

Enlargement report for Bosnia and Herzegovina

European Parliament resolution of 14 March 2012 on the 2011 progress report on Bosnia and Herzegovina (2011/2888(RSP))

The European Parliament,

- having regard to the Stabilisation and Association Agreement (SAA) between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, signed on 16 June 2008 and ratified by all EU Member States and Bosnia and Herzegovina,
 - having regard to Council Decision 2008/211/EC of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2006/55/EC¹,
 - having regard to Council Decision 2011/426/CFSP of 18 July 2011 appointing the European Union Special Representative in Bosnia and Herzegovina²,
 - having regard to the Council conclusions on Bosnia and Herzegovina of 21 March 2011, 10 October 2011, and 5 December 2011,
 - having regard to the Communication from the Commission to the European Parliament and the Council entitled ‘Enlargement Strategy and Main Challenges 2011-2012’ (COM(2011)0666) and to the 2011 Progress Report on Bosnia and Herzegovina adopted on 12 October 2011 (SEC(2011)1206),
 - having regard to its resolution of 17 June 2010 on the situation in Bosnia and Herzegovina³,
 - having regard to the Joint Statement of the 13th European Parliament - Parliamentary Assembly of Bosnia and Herzegovina Inter-parliamentary Meeting, held in Brussels on 19-20 December 2011,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas the European Union continues to be strongly committed to a sovereign and united Bosnia and Herzegovina (BiH); whereas one of the EU’s underlying policy objectives is to accelerate the country’s progress towards EU membership and thus help improve the quality of life for the benefit of all citizens; whereas this progress requires functional institutions at all levels and commitment by the political leaders of the country;
- B. whereas the future of BiH lies in the European Union and whereas the prospect of EU membership is one of the most unifying factors amongst the people of the country;
- C. whereas the primary responsibility for a successful EU accession process lies with this

¹ OJ L 80, 19.3.2008, p. 18.

² OJ L 188, 19.7.2011, p. 30

³ OJ C 236 E, 12.8.2011, p. 113.

potential candidate country and preparations should be primarily carried out by those who are elected by and responsible to the citizens and in line with a shared common vision on the country's pressing political, economic and social problems; whereas it is only as a single country that BiH has the prospect of EU membership and whereas the undermining of State institutions will deprive all citizens of the chance to gain the benefits of EU integration;

- D. whereas political party leaders have succeeded in agreeing in principle on a new State government, which has since been constituted following a political stalemate of some fifteen months;
- E. whereas the political and institutional deadlock has prevented the country from pursuing much-needed reforms aimed at bringing the country closer to the EU, in particular in key areas like state building, governance, rule of law implementation and the approximation of European standards; whereas the lack of a State government has also affected the capacity to adopt coherent economic and fiscal policies;
- F. whereas constitutional reform remains the key reform for the transformation of BiH into an effective and fully functional state;
- G. whereas in a country with different levels of governance strong coordination is required between the various actors and sincere cooperation is needed to enhance its ability to speak with one voice; whereas, however, no coordination mechanism can substitute for much-needed political will; whereas cooperation can lead to tangible results for the benefit of all citizens, as shown with visa liberalisation, although in many cases the necessary coordination is lacking;
- H. whereas the policy objectives of the reinforced EU Special Representative (EUSR) and Head of Delegation (HoD) are to offer the EU's advice and facilitate the political process, and to ensure the consistency and coherence of Union action;
- I. whereas the complex structure of the judiciary system with the absence of a State-level Supreme Court, the lack of harmonisation among the four internal jurisdictions, political interference in the judicial system and challenges to the competences of the State-level judicial agencies, undermine the functioning of the judiciary and hamper reform efforts;
- J. whereas the EU Police Mission, established in 2003, has been extended until 30 June 2012 with a view to the transition of future activities to funding by Community instruments and the establishment of a strategic advisory capacity in the area of law enforcement and criminal justice within the office of the EUSR;
- K. whereas BiH is providing assistance with ongoing war crimes trials and appeals, and is cooperating in relation to transferred cases;
- L. whereas corruption continues to seriously plague the socio-economic and political development of the country;
- M. whereas trafficking in human beings is a serious crime and a gross violation of human rights; whereas BiH is a country of origin, transit and destination for trafficking in human beings, especially women and girls;

