirds from the Federation (including five Croats and five Bosniaks) and one-third from the Republika Srpska (five Serbs). The designated Croat and Bosniak Delegates from the Federation are to be selected, respectively, by the Croat and Bosniak Delegates to the House of Peoples of the Federation. Delegates from the

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<sup>128</sup> There is a draft by-law proposal which should treat this aspect more systematically however it has yet to be adopted.

<sup>129</sup> Interview with Irena Hadžiabdić, Executive Director of BiH Association of Election Officials.

Republika Srpska are selected by the National Assembly of the Republika Srpska. (Article IV.1 of the BiH Constitution).

The House of Representatives is comprised of 42 Members, two-thirds of which are elected from the territory of the Federation and one-third from the territory of the Republika Srpska. Members of the House of Representatives are directly elected from their respective Entity. The first election was held in 1996, however, was to be governed by Annex 3 to the Dayton Agreement, which stated that voters were expected to vote, or be a candidate, in the place where they resided in 1991. The purpose of this provision was to counter the effects that ethnic cleansing might have on election results.

The Dayton Agreement requested the OSCE to adopt and put in place an election program for BiH<sup>130</sup>. According to the original decision of the OSCE Council, only the first general election was to take place under OSCE supervision and in accordance with Annex 3, and elections thereafter should be held under an election law which was to be passed by the BiH Parliamentary Assembly. However, in the absence of such a law, the OSCE Mission was extended: as a result, the Mission organized and oversaw the subsequent general elections in 1998 and 2000.

An Election law was passed in late 2001. It specified that the mandate of Members of the House of Representatives was to be four years. The 5 October 2002 general elections were the first to be organised by the BiH authorities while international monitors controlled the electoral process. The municipal elections, which were held in October 2004, were also fully organised and funded by the BiH authorities.

The Federation of BiH has a bicameral Assembly, which is comprised of the House of Representatives and the House of Peoples. Also, within the FBiH, each Canton has a Cantonal Legislature. The FBiH House of Representatives consists of 98

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<sup>130</sup> See Annex 3 of DPA.

delegates, directly elected for a 4-year mandate. A minimum number of four representatives of one constituent people is required to be represented (art. IV.A.1 of the FBiH Constitution). The FBiH House of Peoples is made up of 58 delegates who are elected for a 4-year term by the Cantonal Assemblies from among their representatives in proportion to the ethnic structure of the population (Art. IV.A.2).

The Republika Srpska has a unicameral National Assembly consisting of 83 deputies (Article 71 of the RS constitution). Deputies are directly elected for a four-year mandate. The election law establishes electoral units and the system of the distribution/allocation of mandates ensuring that all municipalities are appropriately represented in the RS National Assembly. Moreover, according to Article 72 of the RS Constitution, laws, other regulations or acts adopted by the vote of the National Assembly are also to be submitted for consideration by a Council of Peoples if they are considered to refer to vital national interests (as determined by two-thirds of one of the caucuses in the Council of Peoples).

The composition of the Council of Peoples is to be based on parity so that each constituent people has the same number of the representatives. The Council of Peoples is to have 8 members from each of the constituent peoples and 4 members from the ranks of Others, elected by the respective caucus in the National Assembly for a four-year mandate. The assembly has been marked by rampant power struggles often resulting in constitutional crises.

Finally, The Brčko District too has a District Assembly.

The institutionalized protection of ethnic ("constituent peoples") interests in the three jurisdictions (BiH, FBiH and RS), while necessary to preserve peace and avoid consolidating the gains of past ethnic cleansing, carries the risk of blocking and delaying decisions.

## **Legislature and the Budget Process**

The legislature at all levels of government has a strong formal position in the budget process and is required to approve the budget in the final instance. This role is clearly established by the law and the relevant legal provisions at the level of BiH institutions are contained in the Law on the Financing of BiH Institutions. Separate legal frameworks concerning the budget process exist at the entity and cantonal level, as well as in the Brcko District. In spite of a relatively sound legal framework the entire budget process in Bosnia, and within it the part played by the Parliament, is known to be quite weak. The most notable deficiency is the lack of obvious linkage between policy and budget, which is in most instances even further undermined by the parliamentary committees which lack capacity and knowledge to appropriately scrutinise government's budget proposals.

Another important deficiency is the fact that significant categories of public expenditure remain outside of the budget and thus do not require legislative approval per se. These categories include pensions, health, employment and child support funds and road directorates. Moreover, a significant portion of donor funding remains outside the official budget and therefore does not require legislative approval.

Social funds are financed from the social contributions paid from wages, while road directorates are financed from the Indirect Taxation Authority's Single Account as well as from road usage fees. Still, health funds do receive support grants from the FBiH and cantonal budgets, and in the RS this is the case also with the pension and child support funds.

Although the funds prepare their own financial plans, and are not subjected to the procedure of budget request submission as other budget users, social funds still need to submit their financial plans for the approval to the Minister of Finance in both entities. Furthermore, their financial plans are also discussed at

the Government level, and presented to the Parliament as an Annex to the budget. From next year the same rules will be applied to the Road Directorates, which have so far been treated completely off-budget.

There are no extra budgetary funds at the level of BiH Institutions as responsibilities for health and pension policy lie within the entities and the Brcko District. The combined size of these funds is quite significant and has averaged between 13 and 14 percent of the country's GDP in the period between 1999 and 2004 excluding transfers from the entity's budgets.<sup>131</sup> Moreover, a significant portion of donor funding remains outside the official budget and therefore does not require legislative approval.

### **Role of Parliamentary Committees**

In the final instance budget proposals are usually discussed within parliamentary committees before they are voted on by the members of Parliament. At the state level there are two such committees. The one within the House Representatives is called the Budget and Finance Committee and consists of a Chairman, two Deputies and six additional members. The House of Peoples has a six member Finance and Administration Committee. The scope of work for each of these committees is quite similar and in addition to scrutinizing BiH Institutions' budget proposals entails dealing with issues that are related to the following:

- Central Bank
- BiH external debt
- Relations with International Financial Institutions
- Economic policy
- Fiscal and debt policy

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<sup>131</sup> Source: International Monetary Fund (2004), *Selected Economic Indicators-Bosnia and Herzegovina*, p.16.

- Banking
- Reconstruction and development
- BiH institutions' budget execution

These two committees are also responsible for dealing with external audit reports prepared by the state level Supreme Audit Institution (SAI) (Articles 2 and 6 of the Law on the Auditing of the Financial Operations of the Institutions of Bosnia and Herzegovina)<sup>132</sup>

The size of donor funding which remains outside the scope of BiH consolidated budget remains a mystery. The fact that a fair amount of donor funding is spent outside of the official budget can in many respects be credited to the World Bank's continuing opposition to channelling funds through the budget, and thus setting a good precedent in this regard, for fear that the funds may be misappropriated, namely used for purposes other than those for which the World Bank has given its approval. Only the funds designated as a general budgetary support have been channelled through the budget.

### **Conflict of Interests**

The same rules and regulations which concern the executive branch of government also concern the legislature. There are no separate legislative documents which apply to this pillar only. As a result, the information contained in the previous chapter is also applicable to this pillar. There are no registries concerning gifts or other interests in existence. Moreover it is important to note that there is no committee, at least at the level of BiH Institutions, which is designated to deal with the issues of ethics and conflict of interests.

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<sup>132</sup> Available at: <http://www.revizija.gov.ba/en/audit-law/>.

When it comes to the issue of immunity for the members of Parliament and also those holding executive position it is treated by the BiH Law on Immunity which was imposed by the High Representative in 2002. The Law lays down the procedure by which delegates and members of the Parliamentary Assembly of Bosnia and Herzegovina may invoke immunity from both criminal and civil liability, while members of the Presidency as well as members of the Council of Ministers of Bosnia and Herzegovina may only invoke immunity from civil liability.<sup>133</sup>

### **5.3 Electoral Commission**

BiH has had an independent Election Commission since 2001 when the responsibility for the implementation of elections was transferred from the OSCE to the local authorities.

#### **OSCE Mission to BiH**

OSCE was one of the few international institutions which were tasked with addressing issues of integrity in the immediate post war-period. Its mandate was:

to promote free, fair, and democratic elections and to lay the foundation for representative government and ensure the progressive achievement of democratic goals throughout Bosnia and Herzegovina. (DPA, Annex 3)

The OSCE's Mission to BiH consisted of the Head office located in Sarajevo, four regional and 27 field offices (over time the number has been reduced to 22) scattered throughout the country. As of 1999 the Mission to BiH was OSCE's single largest budget item. To date the OSCE has spent close to 290 million euros in BiH:

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<sup>133</sup> Available at:

[http://www.ohr.int/decisions/statemattersdec/default.asp?content\\_id=28084](http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=28084)

| <b>OSCE Mission to BiH</b> |                                  |
|----------------------------|----------------------------------|
| Year                       | Annual Budget ( <i>in € MM</i> ) |
| 1996                       | €19,79 <sup>134</sup>            |
| 1997                       | €18,3 <sup>135</sup>             |
| 1998                       | €59,7 <sup>136</sup>             |
| 1999                       | €34,6 <sup>137</sup>             |
| 2000                       | €37,86 <sup>138</sup>            |
| 2001                       | €25,1 <sup>139</sup>             |
| 2002                       | €19,5 <sup>140</sup>             |
| 2003                       | €19,9 <sup>141</sup>             |
| 2004                       | €19,1 <sup>142</sup>             |
| 2005                       | €18,35 <sup>143</sup>            |
| 2006                       | €17,04 <sup>144</sup>            |
| <b>Total:</b>              | <b>€289,24</b>                   |

A key aspect of OSCE's intervention early on was setting up a Provisional Election Commission (PEC). The PEC was established in September of 1996. It was chaired by the OSCE Resident Ambassador and consisted also of respected members of the local community. By 2001, when the PEC ceased to exist, it had implemented five elections including the first post-war general elections in the fall of 1996, and also subsequent general elections in 1998 and 2000, and finally the 1997 and 2000 municipal elections. Since 2001 OSCE has moved on to focus on a broad range of issues.

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<sup>134</sup> OSCE (1997, str.30).

<sup>135</sup> OSCE (1997, str.30).

<sup>136</sup> OSCE (1998, str.49).

<sup>137</sup> OSCE (1998, str.74).

<sup>138</sup> OSCE (1999a, str.92).

<sup>139</sup> OSCE (1999b, str.10).

<sup>140</sup> OSCE (2002, str.3).

<sup>141</sup> OSCE (2003, str.3).

<sup>142</sup> OSCE (2004, str.3).

<sup>143</sup> OSCE (2005a, str.1).

<sup>144</sup> OSCE (2005b, str.4).

## **BiH Central Election Commission**

The BiH Central Election Commission (CEC) became a fully fledged local institution in June of 2005 (i.e. representatives of the international community in BiH are no longer members, nor key decision makers).

Since the beginning of the transfer of competencies, the BiH Central Election Commission has implemented three rounds of successful elections, namely general elections in October of 2002 and 2006 and municipal elections in October of 2004. The CEC has 7 members (two Bosniaks, two Croats, two Serbs and one minority representative) who are appointed by Parliament for a 5 year mandate. Members are selected out of a list of 30 nominees who are proposed by a selection panel, which is a joint body with representatives from the members of the Commission for the Appointment of Judges of the Court of Bosnia and Herzegovina and members of the Election Commission of Bosnia and Herzegovina. The President is elected from amongst the members of the CEC and a Bosniak, Serb, Croat and one minority representative are to each perform the function of the President once for a period of 15 months over the course of a five year mandate.<sup>145</sup>

The CEC is fully financed from the Budget of BiH Institutions. The CEC has its Secretariat which carries out operational and administrative tasks. Within the Secretariat there is an Implementation Office tasked with investigating potential violations of relevant provisions set forth by the Law on Conflict of Interests and is the one lacking in capacity. Since 2002 the department has lost two directors and the position is currently vacant.

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<sup>145</sup> See BiH Election Law. Available at:  
<http://www.aeobih.com.ba/documents/election%20law%20-%20eng%20language.pdf>

Also attached to the CEC is an Audit Office. The Audit Office oversees the implementation of the Law on the Financing of Political Parties and is staffed by civil servants.

In total the CEC employs 60 people which is roughly the full staff provision according to its rulebook on internal organisation. The CEC has a budget of KM 5.75 million (including a provision for the funding of the 2006 general elections).

## **5.4 Political Party Funding and Expenditure**

Rules on political party funding are contained in the Law on financing of Political Parties.<sup>146</sup> The law has been in force since August 1, 2000. It prescribes how a political party may fund its operations and limits the amount of money it is allowed to receive from each individual source.

Potential sources of funding include membership fees, contributions/donations by individuals and private entities, profit from assets owned by a political party and budget allocations. For example, an individual wishing to make a financial contribution to a political party may do so once a year up to amount that is equivalent to eight average monthly salaries in Bosnia and Herzegovina (as per BiH Statistics Agency).

Sources of donations, especially those breaching relevant legal provisions, are made available to the general public via the publication of audit reports. These reports can be accessed through the Central Election Commission website. As previously mentioned, audits are carried out by auditors who are civil servants. They are hired via open competition once a vacancy has been announced by the Civil Service Agency. Auditors, six of them (the full staff provision is seven) who make up the audit department attached to the CEC, carry out investigations into

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<sup>146</sup> Available at:

<http://www.izbori.ba/documents/Zakon%20o%20finansiranju%20politickih%20partija-BOS.pdf>

potential breaches of the relevant legal provisions. Investigations/audits cannot be initiated on their own accord as a decision in this regard has first to be made by the CEC.

An annual report assessing financial operations of political parties must be submitted to the Parliament.

The fact that political party finances are now being audited on a regular basis is quite new to Bosnia and Herzegovina (the process was initiated in 2005). Although the legislation called for such audits to take place, civil servants hired to perform the function were initially quite wary of the practice for fear of backlash. In this regard the US Federal Election Commission (IFES) and Department of Justice can be credited with kick-starting the process by way of running a series of training sessions for the auditors on how to review political party financial reports, detect possible violations, investigate findings and appropriately sanction those in non-compliance with the law.

Covert funding may have been regular occurrence prior to 2001, namely before the transformation of the country's payment system and the elimination of the Payment Bureaux. Since then the most prominent and widely publicised case has concerned the funding of SDS. Namely, SDS took a loan from a local commercial bank and never paid it off. This resulted in criminal charges being filed against some of the more prominent SDS members. The case has recently been closed and of the total of four defendants, two have been acquitted of any wrong doing while two, including a war-time RS Justice Minister, have been issued with multiyear prison sentences.

Some of the more regular political party mischief includes failing to submit annual and post-election financial reports. These offences are dealt with by the CEC by issuing fines to the political parties which commit them.

The issue of political party expenditure is covered by BiH Election Law. The law sets a ceiling on the amount of money that can be spent during an election campaign:

No political party, coalition, list of independent candidates or independent candidate shall, based on the number of voters announced by the Election Commission of Bosnia and Herzegovina, spend more than one (1) convertible mark per voter in each electoral race for the purposes of the election campaign. (Article 15.10)

## **5.5 Supreme Audit Institution**

Three Supreme Audit Institutions (SAIs) operate in the country, one at the level of BiH institutions and one in each entity. There are therefore three different laws which give the SAIs legal mandate for their operations. The respective laws had been drafted by consultants hired by the World Bank and imposed by the OHR in the period between 1998 and 2000. From then on the Swedish National Office (SNAO) took over by providing technical assistance in order to facilitate the process of establishing the SAIs and engage in capacity-building. This support has continued to this day.

The first audits were carried out towards the end of 2000 and the number of audits has gradually increased over time with the increase in the institutional capacity and the proficiency of the SAIs. Once audits are completed by the three SAIs, reports are to be submitted to their respective Parliaments in the final instance. The only difference between the BiH and Federation SAI on the one hand and the RS SAI on the other is that the RS SAI is only obliged to submit audit reports to Parliament while the other two have to submit their reports also to the BiH Presidency and the Federation President respectively. Copies of the reports are also submitted to the Minister of Finance and to the Ministries/agencies concerned.

Moreover, a recent Peer Review conducted by OECD's SIGMA involving the Dutch, French and German Courts of Audit notes that:

The treatment of the reports is not settled in the Audit Laws but normally by the Standing Orders of the parliament. In the Federation, the report is submitted to the competent committee of parliament. It was not clear to the peers what the nature of the debate was. Some members of the committee held the opinion that the Auditor General is obliged to be present during the sessions of the parliament when reports will be discussed, but that it was not in fact the case. The Auditor General of SAIFed has confirmed that he was constantly present at the committees of both houses of Parliament as well as to Parliament's sessions. The committee deals with the audit reports approximately two months a year. The attitude of members of parliament towards the audit reports, either from the House of Representatives or from the House of Peoples of the Federation, still demonstrates a restricted understanding of the audit work, as it seemed to the peers that they were mostly concerned with the judiciary follow-up of the reports, including what their own investigative role could be. In RS, the Auditor General submits the report to the Committee for Economy and Finance of the National Assembly, and is at the same time available to the public, namely via the internet (in principle five days after it has been received by the Committee). In case of suspected crimes or delicts, the reports will be sent to the Public Prosecutor. The President of the Committee invites the Auditor General and his deputy and the auditees to take part in the discussions of the Committee, where the reports are said to be discussed intensively and

sometimes controversially. The Committee drafts a summary of the original report with the main observations and proposals for further action (i.e. to approve the report and its recommendations). The committee looks at whether previous recommendations were followed up and requests the auditees to produce plans for measures and activities to eliminate deficiencies. Until now, in all cases, the committee suggested to the parliament to agree with the audit reports. If any member of the Committee expresses a dissenting opinion, it will be incorporated in the summary sent by the Committee to the Assembly. So far, this has not prevented all reports examined to be approved by the National Assembly. (OECD-SIGMA, 2005, pp. 20-21)

All audit reports are readily available to the general public and the media often report on their contents.

When it comes to the state level SAI, all expenditures that fall within the purview of the Budget of BiH Institutions are audited on a regular basis and the resultant reports are discussed by the BiH Parliament and are readily accessible to the general public. For the fiscal year 2006 there were 53 budget users in total (8 ministries, police, intelligence and state border service, 12,000 strong military force, a range of agencies and state level courts) which fell within the remit of the state level SAI. The total funds covered amount to about 955 million KM (including the external debt servicing portion of 288 million KM). The Central Bank budget is an exception as it is excluded from the official Budget of the Common Institutions of BiH. As already mentioned, donor funds are in general excluded from the budget and therefore these funds are not monitored by the SAI.

The SAI at the level of BiH Institutions is headed by the Auditor General with a five year mandate. He has two deputies. The SAI employs 24 staff (full staff provision is 30) who are responsible

for both the financial and performance audit (not a single performance audit has been carried out to date). Its annual budget is 1.6 million KM.

The following is the case concerning the remit of the entity level SAIs and their staff provisions:

SAIFed has about 1,700 auditees, the Federal Budget covers more than 1 billion KM and the total budget of the cantons represents a similar amount. Twenty-three auditors work in SAIFed and at present about 35% of the auditees are audited (but a bigger percentage in terms of budget). The remit of SAIRS amounts to about 1,000 auditees, among them 16 Ministries (including 70 lower budget users), 62 municipalities, 200 state companies, hospitals, schools and other budget beneficiaries. The staff amounts to 31 persons, 3 additional positions were about to be filled when the peer review was carried out (in principle for performance audit). About 40 audits are carried out each year. The RS-Audit Law has not conceded any transitional period. But the factual situation is similar as with SAIFed. To cope with the circumstances, SAIRS has limited both the quantity and intensity of audits and has established its own priorities with the government bodies being firstly audited and on a regular basis. In 2003, this situation nearly came to a crisis point when the National Assembly requested 6 special audits to carry out in addition to the normal work programme. (ibid, p. 18)

All in all the remit is quite comprehensive and regarded as the best in the region however a number of issues have yet to be resolved, namely:

To deal with their audit obligations under the law constitutes one of the main challenges facing the

three institutions now. An additional element of complexity, in that respect will result from the continuous but hardly predictable transfer of responsibilities from entities to the level of the institutions of Bosnia and Herzegovina. In order to reconcile the legal position with daily practice, the most obvious solution would be to increase the number of staff. However, this is not very realistic as even an appropriate increase of personnel could not enable the SAIs to fulfil the whole scope of present duties. For the same reasons, outsourcing in the form of appointing private firms is not a feasible solution either. Furthermore, the instability of the remits boundaries between entities and BiH institutions does not make such an approach the most viable. (ibid., p. 18)

The SAI (including those at the entity level) can be regarded as independent given a tight scrutiny of the international community regarding the operations. This also applies to the hiring process which so far has been based on merit. Testament to this again can be found in the Peer Review which found the existing legal provisions concerning financial, functional as well as personal independence of the Auditors-General satisfactory, but with a potential for improvement.

However there are fears now on the part of auditors that the integrity of the hiring process may be jeopardised. This especially is the case with the SAI at the level of BiH Institutions as the mandate of its Auditor General and his two deputies is due to expire. The reason for this is that the SAI has regularly produced fairly negative reports about the financial management practices in the BiH Presidency and also about its prolific spending tendencies, which in turn have been extensively publicised in the local media. Now the Presidency has the opportunity to retaliate in light of the negative press they have received lately and there is a strong chance that three members of BiH Presidency will exclude the names of the Auditor General and his two Deputies from a candidate list

which is to be submitted to the Parliament for approval. In order to preserve his integrity and avoid being humiliated one of the two Deputies has already resigned from his post.<sup>147</sup>

Moreover, recent attempts have been made on the parts of those implicated by the audit reports in Republika Srpska to chastise its Auditor General as well. It must be noted that these efforts were fended off by strong media coverage and also by the fact that some of the more senior officials (i.e. Mrs. Cenić, former Minister of Finance) in the Republika Srpska Government have publicly vouched for the integrity of the RS Auditor General.

Apart from a strong public exposure the direct impact on financial management practice at the level of BiH Institutions is difficult to ascertain. The overall impact may not be that strong given that much of the same financial malpractice is reported on and continues year after year. For example, many top officials in ministries and other government agencies tend to earn multiples of their official monthly salaries (usually through their appointments in various commissions which are subject to special compensation arrangements). While audit reports continue to point this problem out, nothing much has been done to date to deal with this practice. On the other hand audit reports at the entity level and especially in Republika Srpska have caught the eye of the public prosecutors and thus can be said to be a positive indicator for the times to come.

## **5.6 Judiciary and Prosecutors**

### **Background**

The makeup of the judicial system in Bosnia and Herzegovina is closely aligned with the country's constitutional structure therefore courts exist at State and Entity level and also within the Entities and Brcko District. There are 192 courts in Bosnia

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<sup>147</sup> Interview with Samir Mušović, now a former Deputy Auditor General.

and Herzegovina in total employing some 1,018 judges or approximately 25 per 100,000 inhabitants. As for the prosecutors there are 271 of them (7 per 100,000 inhabitants).<sup>148</sup>

Reform of the judicial system in Bosnia and Herzegovina has been one of the most prominent items on the international community's agenda since 2000 and also amongst the most controversial<sup>149</sup>.

The reform process started with a series of decisions by the High Representative to amend the existing legislative framework concerning the judiciary and prosecutors with a view to protecting their integrity and improving effectiveness with the following implications:

- They set up judicial and prosecutorial Commissions in the Federation and Councils in the RS. These consisted only of members of the judiciary or legal experts chosen by the Commissions and Councils themselves, with no executive membership, and were hence independent of the government.
- The Commissions and Councils were given a significant role in the appointment process. They were responsible for identifying applicants suitable for appointment and making recommendations to the appointing body. Nobody could become a judge or prosecutor without a positive recommendation from the relevant Commission or Council. However, under the various Constitutions, the

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<sup>148</sup> p. 16, Bosnia and Herzegovina-Progress Report 2005, European Commission. Available at: [http://ec.europa.eu/comm/enlargement/report\\_2005/pdf/package/sec\\_1422\\_final\\_en\\_progress\\_report\\_ba.pdf](http://ec.europa.eu/comm/enlargement/report_2005/pdf/package/sec_1422_final_en_progress_report_ba.pdf)

<sup>149</sup> For a sweeping criticism of the judicial reform process see: Knaus, Gerald and Felix, Martin (2003), "Travails of the European Raj" *Journal of Democracy*, Volume 14, Number 3, pp. 60-74.

final power of appointment remained with the legislatures.

- In the Federation, decisions on matters involving cantonal or municipal judges and prosecutors were made by the Federation and relevant Cantonal Commission sitting together, not just the Cantonal Commission, thus raising the issue to Entity level. However, cantonal laws continued to determine the qualifications and experience required for judicial office.
- The Commissions and Councils also had certain powers in terms of discipline. In the RS, the Councils could investigate disciplinary complaints and impose all sanctions apart from dismissal, the power over which remained with the RSNA. In the Federation, the power of dismissal already rested with the judiciary, in that it was the consensus of the judges of the next highest court. The new law gave the power of imposing other disciplinary sanctions to the relevant court president. The Federation or relevant cantonal Commission had to be informed of disciplinary cases and could make its own report and recommendations.
- All three laws required a one-off review by the Commissions and Councils of the "suitability" of all sitting judges and prosecutors over an 18-month period.
- The Federation law gave the Commissions power to make recommendations to the relevant governments on the financial needs of the courts and prosecutors' offices.
- The RS Law on Courts and Judicial Service provided for the establishment of court guards to maintain peace and order in court buildings.
- The Federation law made it obligatory for judges and prosecutors to attend continuing training courses. In the RS, it was merely their right to do so.
- Judges and prosecutors in both Entities were to receive significant salary increases. (IJC, 2004, pp. 9–10)

As result, in the RS for example, judges' salaries ended up more than quadrupling. In turn, this caused significant budgetary imbalances as the budgets for courts and prosecutors were enough to cover only salary and other associated expenses, leaving little or nothing for everything else (i.e. materials, equipment, maintenance etc.). Little has changed in this regard in spite of a subsequent and more thorough restructuring of the judiciary. According to the recently published Functional Review of the Judicial Sector in BiH, some 85 % of the budget for courts and prosecutors cover only salary and salary related items (EC, 2005, p.55).