- N. whereas lack of job prospects, especially amongst young people, is hindering the progress of the country, contributing to social discontent;
- O. whereas cooperation with other countries of the region is a prerequisite for lasting peace and reconciliation within BiH and the Western Balkans;

General remarks

1. Welcomes the formation of the new State government, following an agreement of political party leaders on a range of important issues; calls for that agreement to be fully implemented by addressing outstanding issues including the adoption of the 2012 State budget and the appointments of Directors to State agencies; calls on the political elite to build on this positive development, which can give further impetus to the EU integration process, and re-engage in a constructive dialogue on other important reforms as well;
2. Is concerned about the limited progress achieved by BiH as a potential candidate country for EU membership on its path towards stabilisation and socio-economic development; takes the view, however, that progress is possible towards EU integration for the benefit of BiH citizens provided that determination, political responsibility, a culture of compromise and a shared vision of the country's future constitute the guiding principles for further actions; encourages the BiH authorities to take further concrete steps to put the country firmly back on track towards the EU;
3. Reminds all political actors in Bosnia and Herzegovina that reforms on the path towards EU integration are to benefit the people of BiH and that it is their responsibility vis-à-vis the citizens to reach compromises, to coordinate effectively, and to agree and implement reforms; recalls that a functioning State as well as a functioning State government and administration are also conditions for a successful application for EU membership; urges all political actors to undertake the necessary constitutional changes and pursue other key reforms as well as to focus on creating the conditions for the entry into force of the SAA; stresses that local ownership and political commitment are prerequisites for the success of any EU financial assistance; to this end, calls on the country's authorities to establish the necessary structure for the decentralised management (DIS) of the Instrument for Pre-accession Assistance (IPA); stresses the need to strengthen coordination mechanisms on the programming of future EU financial assistance, notably under the IPA programme;
4. Strongly believes that strengthening the central State does not mean weakening the Entities but creating the conditions for an effective central administration capable of preparing the entire country for EU accession in close collaboration between different layers of governance; therefore underlines the need to strengthen administrative capacities at all levels of governance dealing with EU-related matters as well as coordination between the respective authorities in the programming of EU financial assistance and in all sectors relevant for the transposition of EU legislation;
5. Condemns the use of inflammatory language and actions, which undermine the process of inter-ethnic reconciliation and the functioning of the State structures;

Enhanced EU presence

6. Welcomes the EU's overall strategy towards BiH including the strengthening of the EU's presence in BiH by the creation of a reinforced EU representative acting under a double-

hatted mandate as EUSR and HoD; commends the EUSR/HoD for supporting BiH on EU-related matters and facilitating a locally owned EU integration process; fully supports the EUSR/HoD in his ambitions to help BiH authorities in anchoring the EU agenda at the core of the political process by ensuring consistency, coordination and coherence of Union action; urges all political actors, in this respect, to work in close partnership with the EUSR; recalls the need to implement the enhanced EU presence by clear and comprehensive strategies on the various problems and at the same time by firm and coherent support from all EU Member States for the EUSR/HoD; notes, in this regard, that the EU must allocate sufficient means, including staffing to allow it to have a presence in the entire country, so that the EUSR/HoD can achieve the required objectives;

7. Invites the international community to consider the necessity of, and find solutions for, the implementation of the 5+2 Agenda of the Peace Implementation Council Steering Board to pave the way for the dissolution of the Office of the High Representative (OHR) in order to allow for more local ownership and responsibility for BiH's own affairs, bearing in mind that any such step should not impact negatively on the stability of the country or the pace and outcome of much-needed reforms; recalls that the BiH authorities must in this context resolve the outstanding issues of state property and defence property;
8. Notes with satisfaction the significant contribution of the EU Police Mission (EUPM) and EUFOR Operation Althea to the stability and security of BiH and considers them important elements of the EU's reinforced overall strategy for BiH; commends the accomplishments of the EUPM in contributing to the fight against organised crime and corruption by the BiH law enforcement agencies and judiciary; notes the agreement to close the EUPM by the end of June 2012; recalls the need for an orderly transition of EUPM's work to assistance projects financed by IPA as well as to a strategic advisory capacity in the areas of law enforcement and criminal justice in the office of the EUSR; welcomes Althea's executive military role in supporting BiH's efforts to maintain a safe and secure environment under a renewed UN mandate; underlines the need to further enhance the skills and professionalism of the BiH security forces with a view to strengthening local ownership and capacity;