In any case, when raising salary levels of judges and prosecutors and other reform efforts did not produce quick results as originally expected, the international community led by the OHR decided that the only way to effect some change was to fire all of the existing judges and prosecutors and hire those who where thought to fit the profile. The process was to be conducted via the Independent Judicial Commission originally set up to supervise the work of the abovementioned judicial and prosecutorial council, gauge their effectiveness and advise the High Representative of the need for further action.<sup>150</sup>

Ultimately, the hiring and firing process was finalized in 2004 and resulted in some 20% of judges and prosecutors being removed from their posts. Part of the reason for them not being reappointed is also to be found in the fact that the streamlining of the system which took place in parallel with the reappointment process resulted in fewer courts and judicial positions for which candidates could compete. The overall number of prosecutors remained approximately the same in the light of their increased prominence due to the reform of criminal procedure codes.

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<sup>150</sup> OHR (2001), Decision providing the Independent Judicial Commission (IJC) with a comprehensive mandate.  
[http://www.ohr.int/decisions/judicialrdec/default.asp?content\\_id=69](http://www.ohr.int/decisions/judicialrdec/default.asp?content_id=69)

## **High Judicial and Prosecutorial Council**

The independence of the judiciary and prosecutors is guaranteed in law and can be said to be, by and large, respected in practice. A testament to this can be found in the recent attempt by the newly appointed RS Government to establish a Special Prosecution Unit to deal with the issues of organized crime. The High Judicial and Prosecutorial Council, in turn declared the decision to be in breach of relevant legal provisions prompting the newly appointed Special Prosecutor to resign.

The High Judicial and Prosecutorial Council (HJPC) plays a prominent role in the newly designed system. The HJPC was transformed into a BiH institution in 2004. The HJPC has wide-ranging powers in relation to the judiciary including the appointment and disciplining of judges and prosecutors. These powers pertain to all levels of government in BiH. The relevant law sets out strict eligibility criteria for appointment of judges and prosecutors, including a detailed application process, detailed disclosure of personal interests, interviews, investigations, and so forth.

The HJPC consists of a total of fifteen members: eleven judges or prosecutors from the Entities (selected by judges and prosecutors from different categories), two attorneys (one selected by the Bar Chamber of each Entity), and two other members (selected one by the State Parliament of Bosnia and Herzegovina and one by the Council of Ministers).

Moreover, the judicial system now in place is such that courts do have powers to take action against members of the executive, including the Presidency, Ministers and Members of Parliament. Previously cited examples corroborate that this mandate is in fact being adhered to, although, it must be said, with a significant involvement of international judges and prosecutors

who are also a part of the BiH judicial system.<sup>151</sup> On the other hand, foreign judges and prosecutors are being gradually withdrawn from BiH judicial system.

Whilst the reform process of the judicial system in BiH has not been finished, the measures implemented to date have yet to yield significant results in terms of increasing the judicial system's efficiency as it still continues to be overwhelmed by huge case backlogs. On the other hand there is a prevalent feeling amongst the donor community that the reform of the judicial system has been fairly successful and that the system in place now is much better than the one prior to these structural reforms.<sup>152</sup>

However, significant problems still remain when it comes to the management of the reform process in the sense that there is a lack of proper coordination between donors as well as them not being entirely transparent with the spending of their funds. The Office of the High Representative is the only institution to date to have attempted to track down how much money is being spent on the reform of the judicial system and even this effort has been abandoned. Another problem also seems to be rising friction between the local and international judges.

## **5.7 Civil Service**

There are three separate legal acts which treat the issue of civil service in Bosnia and Herzegovina, one at the state level or the level of Institutions of BiH, and one for each entity, namely BiH Federation and Republika Srpska. Also there exist three separate Civil Service Agencies (CSA) in charge with the

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<sup>151</sup> The foreign judges of the State Constitutional Court are appointed by the President of the European Court of Human Rights, while those at the Court of BiH including the prosecutors at the State Prosecutor's Office are appointed by the High Representative.

<sup>152</sup> Interviews with Chris Horne, Advisor to HJPC and Isabel Royo Pla, Task Manager, EC Delegation.

implementation. In the case of the state level Civil Service Agency its key competencies are defined by Article 62 of the Law on Civil Service (Official Gazette No. 12 &19/2002)<sup>153</sup> and include the following:

- organising the hiring process of civil servants at the request of hiring institutions (i.e. Ministries, Agencies etc.),
- establishing and managing the central register of civil servants,
- assisting the state institutions with their organisational development and human resource management issues (i.e. organising and coordinating training courses for civil servants).

The state level CSA is headed by a Director who is also a civil servant and is appointed to the position by the Council of Ministers to serve a five year term. The CSA is staffed with an additional 15 civil servants and has an annual budget of about KM 840,000 (approximately 420,000 euros)

Civil service reform has been high up on the agenda of the international community in Bosnia and Herzegovina since the year 2000. It is fair to say that large sums of money have been invested in this particular realm probably numbering tens of millions of euros to date. The figure is difficult to estimate with any precision as most donor institutions in Bosnia and Herzegovina have funded technical assistance programmes which could be interpreted as having something to do with civil service reform. In any case the reform has been brought up on the government agenda as a result of significant pressure from the international community. The legislation which underpins the reform has been written through a programme of technical assistance funded by the EU and today there is a range of

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<sup>153</sup> Available at:  
<http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN017548.pdf#search='Law%20on%20Civil%20Service%20in%20Bosnia%20and%20Herzegovina'>

programmes which engage in the training of civil servants on a number of issues.

There are no specific provisions that treat the issue of bribery. However Article 14 of the Law on Civil Service, which delineates responsibilities of a civil servant, could be interpreted to refer to the issue of bribery as it requires that a civil servant should not seek benefits for himself/herself or members of his/her family beyond those prescribed by the respective law. The same provision can be interpreted to prohibit nepotism and cronyism as well.

Moreover this legislation prohibits civil servants from taking up positions which have been associated with their civil service post for a period of two years after the termination of their status as a civil servant. Articles 54 through 59 of the same law cover the matter of disciplinary procedures and possible resultant sanctions which can be taken against civil servants including written warning and reprimand, suspension of the right to participate in the open competitions for a period of up to two years, punitive suspension of duties and salary for a period between two and thirty days and in the final instance dismissal from the civil service. Since corruption is treated as a criminal act according to domestic legislation, should a criminal procedure be initiated against a civil servant on such grounds his suspension from the civil service is automatic. It is however telling that to date there has been no reported case of bribery (this concerns only the level of Institutions of BiH). Moreover, there is a considerable fear on the part of civil servants in reporting illegal actions. Any action is subject to a seniority rule, namely a civil servant has to report the incident to his superior (Note: exact mechanics may differ from an institution to an institution) who needs to establish the facts and then report this to the Secretary, who can then initiate adequate disciplinary proceedings in instances where they are regulated by the Law on Civil Service and its bylaws. However, a first disciplinary hearing has yet to take place. The issue of whistleblower protection is not raised specifically in the legislation however all

civil servants do enjoy a certain degree of general protection which is granted to them by the Law on Civil Service.

As for the issue of political independence of civil servants there are only provisions in the abovementioned law which prohibit civil servants from official membership in the governing boards of political parties and those which prohibit them from taking orders from political parties. There is, however, no rule which bans a civil servant from being a member of a political party. Those who aspire to become civil servants are obliged to declare that they are politically independent. However the Civil Service Agency does not check this information and is said to have no means to do this. The general perception is (a view also confirmed by the Civil Service Agency) that most civil servants are actually formal members of political parties or are in some other way politically connected (close family members etc.).

According to the same law career progress is only possible if a civil servant submits himself/herself to open competition for a post through which he/she wishes to advance his/her career goals. In this sense career progress could be said to be merit based, however the very practice suggests otherwise as the national/ethnic balance has to be maintained and often precedes all other formal criteria. Also the formal provisions can be and are circumvented. For instance during the official hiring process candidates who qualify for a certain position are obliged to take an official exam designed to test their professional skills relevant to the position they are applying for. The test questions can be obtained beforehand which gives the candidate considerable added advantage over his or her competitors. Anecdotal evidence suggests that this is indeed what takes place.

There are no official rules concerning gifts and hospitality that pertain to civil servants. As previously mentioned the Law on Conflict of Interests concerns only political appointees (i.e. ministers, advisers, etc.).

Finally members of public who apply for a position in the civil service only have the right to complain regarding a hiring decision. Again, no decision has been overruled as a result of a complaint.

Implementation of the Laws on Civil Service at both the state and entity levels while bringing some order to the hiring process has not done away with many of the problems which existed prior to the civil service reform. The best and brightest still may have a difficult time getting public sector jobs especially if they are not sufficiently acquainted with the members of hiring committees. Those who are often get an unfair advantage by gaining access to test questions and thus end up being hired. On the other hand the need to preserve ethnic balance is usually the most dominant factor in deciding whether one gets the job or not. Finally, human resource management issues are not well understood by those who are in the position to make hiring decisions and often knowledge of the legal framework weighs more than other potentially key competencies.

## **5.8 Police**

### **Background**

The DPA delegated policing to the two Entities, and in the Federation BiH mostly to the cantons. After the creation of the autonomous district of Brcko following international arbitration it too received competencies in this department and established its own police force. Subsequently there are 14 autonomous law enforcement Agencies, namely one centralized police force in the RS with the Ministry of Interior headquartered in Banja Luka, administrative centre of RS, one federal police force in the Federation BiH with rather limited competencies including complex and organized crime, inter-cantonal crimes, anti-terrorism and VIP protection and 10 cantonal police agencies with most policing competencies and finally the aforementioned police force in Brcko (a city with approximately 100,000 inhabitants).

Moreover, over the years new law enforcement agencies were created at the state level including the State Border Service (established in 2000), the Court police at all levels, an Interpol office, and recently the State Investigation and Protection Agency or SIPA (an FBI type of institution) as well as the state level intelligence agency which was created following the merger of entity level intelligence agencies in 2004. All these new national agencies, with the exception of the court police organizations, have been integrated under the auspices of the Ministry of Public Security at the state level (created in 2004).

The total number of police officers in the country including the support staff was close to 23,000 in 2003. The total spending on police in the same year amounted to approximately KM 354 million (close to 180 million euros), or 9.2 % of the total public expenditure in BiH. This ratio is regarded as quite high by international standards as for example it is three times higher than in Slovenia and almost twice as large when compared to Hungary.<sup>154</sup>

### **International Assistance to Policing in BiH**

Following the signing of DPA, policing in BiH has been conducted under the heavy scrutiny of the international community. In fact, annex 11 of the DPA called for the creation of the International Police Task Force (IPTF) to monitor, inspect, train and advise the local law enforcement agencies. Subsequently, an UN supervised and approximately 2,000 strong IPTF force was set up to fulfil this mandate. The DPA also stated that the IPTF would be headed by a commissioner who would report to the High Representative as well as the Secretary-General of the

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<sup>154</sup> See pp. 9 and 18, EC (2004) *Functional Review: Financial, Organisational and Administrative Assessment of the BiH Police Forces and the State Border Service, Final Assessment Report*. Report available at: [http://www.esiweb.org/index.php?lang=yu&id=23&cat\\_ID=8&language=bosnian-croat-serbian](http://www.esiweb.org/index.php?lang=yu&id=23&cat_ID=8&language=bosnian-croat-serbian)

United Nations (who created a position of Special Representative of the Secretary-General in Bosnia and Herzegovina).

The very nature of IPTF's mandate was initially the subject of fierce debate:

The United States' chief negotiator, Richard Holbrooke, favoured giving the IPTF full powers of arrest, on the grounds that the Bosnian police represented, in most cases, the most extreme elements within each ethnic community. The US Pentagon, on the other hand, opposed a strong international police mandate out of a concern that the NATO-led Implementation Force (IFOR) would quickly become the 9-1-1 service of an intrusive yet insufficiently robust IPTF. Ultimately, the latter argument carried the day, leaving the IPTF as one of the weakest links of the international community's peace building chain in Bosnia. (Donais, 2004, p.7)

On the other hand, IFOR was unwilling to perform policing tasks therefore leaving a considerable security gap in the early post-Dayton period and having serious implications on both the security situation in the country and effectiveness of the IPTF:

Unable to rely on the superior firepower of NATO's Stabilization Force (SFOR, which replaced IFOR at the beginning of 1997), and incapable of eliciting professional police behaviour from their local counterparts through moral suasion and basic training, the IPTF struggled to make a positive impact on the security situation at a local level. The political implications of this struggle have been profound. Chronic local-level insecurity has been a major factor in Bosnia's post war electoral

experience, as the country's nationalists have maintained power through much of the post-Dayton period by appealing to the fears and insecurities of their ethnic constituencies. Community-level insecurity also explains why efforts to facilitate the return of the ethnically cleansed to areas controlled by another ethnic group—so-called minority returns—bore so little fruit for the first four years of the peace process. Simply put, potential minority returnees were justifiably suspicious of the international community's ability, or the willingness of the local police, to protect their basic human rights. Those courageous enough to return were often subject to harassment, intimidation, and violence, if not at the hands of the local police then with their implicit blessing, as evidenced by the generalized failure to bring to justice those guilty of crimes against minorities. (ibid, p.8)

These issues eventually led the international community to reconsider IPTF's mandate and give it much broader powers including the power to screen individual officers and decertify those suspected of committing atrocities and being guilty of repeated misconduct. This in turn became a key tool for disciplining local police officers and discouraging professional misconduct. The IPTF mission lasted until 31 December 2002 when it was replaced by the European Union Police Mission (EUPM) with an initial three-year mandate.