Political criteria

9. Reiterates its position that the State should have sufficient legislative, budgetary, executive and judicial powers in order to be capable of meeting the EU accession criteria;
10. Welcomes the initiative on the Parliamentary Coordination Forum dealing with legislative matters of EU integration on different levels of governance, which should contribute to the European agenda becoming a national agenda; even though it has not yet been possible to reach an agreement on concrete constitutional amendments, considers the work of the Interim Joint Committee a significant step forward since for the first time BiH politicians have established an institutionalised way of discussing constitutional amendments without the presence of the international community, with the involvement of civil society and in an open and publicly transparent manner;
11. Is concerned that social dialogue remains weak and the consultation of social partners random; urges the BiH governments, on the level both of the entities and of the State, to strengthen the administrative capacity for cooperation with NGOs and provide further support for the development of civil society by raising their ambitions in terms of establishing a social dialogue with relevant partners; underlines that the rules for the recognition and registration of social partners need to be clarified and the State-level law on

social partners' representativeness needs to be adopted;

12. Notes that constitutional reform remains the key reform to transform BiH into an effective and fully functional state; calls on the parliamentary committee to come up with concrete proposals in this regard;
13. Reiterates its call for an agreement on and full compliance with the ECHR ruling in the Sejdić-Finci case and with Article 2 of the SAA requiring respect for democratic principles and human rights; recalls that besides the Sejdić-Finci case there is also a general need to modify the constitution in a way that allows for a more pluralistic, democratic and efficient mode of governance and state structure;
14. Calls on all competent authorities to facilitate the revision of their respective legislation and to ensure the establishment of an independent, impartial and effective judicial system in line with EU and international standards and in order to strengthen the rule of law for the benefit of all citizens; welcomes the fact that some progress has been made, via the structured dialogue on the judiciary, on creating a balance between State- and Entity-level judicial competences; urges the Government, however, to effectively implement the Justice Sector Reform Strategy and to prevent attempts to weaken State-level judiciary institutions such as the High Judicial and Prosecution Council (HJPC);
15. Reiterates its call for the possible establishment of a Supreme Court, and other strategic and structural issues related to the harmonisation of the four different legal systems of BiH, to be addressed consistently within the debate taking place in the framework of the Structured Dialogue on Justice; considers that, as indicated also in the Justice Sector Reform Strategy, these strategic matters should be discussed in a spirit of full responsibility in the context of a constitutional reform process;
16. Welcomes progress with a view to preparations for ending the international supervision of the Brcko District;
17. Welcomes the adoption of the Census Law by both Houses of the BiH Parliamentary Assembly, following the political agreement between party leaders; calls on BiH authorities to carry out the necessary technical preparations as a matter of urgency since this is not only a clear precondition for the prospect of EU accession but also essential for the socio-economic development of the country;
18. Reiterates in this regard the obligation to implement Annex VII of the Dayton Peace Agreement to ensure sustainable return and also fair, comprehensive and durable solutions for internally displaced people, refugees and other conflict-affected persons;
19. Calls on the BiH authorities to effectively investigate and prosecute corruption cases as well as to increase the number of convicted perpetrators; welcomes ambitions to launch an action plan to combat corruption in the civil service; underlines the need for increasing public awareness regarding anti-corruption legislation and practices as well as the necessity to implement a system that will allow citizens to report cases of corruption; also urges the government, if necessary with the assistance of the EU, to develop and implement special training programmes for police forces, prosecutors, judges and other relevant authorities that will increase their awareness and knowledge about anti-corruption legislation and practices;