The EUPM figures strongly in the common EU Security and Defence Policy consisting of some 500 police officers from a range of EU countries. It has an annual budget of 38 million euros, of which 20 million euros come directly from the EU budget<sup>155</sup>. Its mandate is expected to be extended into 2007.

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<sup>155</sup> See Interpol factsheet. Available at:  
<http://www.interpol.int/Public/Region/Europe/coopInitiatives.asp>

However, its effectiveness has been questioned, with the most fierce criticism coming from the International Crisis Group:

The EUPM has interpreted its weak mandate in the narrowest possible fashion, avoiding many responsibilities. The mission is deployed arbitrarily and tasks police officers to design and run public administration reform, an area where few have relevant training or experience. It often receives under-qualified officers from contributing countries, who lack proper training or any introduction to the mission and many lack sufficient English, the official language of the mission. Perhaps most damningly, BiH police in both entities regard the EUPM as a laughing stock. (Lyon, 2005)

### **Reform Outcome**

The reform of the police forces in the country remains one of the most highly politically charged issues the country has faced to date. Parties from Republika Srpska perceive the reform attempts as a direct attack which threatens the future of this entity, and have hence done their utmost to drag their feet and oppose the reform process. Although partial consensus was reached between the negotiating parties (i.e. the key political actors in the country, alongside key representatives of the international community) on the key principles of the reform set forth by the European Commission, namely that all legislative and budgetary competences be vested at State level, that there is no political interference with operational policing and, last but not least, that functional police areas be determined by technical policing criteria. Key disagreement remains over whether these principles mean that the Entity police structures continue to exist in the future, a condition on which representatives from Republika Srpska have based their cooperation on the matter. In spite of the recent difficulties this

pillar has seen some, albeit limited, improvements in recent years<sup>156</sup>.

In particular, and as a result of a significant pressure and involvement of the international community in this area, police forces have been partly depoliticized with the establishment of the function of Director of Police at State and Entity level, and within the Federation BiH, the Cantonal level. Over the years certain formal provisions have been put in place to ensure that Directors of Police are independent. Directors are elected through, what is deemed as, a transparent and independent process that is overseen by the Board for Election and Audit (each level of government has one). The members of this board are appointed by a respective jurisdiction's Parliament for a period of four years. In the case of Sarajevo Canton the Board consists of seven members, two of which are representatives of the Cantonal police force and the remaining five regarded as having relevant expertise in the policing domain. Board members are not allowed to be political party members. Candidates for the position of Police Director are only considered after first consulting with representatives from the European Police Mission in BiH (EUPM). In the final instance the Police Director nomination is voted on by the Parliament.

However, the extent to which Police Directors are truly independent may vary between different levels of government. In the Federation, for example, after the general elections in 2002 the newly appointed Minister of Interior attempted to effectively impose his will on operational policing matters and thus undermine the role of the Director. It was however an unsuccessful effort given that the Director was strongly backed by the international community. Today, both the Minister and

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<sup>156</sup> For a further assessment of strengths and weaknesses of BiH police force see EC (2004).

Director are regarded as cooperative and good counterparts, although their internal working relationship remains difficult.<sup>157</sup>

## 5.9 Public Procurement

The adoption of new legislation towards the end of 2004<sup>158</sup> has set the stage for an extensive reform in the area of procurement. Prior to the passing of this new legislation procurement was deemed to be in need of significant improvement to bring it in line with the EU Procurement Directives. In particular, two studies, one commissioned by the World Bank<sup>159</sup> and the other conducted on the part of the OECD's SIGMA<sup>160</sup> found the procurement systems in Bosnia and Herzegovina as deficient and a significant hindrance to country's economic development prospects. In particular the study by the World Bank noted that the then existing public procurement framework suffered from the following deficiencies:

- Excessive discretion allowed to public officials when making decisions about awarding government contracts.
- The prohibitions against breaking down procurement requirements into smaller-value lots are inadequate. This allows public purchasers to break down their requirements in order to avoid using the most competitive procurement method, Open Bidding.

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<sup>157</sup> Interview with Vera Paraskevi Nazou, Task Manager for Home Affairs, EC Delegation.

<sup>158</sup> The new legislation, namely BiH Law on Public Procurement (BiH Official Gazette 49/04, available at: [http://www.javnenabavke.ba/draft-law/in-force/pdf/Law\\_on\\_PP.pdf](http://www.javnenabavke.ba/draft-law/in-force/pdf/Law_on_PP.pdf)) was passed in September of 2004 by the BiH Parliamentary Assembly and is said to be modeled on international best practice and largely harmonized with relevant EU procurement directives.

<sup>159</sup> World Bank (2002), "Bosnia and Herzegovina, Country Procurement Assessment Report", Report No. 24396. Available at: <http://www.javnenabavke.ba/further-info/pdf/multi0page.pdf>

<sup>160</sup> SIGMA (2004), "Assessment report: Bosnia and Herzegovina-Public Procurement". Available at: <http://www.oecd.org/dataoecd/11/3/34991679.pdf>

- The absence of a specific provision against using proprietary definitions, including brand names, to define procurement requirements.
- Opaque provisions on the evaluation of bids and ineffective arrangements for the review of bidders' complaints. (ibid. p.1)

The World Bank estimated that, as a result of these systemic deficiencies, some 27 million KM (about 13.5 million euros or an estimated 4% of the overall value of yearly public contract awards in BiH) was being paid to bribe public officials in order to win public sector contracts (ibid. p18). At the same time 73% of public survey respondents were of the opinion that public contracts could not be won without bribing a public official (ibid. p. iv).

The two studies gave a significant impetus to reform in this area, building on previous, albeit formal, recognition by the Peace Implementation Council in 2002<sup>161</sup> that procurement reform was an important aspect of the overall economic reform in BiH as well as a call for action in the previously mentioned Comprehensive Anti-Corruption Strategy for BiH.

The new legislation set the stage for significant restructuring of the procurement systems in the country so that today there is one central procurement agency with the mandate to supervise procurement at all levels of government in BiH, whilst previously there was no agency at all and procurement was conducted based on an executive decree of which most government officials were not aware. This was the case with BiH Federation. On the other hand procurement in the other BiH entity, namely Republika Srpska was governed by law, which, however, was also modelled on BiH Federation decree and thus shared its weaknesses (ibid. p2).

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<sup>161</sup> "Declaration of the Peace Implementation Council", Brussels, May 23-24, 2000. Available at: [www.ohr.int/docu/p20000524a.htm](http://www.ohr.int/docu/p20000524a.htm)

## **Reform Process**

The EC Delegation in Bosnia and Herzegovina took the lead by providing technical assistance in the preparation and the implementation phase of procurement reform which helped to carry the reform through. The reform process has been built around the key recommendation contained in the abovementioned studies although representatives of BiH government have also had their say in how the reform was to proceed. In fact, the reform process is being supervised by a steering committee with both members of international community (EC Delegation, World Bank and OHR) and local counterparts (representatives of the state and entity Ministries of Finance). The bulk of the reform activities at present focus on the proper implementation of BiH Law on Public Procurement (PPL) and include capacity building measures (i.e. support for the establishment of a BiH Agency for Public Procurement (PPA) and the Procurement Review Body (PRB) in the form of training, provision of relevant information etc.)

Currently, the programme of technical assistance is in its second phase and is being provided under the umbrella of the EC CARDS Programme. The first phase which began in 2003 lasted one year and a half with the associated cost of 1.5 million euros. The second phase began in 2004 and is to be completed by the end of 2006. It will have cost 2 million euros in total by the time of its completion. A third phase of technical assistance is also envisaged and is to take place in the beginning of 2007, however with both the price tag and the duration period being unknown at the time of the preparation of this report. The overall aim of the technical assistance programme is to reduce instances of corruption as well as to promote the establishment of the efficient and rational procurement system in Bosnia and Herzegovina.

## **Reform Outcome**

At the time of the writing of this report it is only possible to assess the formal provisions which deal with this particular pillar. The primary reason is that the implementation phase of the procurement reform is still in progress and has yet to be finalised.

Two new independent bodies, namely the Public Procurement Agency and the Procurement Review Body have already been established, although to a varying degree, with the overall task of monitoring the procurement process, gathering information and ensuring compliance with the procedures and regulations of the Law.

The Public Procurement Agency (PPA) started operations officially at the beginning of 2006. The agency is responsible for the proper implementation of the procurement law in the entire public sector in BiH, however the PPA is not itself responsible for handling individual tenders. That particular task is handled by the contracting authorities (any government ministry, agency or enterprise) on their own, although according to a set of unified procedures set forth in the PPL.

The PPA itself is responsible for the proper implementation of the BiH Public Procurement Law, namely its main functions are in the realm of oversight, technical assistance to contracting authorities and suppliers and publication of procurement manuals and tender documentation. It also has the authority to propose amendments to the existing legislation. The PPA has a budget allocation of KM 900,000<sup>162</sup> for 2006 and currently it is in the process of hiring staff. The foreseen full staff provision is 21 employees including the head of the Agency.<sup>163</sup> It is foreseen that during the transitional period, namely until the full

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<sup>162</sup> 2006 Budget of BiH Institutions.

<sup>163</sup> Proposed Rulebook on internal organization of the Public Procurement Agency. Available at: [http://www.javnenabavke.ba/ppa/pdf/Pravilnik\\_PPA.pdf](http://www.javnenabavke.ba/ppa/pdf/Pravilnik_PPA.pdf)

establishment of the Agency is attained, its functions are performed by the Ministry of Finance and Treasury of BiH. However the transition has not been smooth. The Ministry of Finance and Treasury is itself considerably under capacity and is not able to perform its own mandated functions well let alone taking on additional responsibilities. Currently, there is only one individual dealing with numerous procurement related inquiries many of which remain unattended.

In terms of the changes which are taking place, all tenders are now accessible by the public. No longer is there a price tag associated with tender documentation beyond what is necessary to cover the cost of copying and mailing the relevant documentation to the interested parties. Previously contracting agencies used to determine a fee on an ad-hoc basis and the system was open to abuse in this regard. Also, the legislation insists on all major public procurements being advertised in the BiH Official Gazette. This rule also pertains to decisions regarding contract awards. These decisions are also reproduced on the official website of the BiH PPA.

While there are no strict provisions which are intended to limit the extent of sole sourcing, the legislation is said to have been designed in the spirit of satisfying principles of fair competition.<sup>164</sup> The law allows for a strong review process to take place and any party considered to have a legitimate interest can initiate relevant procedures. The review process is to be carried by a semi-judiciary body, namely the BiH Procurement Review Body. This institution is independent and is intended to be an effective guardian of the integrity of the BiH procurement system. However PRB has not become fully operational and therefore is not yet in the position to deal with complaints. During the transition period its functions are taken over by the state and entity Ministries of Finance. The PRB is to

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<sup>164</sup> Interview with Anela Duman and Amir Pekmez, Procurement Experts, The EU Public Procurement Programme for Bosnia and Herzegovina. Sarajevo, April 17, 2006.

consist of six members all of whom were appointed by BiH Parliament in January of 2006. However, three of them have recently resigned thus prolonging the reform process and adding to the problem of backlog (there are 150 complaints which remain to be addressed as of the time of writing this report). The reasons behind these resignations have partly to do with the highly exposed nature of these positions as well as a decision of the Council of Ministers to significantly lower the members salaries just before their appointment.

In any case the remit of the PRB is to decide in the second instance on the appeals filed by suppliers/bidders who have a legitimate interest in a specific public procurement contract and are convinced that the contracting authority (any administrative authority, public body or public enterprise at all levels of government in BiH) has breached provisions of the BiH Public Procurement Law.

Moreover there are provisions in the legislation which call for a 'third tier review' which falls under the purview of BiH Court. This is the final instance in which complaints can be addressed. Prior to matters being dealt with at this level, the law in fact calls for a strong review procedure which any bidder has the right to initiate.

On the other hand, the PPL does not contain explicit provisions for the blacklisting of companies proved to have engaged in illegal activities during procurement process. However the PPL does have provisions that require companies to submit certificates which attest their eligibility, such as a proof that the candidate has not been found guilty by competent courts of professional misconduct within the last five years.<sup>165</sup>

The PPL also does not contain specific provisions which would prevent nepotism and conflict of interest in public procurement.

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<sup>165</sup> Article 23 of the Law on Public Procurement, p.23. Available at: [http://www.javnabavke.ba/draft-law/in-force/pdf/Law\\_on\\_PP.pdf](http://www.javnabavke.ba/draft-law/in-force/pdf/Law_on_PP.pdf)

In this sense there is a separate piece of legislation which treats the matter, namely the Law on Conflict of Interest in Bosnia and Herzegovina. Moreover the issue of monitoring assets, incomes and life styles of those responsible for making procurement decisions is an area which is currently completely neglected and there is currently no legislative basis for treating this matter.

### **5.10 Ombudsman**

The establishment of the function of the Ombudsman in Bosnia and Herzegovina is granted by the Dayton Peace Agreement. The precise mandate of the Ombudsman is defined by the Law on Ombudsman whose entry into force dates back to December of 2000 when it was imposed by the Office of the High Representative. The OSCE funded the work of Ombudsman prior to the HR decision.

The BiH Ombudsman institution consists of three Ombudsmen appointed by the House of Representatives of Bosnia and Herzegovina and by the House of Peoples of Bosnia and Herzegovina by a two-thirds majority of each House, following a joint proposal by the Presidency of Bosnia and Herzegovina. The entire institution has 23 staff and a budget of close to KM1.8 million.