20. Welcomes the appointment of the directors for the Agency for Prevention of Corruption and the Coordination of the Fight against Corruption and simultaneously underlines the pressing need to provide the necessary financial and human resources to ensure that this Agency becomes fully operational; encourages all efforts for the signing of an operational agreement with EUROPOL as soon as possible;
21. Is concerned by the small amount of progress in the area of money-laundering; urges the Parliament to adopt necessary legislative amendments that will, inter alia, improve the reporting of suspicious bank transactions, increase the seizure rates of criminally gained assets, and enhance the efficiency of relevant authorities; calls for the Financial Intelligence Department to be strengthened by increasing its investigative capacities; underlines the importance of establishing structures for the management and maintenance of seized assets;
22. Notes that visa liberalisation has not resulted in an increase of asylum claims from citizens of Bosnia and Herzegovina in the Schengen Area and Bulgaria and Romania; commends the authorities for having established mechanisms at bilateral and multilateral level for cases where individual Member States have seen a temporary increase in asylum claims;
23. Calls on the BiH authorities to actively protect and promote the rights of all groups and individuals, who should be protected against direct or indirect discrimination and violence; notes with concern that the implementation of the anti-discrimination law remains weak and that the legal provisions fall short of what is needed; urges the government and parliament of BiH to bring the country's legal and institutional framework in line with EU and international standards on LGBT rights; calls on the BiH authorities to strengthen civil society and actively involve it in devising and implementing human rights policies;
24. Notes the progress achieved in implementing the Roma Strategy and action plans on housing and employment; calls for further efforts in these areas, as the Roma population continues to face discrimination and difficult living conditions;
25. Underlines the need to effectively combat trafficking in human beings in cooperation with the international community, to prosecute perpetrators, to provide protection and compensation to the victims and to raise awareness to prevent revictimisation by authorities and society; calls for enhanced cooperation and partnership between competent authorities across various policy areas and NGOs from the country and the region; calls for the awareness of BiH police forces regarding human trafficking to be raised through the development of special training courses; encourages the continuous support of the EU in the area of human trafficking, and asks for close cooperation on the matter between DG ELARG, DG HOME and the EU Anti-Trafficking Coordinator;
26. Recognises that the legal provisions guaranteeing women's rights and gender equality are in place, but is concerned that only limited progress has been made in this field; urges the BiH government to strive towards increased participation of women both in the political arena and the labour market; encourages the government, in addition, to increase support for activities and initiatives aimed at combating discriminatory customs, traditions and stereotypes that undermine women's basic rights;
27. Calls on the BiH authorities to combat extremism, religious hatred and violence in close collaboration with the international community; calls for awareness, investigation and elimination of extremist threats of any kind in the whole of the Western Balkan region;

28. Calls on the BiH authorities to strengthen independent and diverse media free of political interference and allow the media to report freely from all parts of the country; regrets the continued political pressure on the country's media as well as threats against journalists; urges, furthermore, that the issue of the high political and ethnic fragmentation and polarisation of the media be addressed;

Dealing with war crimes

29. Commends BiH authorities, at both State and Entity level, for responding promptly and adequately to requests by the International Criminal Tribunal for the former Yugoslavia (ICTY);

30. Urges all competent authorities to strengthen the capacities of the Prosecutors' Offices and Courts for dealing with war crimes across BiH, to reduce the large backlog of war crimes cases, to address the applicability of different criminal codes, which results in uneven convictions, and to accelerate progress in witness protection and in the implementation of the National War Crimes Strategy; emphasises that the process for the referral of war crimes cases from the State-level judiciary to other competent instances has to be guaranteed through the application of objective and transparent criteria; condemns any politically motivated attacks on the rulings of the BiH Court in war crimes cases; calls on BiH authorities to speed up prosecution in cases of sexual crimes committed during the war and to adequately ensure justice and reparation for the victims;