The mandate gives the Ombudsman the power to investigate alleged human rights violations committed by any government body and to recommend possible remedies with the overall aim of promoting good governance and rule of law in the country. Investigations can be launched on his or her own accord as well as on the basis of received complaints.

In addition to the Ombudsman at the state level, there are Ombudsman's offices in each of the two entities. This however may change in the future as unification of the Ombudsman's function in the country is one of the key requirements of BiH's EU Stabilisation and Association process. However, the BiH Parliament has failed to date to reach a consensus on the final

text of the State Ombudsman Law prompting representatives of the international community to express serious concerns about the BiH commitment to join the EU.

Government bodies at all levels by and large cooperate with Ombudsman. The Ministry of Human Rights and Refugees, for example, tends to respond to the Ombudsman's requests promptly.<sup>166</sup> Many of these instances are recorded in the reports which can be accessed on its website<sup>167</sup>. In the early post-war period most of the cases related to refugee return issues (i.e. claims relating to lost property and jobs). Today, cases tend to involve complaints regarding the issue of free access to information.

It is at discretion of Ombudsman to refuse to pursue anonymous complaints or complaints which are lodged more than 12 months after the facts, events or decisions complained of. However, Ombudsman is required to register and acknowledge receipt of the complaints submitted, whether he or she considers that they should be pursued or not.

### **5.11 Investigative/Watchdog Agencies**

No Anti-corruption agency has been established to date despite the commitment expressed by the government in documents including the National Development Strategy and the Action Plan to Fight Corruption which dates back to 2002. The action plan was only in a draft form. It was drafted as a result of impetus received from the World Bank and its "Diagnostic Study on the Causes of Corruption in BiH". The draft called for the governments in BiH to structure its actions to fight corruption into three areas of intervention. The first called for a number of laws and regulations to be adopted and implemented, such as

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<sup>166</sup> Interview with Azra Hadzibegic, Advisor, Ministry of Human Rights and Refugees.

<sup>167</sup> See: [http://www.ohro.ba/articles/article.php?lit\\_id=geninfo](http://www.ohro.ba/articles/article.php?lit_id=geninfo)

Law on the Prevention of Money Laundering, Law on Civil Service, the Procurement Law, Law on the Financing of Political Parties etc. Quite a number of these initiatives were already ongoing and were facilitated by international organisations including OHR and the EC delegation in BiH. The second area was to consist of institutional measures such as establishment of new institutions such as Anti Corruption Offices and strengthening of institutions already in existence such as courts, prosecutors' offices, SAIs and Parliaments. The last area of intervention emphasised education of the public administration. Moreover the action plan called for a better coordination with the civil society and ratification of a range of international conventions. A working group was formed consisting of Council of Ministers and entity government representatives. The working group was to be tasked with the monitoring of the implementation process as well as revision of the action plan and act as a main interlocutor with SPAI, SPOC and GRECO initiatives.

Thus the strategy has proposed a range of measures such as an anticorruption agency and the preparation of a detailed action plan, harmonisation of the relevant legislation as well as measures to deal with the issue of internal control in the use of public funds; few of the anti-corruption recommendations have been implemented.

On the other hand one can observe a number of recent initiatives by the government of Republika Srpska to investigate, prosecute and suppress corruption related crimes, especially those stemming from privatisation. These initiatives have taken the form of an establishment of a Special Prosecutor's Office and a Commission for Audit of Privatisation. Investigation process is in progress and the results are expected to be announced soon.

## **5.12 Media**

### **Background**

The immediate post-war situation was characterized by complete chaos in the media, with TV and radio stations broadcasting without recourse to any sort of regulatory framework whatsoever. At the time, an estimated 100 TV stations and 200 radio stations were catering to a population of slightly over 3 million. The frequency spectrum was overcrowded to such a degree that even air-traffic was endangered. Hate speech in many of the stations was the order of the day. This was the time that SFOR was forced to go out into the field in order to shut down rogue stations which were perceived to be directly undermining the peace process. The most notable instance was the shutting down of TV Pale. Moreover:

After the war, no private broadcaster could cover its operating costs or claim to have a major share of the viewing audience. State media were under explicit and direct political control by the parties that had helped plunge the country into war. State broadcasting had no genuine competition, and the dominant news coverage catered to nationalist parties. (Stability Pact p. iv)

Another common occurrence was that many stations were receiving public funds in a non transparent manner thus being heavily influenced by the ruling political establishment. In the Federation of BiH for example 'Bošnjačka' TV station was allegedly propped up with transfers from 'Elektroprivreda BiH', a major utility company directly controlled by SDA, while at the same time pretending to be a private emitter. At the same time, HRT, a public broadcaster of the state of Croatia, which during Tuđman's time had been heavily influenced by HDZ, was using two thirds of terrestrial transmitters in BiH in order to broadcast its programmes.

The international community well understood the importance of media and can be credited for setting in place a reform agenda for the media which over time has had a significant impact on the media landscape and ultimately put to an end many of the negative occurrences just mentioned. The cornerstone of media reform was a decision to establish an Independent Media Commission (IMC) in 1997. In 2001 IMC merged with the Telecommunications Agency to become Communications Regulatory Agency.

### **Reform Funding**

Following the Dayton peace accord in 1995, millions were spent in Bosnia and Herzegovina to develop an impartial and independent media. Assistance was provided to small media outlets in order to help sustain them and train journalists and other media professionals. Moreover, a significant emphasis was put on creating a regulatory structure in line with best international practice.

Precise figures for overall donor spending on media projects in Bosnia and Herzegovina to date are difficult to come by and estimates are in the neighbourhood of more than US\$ 100 million. According to one source, USAID and EU have alone contributed US\$ 30 million and €20 million respectively in the period between 1996 and 2002.<sup>168</sup>

In an effort to turn the tide and instil a viable independent alternative to what was a prevailing perception at the time, the compromised state/public broadcasters, foreign donors have invested close to US\$ 17 million in one media project alone, namely an Open Broadcasting Network (OBN). The project was to serve as a sign of strong commitment on the part of the donor community in Bosnia and Herzegovina in establishing a

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<sup>168</sup> Assessment of USAID Media Assistance in Bosnia and Herzegovina, 1996–2002, Bureau for Policy and Program Coordination, September 2003. Available at: [http://pdf.dec.org/pdf\\_docs/PNACR756.pdf](http://pdf.dec.org/pdf_docs/PNACR756.pdf)

truly multiethnic broadcasting system and thus to promote the democratisation process of a war-torn country. OBN was started in 1996 with funding from the U.S., Canada, the European Union, Sweden and Japan as well as the Soros Foundation and the Organization for Security and Cooperation in Europe (OSCE).

Recently, much of the media assistance in Bosnia and Herzegovina is taking place in the context of a regional initiative called the Stability Pact for South Eastern Europe which focuses on three broad areas of support including economy, security and democracy, with the media assistance being provided and coordinated under the last of the three.<sup>169</sup>

### **Media Landscape**

Today there are some 600 registered print media outlets in Bosnia, although the real number is much smaller. Of this number there are 7 daily newspapers including Dnevni Avaz, Oslobođenje, Jutarnji List and San which predominantly cater to the Bosniak auditorium. Dnevni List is read mostly by Croats while Nezavisne Novine and Glas Srpske have mostly Serbs as their readership. Of these, Glas Srpski is the only daily newspaper owned by the government. There is now a tendency by Nezavisne Novine to cross the ethnic divide and cater to the readership in the entire country. The overall market share is divided as follows:

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<sup>169</sup> For the latest survey of the kind of media assistance provided by donors and broken down by country and type of activity see: *Overview of media support to Southeast Europe*, Media Task Force, Stability Pact for South Eastern Europe. Available at:  
<http://www.stabilitypact.org/media/overviewmediasupport2003.doc>

**Daily Newspapers% of market share**

|                  |    |
|------------------|----|
| Dnevni avaz      | 40 |
| Oslobođenje      | 17 |
| Večernje novine  | 14 |
| Jutarnje novine  | 13 |
| Nezavisne novine | 13 |
| Jutarnji list    | 10 |
| Dnevni list      | 10 |

Source: *MIB 2003*<sup>170</sup>

Dnevni Avaz is owned by Fahrudin Radončić, a local print media mogul who also owns the Alfa TV station and the largest printing house in the country. Mr. Radončić is alleged to have strong ties to the Bosniak political establishment (SDA and SBiH political parties). Mr. Željko Kopanja, on the other hand, is the owner of Nezavisne Novine, a radio station and a printing house and is alleged to have strong ties to SNSD, the strongest political party in the RS according to the published 2006 general election results. In this sense BiH can be said to follow a regional trend whereby the most influential media outlets tend to be owned by businessmen with strong connections to the political establishment (Hrvatin and Petković, 2004)<sup>171</sup>.

When it comes to print media there is also a number of weekly magazines the most important of which (as judged by the number of copies sold) include Dani, Slobodna Bosna, Reporter

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<sup>170</sup> MIB - MARECO INDEX BOSNIA. *BH Media Market Monitor*, Mareco Index Bosnia, Sarajevo 2003.

<sup>171</sup> Hrvatin, Sandra B. i Petković, Brankica (2004), "Ownership over media in SEE countries and EU countries from SEE countries" in Hrvatin et.al Ownership over media and influence on independency and pluralism of media: *Report for Bosnia and Herzegovina and regional overview for SEE countries and EU members from SEE countries*.

and Nedeljne Nezavisne Novine. All in all the print media in Bosnia remains rather weak in light of a slow economic recovery and still prevalent ethnic divisions.

In terms of audiovisual media, there are 183 licensed broadcasters in BiH. In addition there are state-wide public broadcasters that form the Public Broadcasting System for BiH, including The Public Broadcasting Service of BiH (PBS BiH), Radio and Television of the Federation BiH (RTV FBiH) and Radio and Television of the Republic of Srpska (RTRS). Of the total number of broadcasters in the country, there are 42 TV stations and 141 radio stations. 78 are publicly owned while 105 are in private hands. Out of that number, there are 16 public and 26 private TV stations, whereas there are 62 public and 79 private radio stations.

The strongest players in the market, meaning the highest ratings and greatest reach, are the entity level public broadcasters, RTV FBiH and RTRS. Currently, RTV FBiH broadcasts on one television channel (Federal TV) and two radio channels (Radio FBiH and Radio 202), whereas RTRS has one television and one radio channel. PBSBiH has also gained significant momentum since being allocated its own frequency in 2003.<sup>172</sup> Public broadcasters at both entity and state level have several sources of finance allowed to them under the [Law on Public Broadcasting System](#). This was imposed by the OHR in 2002 and subsequently adopted by the BiH Parliament in the same year. The law provides multiple sources of funding for public broadcasters, including subscription fees, advertising, sponsorship and direct state funding.

The greatest challenge to the public broadcasting television channels FTV1, FTV2, RTRS-TV and BHTV 1 comes from commercial TV networks such as Mreža Plus and previously

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<sup>172</sup> For further analysis of the structure of the electronic media in BiH see: [Economic and Legal Analysis of the Communications Sector in Bosnia and Herzegovina](#) Available at: <http://www.rak.ba/en/public-affairs/?cid=4262>

mentioned and the recently privatised OBN, who also are in the position to cover close to 90% of the country's population. In some respects conditions for media in Bosnia and Herzegovina are better than in other countries in the SEE region. The country, for example,<sup>173</sup> is regarded as having the best media regulatory framework when compared to other countries in the region. In this regard, the last couple of years have brought about some important changes to how media is regulated.

The backbone of the regulatory framework is the Constitution of BiH which grants all its citizens the highest degree of human rights and freedoms which are internationally recognised as such, including the right of free speech. Moreover, the Law on Free Access to Information which was adopted in 2001 grants free access to information in the domain of any public/government institution to all BiH citizens. It is the first such legal act adopted by any of former Yugoslav Republics. Moreover, the introduction of the Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia-Herzegovina was the single most important step towards the creation of a public-broadcasting system on both entity and state levels. It allowed Bosnia-Herzegovina to move towards the creation of a functional dual-broadcasting system which is intended to support the establishment of strong and viable public broadcasters and, in parallel, a competitive commercial-broadcasting system.

A number of institutions are in charge of making sure that media space functions as intended. When it comes to the electronic media the most important regulatory body in this sense is the state wide Communications Regulatory Agency (CRA), the establishment of which is regarded as the most important contribution to media reform by the donor community. The agency was created in 1998 under significant patronage of the international community and is in charge of

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<sup>173</sup> p. 8, Media Task Force, Progress Report, Stability Pact for South Eastern Europe. Available at: <http://www.stabilitypact.org/media/actrep-may2003.doc>

regulating broadcasting content and granting working permits to the electronic media. In fact, the CRA was established by a decision of the Office of the High Representative and in the first years of its establishment the agency was headed by a foreigner.

The role of the CRA in regulating the work of the media has expanded over the years. Today much of the CRA's work is based on the Law on Communications which the Office of the High Representative enacted in 2003. The agency is run by a Director and a Supervisory Board consisting of seven members appointed by the BiH Parliamentary Assembly on the basis of the Council of Ministers' recommendation. The agency has a yearly budget of KM 5,0 million (approximately €2.5mill) and all of its revenues are derived from its own activities, namely granting operating licences and frequencies, and, as such, is fairly independent of political good will, or the lack thereof.<sup>174</sup> The role of the CRA is significant in the sense that it has been a key factor in contributing to the consolidation of the media sector. For example, through a process of issuing long term broadcasting licences the CRA is influencing the establishment of higher professional and technical standards which have to be adhered to if these licences are to be extended.

As for the press, it is partly regulated by the Council on Printed Media. The Council was formed in 1999 as a result of the common initiative of the OHR and OSCE. However, the impact and the influence that this council has cannot be matched to that of the CRA as its role is limited to mediation such as between citizens and chief editors, for example.

In terms of addressing the issue of corruption the overall contribution of the media can be said to be quite beneficial. In

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<sup>174</sup> The budget is to expand significantly in the coming years given the expansion of the agency's operations and thus an increase in its revenue base. See: *Budget Framework Paper 2007-09*, Ministry of Finance and Treasury, BiH Institutions.

fact, some of the public broadcasters have assumed a leading role in this regard. Popular TV shows such as "60 Minutes", continuously reveal cases of bribery and corruption in the country, and do this in a fairly non-partial manner in the sense that they raise the issue across the national and ethnic divide. Weekly magazines have also been quite active in this regard. Namely, weeklies such as BH Dani, Slobodna Bosna and Reporter have reported major stories on privatization related scams, embezzlement of public funds, conflict of interest cases and so on.

As for the overall outcome of media reform the abovementioned report by Bureau for Policy and Program Coordination states the following:

...the emergence of a free, pluralistic media has played an instrumental role in Bosnia and Herzegovina's progress toward a more democratic, stable society....Private media now provide a range of news and opinion. Explicit political control of broadcasting licensing has been replaced with a transparent, non-partisan framework. Although still deeply flawed, state broadcasters have shed the political excesses of the past. They have non-partisan governing bodies and multiethnic editorial staff. (ibid p. iv).

### **5.13 Civil Society**

The fact that donors are willing to spend their money on civil society programs has its basis in the widespread understanding that civil society "is a crucial agent in influencing the political system and in providing a more solid foundation to democratization, the rule of law and the respect of human rights" (Belloni, 2001, p.163). In line with the spirit, civil society has been "an integral and indispensable component of the international intervention in Bosnia and Herzegovina" (ibid,, p.164). Hence the post war proliferation of civil society

organizations in BiH can primarily be attributed to the emergence of donor funded programs and grants with the overall aim of creating a firm foundation for the democratization of the war-torn country.

The kind of organizations that emerged over the years can be characterized as project implementation units for donor funded programs, many operating under the umbrella of larger international NGOs. According to some counts, there are over 8000 NGOs in BiH today:

| <b>Register</b>                                                             | <b>BiH Level<br/>No. by<br/>22.04.05</b> | <b>FBiH Level<br/>No. by<br/>17.02.05</b> | <b>RS level<br/>No. by<br/>21.04.05</b> | <b>Brčko<br/>District<br/>No. by<br/>28.04.05</b> |
|-----------------------------------------------------------------------------|------------------------------------------|-------------------------------------------|-----------------------------------------|---------------------------------------------------|
| Associations                                                                | 274                                      | 853                                       | 1614                                    | 260                                               |
| Foundations                                                                 | 24                                       | 50                                        | 22                                      | 1                                                 |
| Foundations of Public Interest (formerly called humanitarian organisations) | 1                                        |                                           |                                         |                                                   |
| Foreign and International Associations                                      | 13                                       | 185                                       | 45                                      |                                                   |
| Foreign and International Foundations                                       | 6                                        |                                           |                                         |                                                   |
| Foreign and International Non-Profit Organisations                          | 18                                       |                                           |                                         |                                                   |
| <b>Total</b>                                                                | <b>336</b>                               | <b>1088</b>                               | <b>1681</b>                             | <b>261</b>                                        |

Table: Number and type of NGOs in BiH

Source: *Mapping of Non-State Actors in BiH, 2005*

The figures for the Federation of BiH do not take into account those registered at Cantonal and City level. There are over 4,000 NGOs registered at this level thus bringing the total figure for BiH to over 8,000. The huge difference between the number of NGOs in the Federation of BiH and the RS can be attributed to the tendency of most donors to set up their shop in the Federation of BiH and also to the fact that very little aid went to the RS in the first couple of years after the war. On the other hand, the number of active organizations is estimated to be

much smaller ranging anywhere between 500 and 1500. (Barnes et. al. 2004, p.26)

The exact amount of money spent in the effort to build up civil society cannot be estimated with much precision given the cross cutting nature of many donor initiatives which might be interpreted as having a civil society premise to it. Nonetheless the figure is likely to be in the hundreds of millions of USD. USAID alone has spent around 20 million USD by 2004<sup>175</sup> on various projects in this realm, though democratization through implementation of civil society programs has not been its primary focus. When it comes to the volume of assistance provided, others have carried much of the load including the Organization for Security and Cooperation (OSCE) with the official mandate given to it under the GFP/DPA that included direct responsibilities for helping BiH transform into a stable and democratic society, and other bilateral donors and international NGOs such as the Open Society Institute.

Given that the major areas of intervention were promotion of the advocacy role of local civic groups and fostering citizens' participation, the overall track record is a mixed one. The survival of most NGOs is likely to continue to be conditioned upon a continuing inflow of aid money. Moreover very few organizations have managed to mobilize citizen support for their activities. This however is understandable to a degree given that the NGO institutionalization process has been driven, by and large, by the expectations and demands of the donor community. Moreover, their effectiveness to mobilize support and hold the government accountable for its actions was further inhibited by the very fact that the local institutions had been "increasingly more responsive to the international community than to local citizens" and hence "the advocacy role of civil

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<sup>175</sup> See Barnes et. al (2004, p.12) Civil Society Assessment, Final Report, USAID. Available at: [http://www.civilnodrustvo.ba/files/docs/biblioteka/istrazivanje/Civil\\_Society\\_Assessment\\_Report\\_-\\_Bosnian\\_version.pdf](http://www.civilnodrustvo.ba/files/docs/biblioteka/istrazivanje/Civil_Society_Assessment_Report_-_Bosnian_version.pdf)

society would have been better exercised by pressuring international civil servants in Bosnia rather than local political leaders” (Belloni 2001, p.180).

Donors, however, have begun to learn their lessons and, as a result, are starting to change their approach and focus towards programs that aim to facilitate partnership between government institutions and the non-governmental sector while at the same time assuming less of an interventionist role.

Positive signs started to emerge during the drafting process of the PRSP/MTDS, when the WB insisted that civil society take an active part. The MTDS is the first such strategic document for the development of the entire BiH which has been drafted and adopted by local institutions. The drafting process started in 2002 and was completed by the end of 2003. The process was conducted through the Office of Coordinator for the preparation of the PRSP under the direction of the Coordination Board for Economic Development and EU Integration composed of the relevant State and Entity ministries responsible for defining key priorities. The proposals for the priorities and the sectoral strategies in turn were initiated by 20 different working groups composed of representatives from all institutional levels in BiH (State, Entities, Cantons, municipalities and Brcko District). An Academic Advisory Board was set up in order to ensure that the voice of the academic community was also heard. A number of public debates took place throughout BiH with the aim of providing the opportunity for civil society and individual citizens to contribute their ideas and proposals. Some NGO's such as chambers of commerce and trade unions were directly involved in the drafting process whilst the NGO Council took upon itself to organise and coordinate consultations with the entire NGO sector in order to come up with concrete policy recommendations on how to alleviate poverty in BiH (an effort supported and funded by the Canadian International Development Agency and Oxfam). The process yielded a set of recommendations relating to five sectors including corruption. Ultimately the PRSP was finalised and adopted in February of

2004 alongside a General Action Plan identifying measures to be adopted for each sector, the corresponding responsible institution(s) and the deadlines.

### **5.14 Regional and Local Government**

As previously indicated Bosnia and Herzegovina bears many hallmarks of a decentralised state, with an extremely complex organisational and functional structure. Currently there are 142 municipalities in BiH, of which 80 are in the Federation of BiH and the remaining 62 in the RS. In addition there is Brčko District which enjoys a special status as it falls under neither of the two entity jurisdictions. In contrast to the RS which has no intermediary levels of government, the Federation of BiH is further split into 10 cantons. Therefore, notes Jokay (2000):

Bosnia and Herzegovina, as of the Dayton Agreement, thus has eleven systems of local government, ten of which—at least in the Federation of BiH—show considerable variation in the redistribution of taxes, the allocation of other resources and municipal tasks. In the Federation of BiH the cantons passed local government laws derived from the state and federal constitutions and basic laws over a three-year period, from 1996 to 1999. These canton laws have many similarities, such as standard language and legal formulae. However, in practice similarities in canton legislation—and in many cases up to late 1999, the lack of canton local government legislation—led to much variation in the level and type of services.... The cantons, similar to the entities in their relationship with the state, are responsible for all other tasks not explicitly assigned to the entity by the entity constitution. Thus, BiH has two levels of federalism. One level allocates almost all functions of the state to the two entities, and the process is repeated in the Federation of BiH with

entity functions and implicit functions granted to the cantons.

....The final layer of extreme federalism and decentralization involves the rights and responsibilities of local governments, called municipalities in both entities. Namely, the constitution grants municipalities "self-rule" in all matters delegated to them by the cantons or the RS entity. In the Federation of BiH, if the municipality has a majority population that is different from that of the canton as a whole, then education, culture, housing, public services, land use planning, et cetera must be allocated to the municipal level to protect the minority within the canton. (p.95)

The problem of arbitrary allocation of responsibilities to the municipalities has been exacerbated by inadequate provision of funding. In fact most of the municipalities are under-funded although the situation in the RS may appear to be somewhat better since a larger portion of the RS budget is spent at the municipal level (15 % as compared to the Federation of BiH which spends only 8 %).<sup>176</sup> There have even been instances in which Cantons would interfere in the revenue allocation process so to diminish the municipalities' genuine revenue source (i.e. property tax).<sup>177</sup>

By and large, one can observe a genuine tendency by municipal government to make a good and lasting impression on the citizens, as much of the service delivery takes place at this level and therefore elected officials tend show more effort in delivering on their election promises than their counterparts in

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<sup>176</sup> See : UNDP Bosnia and Herzegovina National Human Development Report, *Better Local Governance in Bosnia and Herzegovina*. Sarajevo, August 2005.

<sup>177</sup> p.11, *Local Governance Assessment and Policy Recommendations*, USAID, 2003.

higher echelons of government. Some municipal governments have gone as far as seeking to obtain certificates in order to attest the quality of their service provision. It remains to be seen whether this will facilitate a competition between municipalities when it comes to service delivery quality.

Moreover, there is more continuity at the municipal government and some of the good practice from before the war has been preserved. For example, if citizens are dissatisfied with their municipal government's performance they can organize a referendum in order to impeach their mayor. On the other hand this is not the case with Cantons which have been established as a result of the peace settlement between Croats and Bosniaks in 1994 therefore have little or no tradition of governance from a period prior to the war.

Moreover, when it comes to preserving the integrity of the local and regional governments and ensuring transparency in their operations, changes which have been taking place at the state and entity level have also been introduced at the local government level, although at a much slower pace. The fact that it has been so has to do with the donor prioritization process as well as the fact that institutions designed to ensure transparency and accountability require a long and arduous process of capacity building. So, in strengthening governance in BiH, donors have predominantly resorted to a top down approach. For example, treasury reform has first been introduced at the state and entity level and has gradually been extended to cantons and municipalities. The same is the case with civil service reform and the introduction of external audit. So for example, municipal books in the Federation of BiH are just now beginning to be scrutinized by its Supreme Audit Institution<sup>178</sup>. However, some of the legal provisions that apply to state and entity officials have also been designed for local

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<sup>178</sup> This also may be the case because the the Federation Supreme Audit Institution is less diligent in carrying out its mandate than the two other SAIs, namely the SAIs in the RS and at the state level.

government officials from their very inception. Although this has been the case with the conflict of interest legislation, it is rather likely that there is less scrutiny in this regard at the local government level given the natural inclination of the state level agencies such as BiH Central Election Commission to focus on the issues at the central government level and also because of the capacity issues involved (i.e. only a handful of staff). Other legislation such as the Law on Free Access to Information have opened all of the BiH government including local government offices to public scrutiny and according to BiH Constitution all of the local government sessions are open to the public.

Local governance issues are regulated by laws on local-self governance. There are two such laws in the country, namely one for the Federation of BiH and for Republika Srpska. BiH has also ratified the European Charter on Local Self-Government in April of 2002, however the country has failed to implement some of the key principles which are contained in the Charter including those which concern the issue of fiscal decentralisation.

All in all one can observe a clear tendency of the local government to improve its financial management practice. In Republika Srpska for example the latest round of audits of municipal books has shown that of the total number of audit opinions issued by the RS Supreme Audit Institution 55% are positive and 19 % negative. This is quite a contrast to audits which were carried out in 2001 when only 2% of audit opinions were positive while sheer 81% were negative <sup>179</sup>.

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<sup>179</sup> Nezavisne Novine (2007b).