31. Welcomes the development of a strategy targeting the victims of war crimes of sexual violence to provide the victims directly with adequate reparation, economic, social and psychological support, including the highest attainable mental and physical health support services; calls on the BiH authorities to develop programmes and allocate adequate resources for the protection of witnesses; stresses in this connection the need to improve the coordination between the various judicial organs and to speed up prosecution procedures in cases of sexual war crimes committed during the war; calls on the Commission and other international donors to support the BiH authorities in this endeavour with financial resources and expertise targeting the victims of war crimes of sexual violence; notes that the Ministry of Human Rights and Refugees of BiH, supported by UNFPA, is entrusted with the task of developing the abovementioned strategy by setting up an expert working group; notes that the Republika Srpska (RS) was invited to nominate representatives from its competent ministries to participate, but has not done so to date; calls on the RS authorities to actively engage in this crucial effort to adopt and implement the strategy;

32. Is concerned that BiH still lacks a State-level detention facility that can accommodate prisoners convicted of serious offences, including war-related crimes; welcomes the capture of Radovan Stanković, the fugitive who escaped from Foča prison after having been convicted by the State Court of Bosnia and Herzegovina and sentenced to 20 years' imprisonment for crimes against humanity, including rape, enslavement and torture;

33. Calls on the BiH authorities to promote and complete the sustainable return of refugees and internally displaced persons as well as to adopt a relevant strategy; strongly encourages local authorities to ensure the infrastructure for successful return; encourages the BiH authorities to pursue further efforts on the implementation of the Sarajevo Declaration Process on refugees by addressing key challenges such as provision of health care, employment and social services;

34. Recalls in this context the importance of fully implementing the Mine Action Strategy; underlines the need for a future law on anti-mine actions to adequately address fundraising responsibilities, administrative and management capacity and coordination of demining measures, as stressed by the Commission;
35. Notes the ruling of the Constitutional Court of BiH that the Law on Citizenship is in breach of the Constitution; reiterates the call of the Constitutional Court to the Parliamentary Assembly to amend the Law within half a year; calls for the implementation of the Court judgement as a matter of urgency;

Education

36. While noting some progress in improving the general framework for education, calls on the new Government inter alia to improve coordination amongst the 13 ministries of education and the Department for Education in the Brcko district, reduce the fragmentation of the educational system and make schools more inclusive;
37. Considering the vital role of education in creating a tolerant multi-ethnic society, urges all governments in BiH to promote an inclusive, non-discriminatory education system, and to eliminate the segregation of different ethnic groups (two schools under one roof) by developing common education programmes and integrated classes across the country; calls on the Commission to examine if targeted EU support could assist in ending the segregated education system;
38. Urges the new Government and the competent authorities at entity, cantonal and Brcko District level to step up the action plan on the educational needs of Roma and ensure adequate financial resources for its implementation; calls on the BiH authorities to find ways for the registration at birth of all Roma children in order for them all to be able to enrol in school;
39. Stresses the need to improve the overall quality of education meeting the needs of the labour market; calls on the BiH authorities to address the deficiencies of vocational training in order to attract foreign direct investment as well as to ensure, for reasons of economic necessity among others, that the accreditation of education institutions starts and the agencies dealing with the recognition of degrees and diplomas become fully operational;
40. Urges the new government to initiate the necessary steps so that the relevant stakeholders in BiH take the opportunity at last to participate in the educational mobility programmes of the European Union, which have been open to them since 2007;
41. Calls on the authorities to shed light on the legal framework for cultural institutions such as the National Museum, the National Library and the Museum of History and to make sure that these institutions are preserved;

Economic and social issues

42. Notes worsening living standards with increasing unemployment, in particular among young people aged between 18 and 24; strongly believes that economic prosperity and the prospect of jobs, especially for the young, are crucial for the further development of the country; invites the new Government to accelerate economic growth which has been hampered by the cumbersome governing structure, excessively large and expensive

government bureaucracies, and long-standing problems with organised crime and corruption;