## **6. THE NATIONAL INTEGRITY SYSTEM: DISCUSSION OF KEY ISSUES**

### **6.1 Evolution of National Integrity System in Post-War BiH**

Many of the reforms designed to strengthen the NIS were started well after much of donor money had already been dispensed with for the purpose of post-war reconstruction. Therefore one cannot speak about the evolution of the NIS having much to do with strengthening the integrity of the reconstruction process, at least not in the first 4-5 years after the end of the war. The most obvious reason is that the implementation of the reconstruction programme was a definite priority for the international community which, having entered BiH fairly unprepared for a long-term and comprehensive nation building effort, ultimately ended up complicating its tenure in BiH. This is not to say that no progress was made at all during this period.

A notable exception is the media, whose reform started as early as 1997 and bore immediate results in terms of delimiting political influence and nationalist rhetoric during this highly sensitive period. Other reform efforts which cannot be easily accounted for in the context of the NIS framework have also had a strong positive impact towards the strengthening of integrity in post-war reconstruction particularly during the early post war period. This is especially the case with the process of returning private property to its pre-war owners, which effectively cancelled out some of the consequences of war. Moreover, the early reform of the monetary system with the establishment of the independent Central Bank has prevented the executive branch of the BiH government from behaving in an irresponsible and profligate manner.

These reforms stand in contrast with other, albeit cursory, reform attempts at the time, especially those concerning the judiciary and prosecutors. Here, the prevalent opinion was that by raising salaries of judges and prosecutors, the justice system

would have been made more effective and immune to corruption. The results, with the exception of having burdened the state budget, have been piecemeal, thus prompting the international community to search for a more of a comprehensive approach that eventually led to the redesign of the entire justice system in the country. Discussion as to why this particular attempt failed and why it prompted the international community to reconsider its actions ultimately leads to a broader predicament which the international community found itself in at the time.

What institutional-building agenda existed in the first years after the war was essentially characterised by outright obstruction or low levels of cooperation of the ruling political establishment, namely the three nationalist parties including HDZ, SDA and SDS. These parties and the power structures around them, which the international community was contending with, bore many of the hallmarks synonymous with the "nomenklatura" system of the former USSR. Namely:

The party through its various bodies and committees controls all significant appointments, promotions, allocation of privileges and dismissals. This prerogative of selection covers all of the institutions of State, including the legislature and judiciary, as well as managerial positions in the economy. The all-pervasive infiltration of public institutions by party personnel keeps them subordinate to the party, which maintains loyalty and discipline by excluding dissenting voices from influential positions. In a career to political power, individuals may move regularly between party positions, executive offices and management boards of socially owned enterprises. (ESI, 1999, p.4)

HDZ, SDA and SDS conveniently inherited such a system of governance from the former Yugoslavia time and ultimately viewed it as key to preserving their power. It is necessary to

highlight this important legacy of the former communist times in order to understand the ensuing dilemmas which have been brought about by the international community's efforts to tackle its misgivings. So, essentially, by focusing on the reconstruction programme, the international community was inadvertently and simultaneously aiding the system of governance it was ultimately hoping to do away with. This is because, while addressing the humanitarian needs of Bosnian population, and being quite successful in doing so, the international community has at the same time:

....strengthened the war-time regimes and their capacity to oppose the state-building agenda. The rebuilding of bridges and roads, hospitals and schools, and even the distribution of humanitarian aid, reinforced the war-time regimes by giving them access to material resources and by building their credibility with the local population. Local leaders benefited materially from the aid programme through control of local companies contracted for reconstruction work, and through the supply of goods and rental premises to international agencies. They benefited politically, not just from being able to provide their constituency with international aid, but also from the ability to direct aid according to political criteria. By the time the international community became aware of the nature of the power structures it was dealing with, they had become well entrenched and highly resistant to external influence. (ESI, 2000, p.16)

Therefore, and in retrospect, it almost seems that much of the international agenda at the time tended to be self-defeating in many respects. Elections, which featured prominently on the international community's list of items to deal with in the immediate aftermath of the war (especially in light of the fact that there were five elections in as many years) is a prime example:

Successive elections have left the international community in the paradoxical position of working together with democratically mandated parties whose interests are fundamentally at odds with the international agenda. In one of the sharpest ironies of the peace process, local power structures which have made no secret of their opposition to the state are now given constitutional authority to block its development. This veto power has been used not just on inter-ethnic questions, but on the whole range of measures on the international agenda, from creating democratic police forces, to establishing regulatory structures for a market economy, to tackling public corruption. As a result the international community has faced a choice between abandoning most of the substantive goals on its agenda or backing away from its commitment to constitutional and democratic process. (ibid. p.17)

These dilemmas also explain much of the subsequent change in the attitude on the part of the international community. And whilst the international community had slowly and eventually come to grips with the fact that more power was needed to limit influence of the ruling political parties at the time, its evolution "has occurred haphazardly, in response to events on the ground rather than according to a strategic vision" (ESI, 1999, p. 7). This increase in power, as exemplified by the OHR's drive to bypass the political process by imposing legislation and sacking public officials in an unsystematic fashion, has ultimately led to a crisis of democracy which the OHR was in many respect responsible for:

If the High Representative can set aside the constitution and the democratic process in order to advance a particular policy agenda, then why shouldn't Bosnian politicians, if they get the chance? If the High Representative can simultaneously be the accuser and the judge of

public officials, without due process or right of appeal, then why should Bosnians place their faith in the judicial process? One of the chief casualties of the Bonn powers is *constitutionalism* itself – the development of a political culture in which power is subject to law. (ESI, 2003, p. 2)

These dilemmas have been at the heart of the nation-building effort over the past 10 years and both failures and success stories need to be examined in light of it. Namely the success of institutional reforms designed to strengthen the National Integrity System in BiH needs to be evaluated according to the extent they have been effective in diminishing the legacy of former Yugoslavia and its nomenklatura-like system while at the same time not inhibiting progress of democracy.

This era however seems to have come to an end with the appointment of the new High Representative. One can now observe glimpses of a transition process that is underway, namely the one in which the post-war protectorate is being phased out and substituted by the EU integration process. This is perhaps best exemplified by power-sharing agreement between political arch-rivals following the 2006 elections in which it was recognized that the signing of the Stabilization and Association Agreement with the EU was the key priority for the new government.<sup>180</sup> Yet, the overall governance process is still shaped by the inability of the ruling political establishment to resolve major issues without resorting to a crisis-like political conflict that still continues to be defined by unwavering aspirations of the Serbs and their political representatives to protect the integrity of Republika Srpska even at the cost of Bosnia's future in the EU. This is best exemplified by the recent failures to redefine the country's constitution and agree on the terms of police reform, currently a key sticking point in the country's aspirations to join the EU.

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<sup>180</sup> See for example: *Nikola Spiric: Prioritet ubrzanje puta ka Briselu i Wasingtonu*. The article is available from:  
<http://www.nezavisne.com/vijesti.php?vijest=4175&meni=2>

## **6.2 Sequencing of NIS Reforms and their Effectiveness**

Many of the reforms designed to strengthen the national integrity system, which have started around 2000 after having been called for by the Peace Implementation Council (and subsequently stated in the context of the Comprehensive Anticorruption Strategy) have attempted to follow a similar design:

1. Legislation gets drafted by donor-hired consultant / experts, and
2. Imposed by the OHR in the instance of significant opposition by the parties in power and refusal of the legislature to adopt the proposed legislation in the prescribed form, with
3. Financial resources being set aside for the establishment of an implementing body (in case thought needed and usually after the significant pressure on the government to obey), after which
4. International and local staff get appointed, with
5. Seconded international experts usually running the show and eventually transferring the role to locals.

With some minor differences this has been a standard reform precept for many of the integrity pillars especially during the period 2000-2003. Now the model appears to involve creating an inter-entity council of sorts (i.e Governing Council of the Indirect Tax Authority) with international representatives to oversee the reform process. On the other hand there is still strong international pressure, but of a different kind. In any case, reform results have varied between the integrity pillars.

As already mentioned *media* reform, has been the first clear-cut success story in light of it having significantly undermined the political grip on the media. The success has been guaranteed by an early recognition of the problem (media reform was initiated as early as 1997) and the establishment of an effective and

implementable regulatory framework which to this day continues to ensure media integrity and has been highly conducive to the overall peace process efforts<sup>181</sup>. Today the media remains fairly uninhibited in its efforts to bring public attention to the potential and alleged cases of corruption. Other pillars have also had their share of success in strengthening and contributing towards the national integrity system success.

Since their establishment in 2001, the *Supreme Audit Institutions* have, by and large, managed to preserve their independence and integrity. They have worked well in tandem with the media which has taken a keen interest in reporting on their findings regarding financial mismanagement in the public sector. However, some downsides remain, especially in light of a quite lethargic response on the part of the executive in addressing the SAIs recommendations.

Moreover, *BiH Election System* too has evolved into a strong integrity pillar as the elections conducted under the purview of BiH Election Commission are regarded as free and impartial. However the design of the election system has suffered from some misgivings especially in light of the fact that *conflict of interests* became a reform issue only in 2000. By then some other important reforms such as *privatization* had already begun to show signs of it going not in the direction originally foreseen. It is rather likely that a lack of an effective regulatory framework concerning conflict of interests has had a strong negative impact in the way privatization has been managed. As Donais (2002) has rightly noted:

If ever there was a case for tailoring an economic reform and recovery strategy to the specific needs of a particular country, then surely BiH is it. No

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<sup>181</sup> On the other hand, neither of these reforms are without deficiencies. Creation of the Open Broadcasting Network was the biggest single donor spending line item in the course of media reform, and arguably, has made the least contribution towards making the media in BiH a genuine integrity pillar.

other transition state has faced quite the same bundle of challenges – of simultaneously trying to build a functioning state, a viable market economy, and a sustainable peace out of the wreckage of nearly four years of bitter ethnic conflict – that BiH has. In this context, much could have been done to improve Bosnia's privatization process, and to ensure that it contributed to, rather than undermined, broader peace building and state-building efforts. (p.14)

Had the international community pursued the conflict of interest agenda as early and as vigorously as has been the case with elections and privatization we would have perhaps seen a different outcome in both of these reform areas.

In any case, the issue of conflict of interest has seen some progress to date however it still remains a major weakness in the country's election system. A notable weakness can be spotted in the respective regulatory framework, as it seems to obscure what in fact constitutes a breach of conflict of interest rules, especially those with respect to financial interests, therefore leaving it open to interpretation and legal shenanigans. A point of criticism also may be the lack of institutional capacity and readiness on the part of the Election Commission to investigate potential cases of conflict of interest, especially those concerning financial interests. Finally, the issue of post-employment in the public sector (especially concerning the executive and civil service) is a non issue. Therefore, the issue of conflict of interests remains an important weak link that still continues to chip away at not only the election pillar but overall national integrity system.

The reforms concerning *police, prosecutors and judiciary*, can also be singled out as having been successful in many respects but have also had their share of weak spots. Each of these pillars has managed to maintain and increase their independence in spite of, and on occasion a fierce, political

opposition, as exemplified by the fair number of high-profile prosecution cases, some of them involving the highest ranking politicians in the country. However, the very inertia of courts and prosecutors, as well as lenient sentencing especially in some of the high profile cases of corruption and fraud, has featured prominently as a weak point BiH justice system. On the other hand, this era too may have come to an end with sentencing of Dragan Čović<sup>182</sup>, the HDZ President and a former FBiH Minister of Finance and a member of the BiH Presidency, who has been handed down a 5 year long prison sentence for abuse of office and official authority during the time when he was FBiH Minister of Finance.

On a different note, it is important to bear in mind that the manner in which these reforms have been introduced and managed have had tendency to undermine the growth of democracy and inhibit the political process. For example, reforms of the three pillars combined have inflated the overall cost of the justice system therefore undermining the capacity of government to engage in a meaningful policy-making process.<sup>183</sup>

Finally, the reform of *civil service* has been amongst the last donor initiated integrity reforms and arguably the least successful. Very little good has come from this reform beyond having merely formalized the application procedures for those willing to enter the civil service. However, an outsider applying for a civil service job stands little chance of being hired in spite of a seemingly rigorous application procedure. What usually happens is that those with connections get test questions before their competition and therefore have a considerable and undue

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<sup>182</sup> See <http://www.sudbih.gov.ba/?id=282&jezik=e>

<sup>183</sup> According to World Bank's 2001 and 2006 Public and Investment Expenditure Reviews the share of public order and security in the country's GDP has increased from 4.4 % to 4.8 % of GDP between 2001 and 2006 and as such is significantly higher when compared to other countries in the region and Europe.

advantage. Moreover, the tests are designed in such a manner which tests only a candidate's bureaucratic propensity rather than skills that may be integral to a particular civil service post. One of the key sticking points seems to be inability of civil servants to achieve career progress through existing procedures which prompts them to seek ways to 'dodge the system'. All in all, the reform has had a negligible effect on the civil service culture in BiH.

## **7. PRIORITIES AND RECOMMENDATIONS**

The neglect of the need to incorporate integrity measures into the reform process in the early stages of the reconstruction process has led to a series of complications taking quite a toll on the effectiveness and efficiency of recovery in Bosnia and Herzegovina. A key lesson that emerges therefore is that integrity measures need to be effectively prioritised as an integral part of the reform process from the very start of the post-war reconstruction. In the case of Bosnia, the country would have likely benefited from a comprehensive reform of the judiciary at the very beginning of the post-war reconstruction.