43. Encourages state and business leaders to pursue all efforts to restore investors' confidence and to create a business-friendly environment since BiH has fallen to last place in the region as regards investment climate;
44. Welcomes the implementation of the Small Business Act and the efforts of the Council of Ministers and the Entities to provide financial support measures to small and medium-sized enterprises (SMEs); also underlines the need for the immediate setting up of a State-level register for the production of business statistics and a single SME registration system for the entire country that will facilitate the proliferation of SMEs;
45. Urges the new Government and the Entity governments to address in a coordinated manner the impact of the economic crisis, to sustain sound fiscal policies as well as to adopt the 2012 State budget and the General Fiscal Framework for 2012-2014; considers it important to accelerate the pace of economic restructuring in particular in the Federation; calls on the government to ensure an appropriate budget for the upcoming 2012 municipal elections;
46. Urges the new government to focus its efforts on the reforms necessary for the accession of BiH to the World Trade Organisation in order to promote an even more positive business climate and foreign investment;
47. Reiterates its call on all those involved to work towards completing the single economic area across the country by strengthening economic policy coordination between the Entity governments, removing obstacles to an adequate legal framework and generating countrywide competition;
48. Welcomes the adoption of the Law on State Aid by both Houses of the BiH Parliamentary Assembly; notes that this law is one of the requirements for allowing the SAA to enter into force; calls upon the authorities to adopt the implementing rules of this law in line with the *acquis*;
49. Invites the new Government to develop an efficient and sustainable social protection system as well as to improve the targeting of social benefits; calls on the BiH authorities to make a firmer commitment to employment policies, social cohesion and gender equality; considers it essential to improve coordination between the education and labour market sectors in order to better meet the needs of the labour market;
50. Calls on the State and Entity Governments to remove the obstacles which contribute to the low labour mobility in the country by harmonising the provisions of the different labour legislations and pension and social security systems between the Entities and also between Cantons, thereby encouraging wider mobility and transferability of benefits across the country;
51. Underlines that BiH has ratified the major labour rights conventions of the International Labour Organisation (ILO) as well as the revised European Social Charter; draws attention to the fact that labour and trade union rights still remain limited and calls on the BiH government to further enhance these rights and work towards the harmonisation of the legal framework in this regard across the country;

52. Calls upon the Commission to propose a detailed road-map to enhance mobility and access for students, trainees and workers to the labour market and the educational services in the European Economic Area, including programmes for circular migration for work;

Regional cooperation

53. Commends BiH for its proactive role in the Sarajevo Declaration Process as well as in the adoption of the Joint Declaration of the Foreign Ministers of BiH, Serbia, Croatia and Montenegro on ending the resettlement and providing lasting solutions for vulnerable refugees and internally displaced persons;

54. Welcomes the efforts to solve outstanding issues between BiH, Serbia and Croatia, and is pleased that these efforts have intensified in the last few months; encourages all parties, including BiH authorities, to pay special attention to bilateral and regional cooperation in the field of justice and security;

55. Calls on BiH - while noting that BiH and Serbia have established good neighbourly relations - not to postpone the signing of the protocol on the exchange of evidence in war crime cases and to establish closer cooperation in this sensitive area; welcomes, however, the bilateral agreement between BiH and Serbia on cooperation concerning the exchange of information in the fight against organised crime, smuggling and trafficking of drugs, human organs, illegal migration and terrorism;

56. Calls on the BiH government and the neighbouring countries to do everything possible to resolve border disputes with their neighbours, either through bilateral agreements or through other means; stresses that bilateral issues need to be solved by the parties concerned, with determination, in a good neighbourly spirit and taking into account overall EU interests;

57. Invites the BiH authorities - given that Croatia's accession to the EU will also have bilateral implications - to make all possible efforts to align relevant BiH legislation, at the respective levels of government, with EU legislation in the fields of veterinary, phytosanitary and food safety as well as to upgrade or construct the necessary infrastructure at a number of border crossings with Croatia to facilitate border controls required by the EU;

58. Is concerned that BiH is the only country in the region not allowing the entry of Kosovo citizens into BiH; urges therefore the BiH authorities to accept the necessary travel documents of Kosovo citizens to enter the country, as is done by Serbia and also by other countries;

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59. Instructs its President to forward this resolution to the High Representative/Vice-President of the Union for Foreign Affairs and Security Policy, the Council, the Commission and the governments and parliaments of Bosnia and Herzegovina and its Entities.