This however is indeed a very difficult task as it presupposes a thorough knowledge of local institutions and traditions, a feat that is difficult to accomplish in an environment in which there is an overwhelming pressure to act quickly in order to establish the most basic of conditions for a country's return to normalcy. This difficulty is even more pronounced in environments characterised by strong ethnic divisions.

Further, what seems to be key to the Bosnian experiment is whether an institution imposed from the outside can gain legitimacy over time. Certain institutions such as the Electoral Commission, the Central Bank, HJPC and the Communication Regulatory Agency seem to suggest that this is indeed possible. On the other hand in terms of priority measures for reform in Bosnia today, there are a number of activities which could help

to strengthen the national integrity system, both specifically and generally.

For example, one specific measure concerns the need to revisit the process of civil service reform and remove some of the existing legislative requirements which both limit the career progress of civil servants and very much undermine integrity of this particular pillar. This would require a review of Articles 31 and 32 of the Civil Service Law which, while on paper require vacancies be advertised and open to external candidates, provide the context for excessive bureaucratisation that goes with each and every appointment under the pretence of protecting the integrity of the application process. A more flexible system that allows senior civil service managers a degree of necessary managerial discretion would be preferable, so long as sufficient checks and balances were in place in order to ensure that those with the discretion to make decisions regarding career progress of civil servants can be held to account for such decisions.

Another wider measure concerns a range of pillars and deals with an apparent lack of integrity in how government and donors (especially agencies such as the World Bank) dispose funds on projects of public interest. The preliminary research has indicated that there are gaps and failures in the project approval and supervision process and that the evaluation process with regard to achievement of results is nontransparent at best and nonexistent at worst. Further research is necessary in order to ascertain the extent to which such failures are indeed prevalent so that actions in response to them can be effectively prioritized.

## **8. LEGISLATION**

## **State Level Legislation**

BiH Election Law Official Gazette of BiH, 23/01

Criminal Code of BiH, Official Gazette of BiH, 36/03 and 37/03

Criminal Procedure Code of BiH, Official Gazette of BiH, 36/03 and 26/04

BiH Law on free Access to Information, Official Gazette of BiH, 57/00

General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement), December 14, 1995.  
<http://www.ohr.int>

Law on BiH Ministries and Other Bodies of Administration, Official Gazette of BiH, 5/03, 42/03 and 26/04

Law on Civil Service in the Institutions of BiH, Official Gazette of BiH, 12/02, 19/02, 35/03, 04/04, 26/04, 37/04, 48/05 and 02/06

Law on Conflict of Interest in BiH Institutions, Official Gazette of BiH, 16/02 and 12/04

Law on Court of BiH, Official Gazette of BiH, 29/00 and 16/02

Law on High Judicial and Prosecutorial Council of BiH, Official Gazette of BiH, 25/04

Law on Financing of BiH Institutions, Official Gazette of BiH, 61/04

Law on Ombudsman BiH, Official Gazette of BiH, 19/02, 35/04 and 32/06

Law on Political Parties Financing, Official Gazette of BiH, 49/00

Law on Public Procurement of BiH, Official Gazette of BiH, 49/04 and 19/05

Law on Supreme Audit of BiH Institutions, Official Gazette of BiH, 17/99

Law on the Council of Ministries of BiH, Official Gazette of BiH, 38/02

Law on the Prosecutor's Office of BiH, Official Gazette of BiH, 24/02 and 42/03

## **Entity Level Legislation**

### **Republika Srpska**

Criminal Code of RS, RS Official Gazette, 49/03

Criminal Procedure Code of RS, RS Official Gazette, 50/03

Freedom of Information Act of RS, RS Official Gazette, 20/01

Law on the Budget System of RS, RS Official Gazette, 96/03

Law on Civil Service in RS, RS Official Gazette, 61/02, 62/02, 38/03, 42/04, 49/06

Law on Courts of RS, RS Official Gazette, 111/04

Law on Internal Affairs of RS, RS Official Gazette, 35/05

Law on Ministries of RS, RS Official Gazette, 70/02

Law on Local Self-Governance of RS, RS Official Gazette, 101/04

Law on Ombudsman RS, RS Official Gazette, 04/00

Law on Supreme Audit of RS, RS Official Gazette, 18/99 and 39/03

Law on the Prosecutor's Office of RS, RS Official Gazette, 33/02

### **Federation of BiH**

Criminal Code of FBiH, FBiH Official Gazette, 36/03

Criminal Procedure Code of FBiH, FBiH Official Gazette, 35/03

Freedom of Information Act of FBiH, FBiH Official Gazette, 32/01

Law on Budgets of Federation of BiH, FBiH Official Gazette, 20/98

Law on Federation Ministries and Other Bodies of Federation Ministries, FBiH Official Gazette, 19/03 and 38/05

Law on Internal Affairs of FBiH, FBiH Official Gazette, 49/05

Law on Ombudsman FBiH, FBiH Official Gazette, 32/00

Law on principles of Local Self-Governance, FBiH Official Gazette, 06/95

Law on Supreme Audit of FBiH, FBiH Official Gazette, 22/06

Law on the Civil Service in FBiH, FBiH Official Gazette, 29/03

Law on the Federal Prosecutor's Office , FBiH Official Gazette

## **9. LIST OF INTERVIEWEES**

Gianni la Ferrara, former Advisor, EC funded Project to support BiH Institutions(component assisting in the creation of the Civil Service Agency), November 16, 2005 and April 4, 2006.

Hazim Šabanović, Project Administrator, Swedish National Audit Office Institutional Capacity Building Project with Supreme Audit Institutions, Decmber 20, 2005.

Samir Mušović, Former Deputy Auditor-General, BiH Supreme Audit Institution, Decmber 22, 2005 and April 4, 2005.

Muriz Kodžaga, former Advisor to BiH Election Commission, February 13, 2006.

Magdalena Kouneva, Public Administration Advisor, EC Support to the Office of the Coordinator for Public Administration Reform in BiH, March 10.

Dejan Vracić, former Implementation Officer, Provisional Election Commission, March 13, 2006.

Sead Traljić, Programme Coordinator for BiH, DFID funded Balkans Justice Programme, January 13, 2006.

Adis Hodžić, High Judicial and Prosecutorial Council, February 16, 2006.

Miroslav Tomic, Budget Adviser, OHR Economics Department, February 15, 2006.

Reuf Bajrović, Corruption Analyst/Researcher, International Republican Institute, January 18, 2006.

Mr. Franz-Hermann Bruener, Director General of OLAF (EU Anti-Corruption Office) and former head of the OHR Anti-fraud Unit.

Anela Duman, Procurement Expert, EC Procurement Reform Programme in BiH-Phase II, March 25, 2006.

Amir Pemkmez, Senior Expert, EC Procurement Reform Programme in BiH-Phase II, March 25, 2006.

Kasim Bajramović, Member of BiH Commission on Complaints regarding Procurement, March 1, 2006.

Vlatko Dugandžić Assistant Minister for Budget, BiH Ministry of Finance and Treasury, March 2, 2006.

Jarmo Helppikangas, Sanja Bogdanovic and Jelena Sesar, Office of the High Representative-Rule of Law, April 7, 2006.

Haris Grizović, Office of the High Representative-Rule of Law, April 7, 2006.

Francois Roger Cazala, SIGMA-OECD, April 13, 2006.

Azira Šepić, Office of the High Representative-Rule of Law, April 21, 2006.

Hasida Gusić, BiH Election Commission, April 21, 2006.

Timothy Faught, Senior Executive Advisor, International Criminal Investigation Training Assistance Programme (ICITAP), April 10, 2006.

Jonathan Ferrari, Advisor, International Criminal Investigation Training Assistance Programme (ICITAP), April 10, 2006.

Chris Horne, Advisor, DFID funded Balkans Justice Programme, April 26, 2006.

Lejla Ćatić Hurtić, formerly with World Bank Resident Office in Sarajevo, May 12, 2006.

Vera Paraskevi Nazou, Task Manager-Home Affairs, European Commission Delegation in BiH, May 16, 2006.

Isabel Royo Pla, Task Manager, Judiciary, European Commission Delegation in BiH, May 16, 2006.

Zinaida Babović, Former Head of Public Affairs Department, Independent Media Commission, December 15, 2006

Azra Hadzibegić, Advisor, Ministry for Human Rights and Refugees, December 2006

Azamina Vukovic, Directorate for Economic Planning, December 19, 2006

Irena Hadžiabdić, Executive Director the Association of Election Officials, December 20, 2006

Aleksandra Martinović, Executive Director of BiH Transparency International, January 26, 2007

## 10. LIST OF ACRONYMS

|              |                                                                        |
|--------------|------------------------------------------------------------------------|
| <b>BEEPS</b> | Business Environment and Enterprise Performance Survey                 |
| <b>BiH</b>   | Bosnia and Herzegovina                                                 |
| <b>CARDS</b> | Community Assistance for Reconstruction, Development and Stabilization |
| <b>CAS</b>   | Country Assistance Strategy                                            |
| <b>CEC</b>   | Central Election Commission                                            |
| <b>CRA</b>   | Communications Regulatory Agency                                       |
| <b>CSA</b>   | Civil Service Agencies                                                 |
| <b>DPA</b>   | Dayton Peace Agreement                                                 |
| <b>EC</b>    | European Commission                                                    |
| <b>ECHO</b>  | European Commission Humanitarian Aid Office                            |
| <b>ESI</b>   | European Stability Initiative                                          |
| <b>EU</b>    | European Union                                                         |
| <b>EUPM</b>  | European Union Police Mission                                          |
| <b>FBiH</b>  | Federation of Bosnia and Herzegovina                                   |
| <b>FIAS</b>  | Foreign Investment Advisory Service                                    |
| <b>HDZ</b>   | Hrvatska demokratska zajednica                                         |
| <b>HJPC</b>  | High Judicial and Prosecutorial Council                                |
| <b>HVO</b>   | Hrvatsko vijeće odbrane                                                |
| <b>IAP</b>   | Integrated Area Programmes                                             |
| <b>IBHI</b>  | Independent Bureau for Humanitarian Issues                             |
| <b>IDP</b>   | Internally Displaced Persons                                           |
| <b>IFC</b>   | International Finance Corporation                                      |
| <b>IFES</b>  | US Federal Election Commission                                         |

|                |                                                                                                                                                                                              |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>IFOR</b>    | NATO-led Implementation Force                                                                                                                                                                |
| <b>IMC</b>     | Independent Media Commission                                                                                                                                                                 |
| <b>IPTF</b>    | International Police Task Force                                                                                                                                                              |
| <b>JNA</b>     | Yugoslav National Army                                                                                                                                                                       |
| <b>KM</b>      | Convertible Mark                                                                                                                                                                             |
| <b>LCI BiH</b> | Law on Conflict of Interests in the Institutions of Government of Bosnia and Herzegovina                                                                                                     |
| <b>MIGA</b>    | Multilateral Investment Guarantee Agency                                                                                                                                                     |
| <b>MTDS</b>    | Medium Term Development Strategy                                                                                                                                                             |
| <b>NATO</b>    | North Atlantic Treaty Organisation                                                                                                                                                           |
| <b>OBN</b>     | Open Broadcasting Network                                                                                                                                                                    |
| <b>OBNOVA</b>  | European Community programme for the rehabilitation and reconstruction of Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia. |
| <b>OECD</b>    | Organization for Economic Co-operation and Development                                                                                                                                       |
| <b>OHR</b>     | Office of High Representative                                                                                                                                                                |
| <b>OSCE</b>    | Organization for Security and Co-operation in Europe                                                                                                                                         |
| <b>PBS BiH</b> | Public Broadcasting Service of BiH                                                                                                                                                           |
| <b>PEC</b>     | Provisional Election Commission                                                                                                                                                              |
| <b>PIC</b>     | Peace Implementation Council                                                                                                                                                                 |
| <b>PPA</b>     | Agency for Public Procurement                                                                                                                                                                |
| <b>PPL</b>     | Law on Public Procurement                                                                                                                                                                    |
| <b>PRSP</b>    | Poverty Reduction Strategy Paper (also known as Medium Term Development Strategy (MTDS))                                                                                                     |
| <b>RS</b>      | Republika Srpska                                                                                                                                                                             |

|                 |                                                                  |
|-----------------|------------------------------------------------------------------|
| <b>RSNA</b>     | National Assembly of Republika Srpska                            |
| <b>RTRS</b>     | Radio and Television of the Republika Srpska                     |
| <b>RTV FBiH</b> | Radio and Television of the Federation BiH                       |
| <b>SAI</b>      | Supreme Audit Institution                                        |
| <b>SAIFed</b>   | Supreme Audit Institution of BiH Federation                      |
| <b>SAIRS</b>    | Supreme Audit Institution of Republika Srpska                    |
| <b>SDA</b>      | Stranka demokratske akcije                                       |
| <b>SDS</b>      | Srpska demokratska stranka                                       |
| <b>SEE</b>      | South East Europe                                                |
| <b>SEED</b>     | South East Europe Enterprise Development                         |
| <b>SFOR</b>     | NATO's Stabilization Force                                       |
| <b>SIDA</b>     | Swedish International Development Cooperation Agency             |
| <b>SIGMA</b>    | OECD and EU Support for Improvement of Governance and Management |
| <b>SIPA</b>     | State Investigation and Protection Agency                        |
| <b>SNAO</b>     | Swedish National Audit Office                                    |
| <b>USAID</b>    | United States Agency for International Development               |