Bosnia-Herzegovina

by Jasna Jelisić

Capital: Sarajevo
Population: 3.8 million
GNI/capita, PPP: US$8,910

Source: The data above were provided by The World Bank, World Development Indicators 2012.

Nations in Transit Ratings and Averaged Scores

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* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.
On 28 December 2011, leaders of six main parties in the two-entity federation of Bosnia and Herzegovina (BiH) announced their intention to form a state government, which the Parliamentary Assembly confirmed in February 2012. This end-of-year compromise was preceded by 14 months of political deadlock and reform paralysis following the October 2010 elections. As a result, 2011 was, in many ways, a “lost year” for BiH, during which no key democratic reforms took place, and no progress was made on the path to European Union (EU) and North Atlantic Treaty Organization (NATO) membership.

Political elites in BiH’s two entities—the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH)—continue to lack a shared vision for the country and a consensus on the political system established under the 1995 Dayton Peace Accords (DPA). RS nationalist rhetoric and resistance to state (i.e. all-BiH) level institutions became more strident in 2011, deepening BiH and FBiH anxieties about RS plans to secede from the state of BiH.

In the absence of trust between the RS and FBiH entity leaderships, the stability and integrity of BiH continues to rely on the presence of international actors, mainly the Office of the High Representative (OHR) established by the DPA, which ended the war in 1995 and effectively divided the country in half. Under these circumstances, BiH has achieved neither the cohesiveness nor the capacity to act as a stable and sovereign state. The country remains under the international supervision of the OHR, the highest authority responsible for the civilian implementation of the DPA, and is still under threat of dissolution.

Reform priorities to secure BiH’s advancement towards EU integration in tandem with the rest of the region were not met in 2011. The year saw no credible effort to address the 2009 ruling of the European Court of Human Rights (ECHR) in the Sejdic-Finci case on electoral discrimination, and long-awaited state aid and census laws remained pending. These and other important issues were blocked by the lack of agreement to form a state-level government until the end of the year.

According to security analysis by two nonprofit organizations in October 2011, police were subjected to increasing political pressure “to relinquish their relatively new operational autonomy and to submit to ethnic political loyalties.” At the same time, EU Military Force (EUFOR) troop strength was reduced to some 1,300 personnel. Though EUFOR can deploy over-the-horizon reserves to buttress troops on the ground, analysts claim it is no longer a credible conflict deterrent.

National Democratic Governance. The year was characterized by a destructive and divisive political dynamic that paralyzed state-level governance. Leaders did
not agree to form a government until year’s end, and BiH’s EU reform agenda stalled. The RS challenged the legitimacy of state institutions and the international presence in BiH. The EU intervened to prevent an RS referendum questioning BiH’s constitutional order under the DPA. Due to this dysfunction, division, and stagnation, BiH’s national democratic governance rating declines from 5.25 to 5.50.

**Electoral Process.** The electoral framework of BiH did not change in 2011. Legislators did not address the 2009 ECHR ruling in the Sjedić-Finci case by amending legislation to eliminate ethnic-based discrimination in electoral processes. The state parliament began amendments to three election-related laws, but none were proposed or adopted. *BiH’s rating for electoral process remains at 3.25.*

**Civil Society.** Despite the strong performance of some civic groups in 2011, BiH’s civil society remains immature and dependent on international funding. Most civic groups do not have strong voices on key social issues such as unemployment and economic policy. Religious organizations have begun to seek more influence, with some results, especially in education. As most civil society organizations remain relatively weak in terms of impact and independent financial sustainability, *BiH’s civil society rating remains at 3.50.*

**Independent Media.** Partisan editorial policies among media outlets and political pressure on the press endure, undermining public trust in the media as a reliable source of information and in the democratization process in general. Many media outlets struggle to find sustainable financing while remaining independent. Political pressure on the Communications Regulatory Agency intensified in 2011. With no observed improvements in the media landscape in 2011, *BiH’s media independence rating remains at 4.75.*

**Local Democratic Governance.** Municipalities remain financially dependent on higher levels of government, and coordination between state, entity, and local governments remains weak, despite nascent efforts to improve cooperation. Key legislation related to decentralization and local self-governance is not being properly implemented. Municipal budgetary procedures are opaque, and the overall transparency of municipal governments needs improvement. *BiH’s local democratic governance rating remains 4.75.*

**Judicial Framework and Independence.** BiH made scant progress on judicial reform in 2011. The judiciary is inefficient, with a sizeable case backlog. It is not fully independent, and political attacks on the courts intensified in 2011. The RS challenged the very legitimacy of state courts. In June, BiH leaders began a dialogue on judicial reform with the EU. Due to weak progress on judicial reform and political entanglement in the judiciary, *BiH’s judicial framework and independence rating remains at 4.25.*
Corruption. No progress was made in combatting pervasive corruption during the year. Existing anticorruption legislation is unevenly and unreliably implemented. A key anticorruption government body created in 2009 is still nonoperational as the government drags its feet on appointments and resource allocation. Media coverage of graft and misconduct was weak throughout the year. Due to BiH’s poor record on corruption and the lack of political will to tackle the issue, its corruption rating remains unchanged at 4.50.

Outlook for 2012. Governance in BiH is likely to remain paralyzed by the enduring conflict between the two entities, which still do not share a mutual understanding on the direction and future of BiH. The decision to form a government at the state level does not mean the ruling parties in the two opposing blocks will secure a stable parliamentary majority for the swift and smooth adoption of key legislation, including reforms emphasized by the EU.

With other Balkan countries advancing towards the EU, BiH’s weak progress on EU reforms may lead the international community to think BiH leaders are not committed to meeting EU accession criteria, for instance on electoral policy. Given the recent spike in nationalist rhetoric and incidents of interethnic violence, BiH leaders could shift focus towards domestic security, rather than the EU enlargement process, which would undermine even the long-term prospects for democratization in BiH.
Under the Dayton system of postconflict power sharing, Bosnia and Herzegovina (BiH) has neither the cohesiveness nor the agency of a unified sovereign state. BiH operates under international supervision as a loose, asymmetrical federation of autonomous entities: the centralized, Serb-dominated Republika Srpska (RS), the decentralized, Bosniak and Croat–dominated Federation of Bosnia and Herzegovina (FBiH), and Brčko, a district with its own governing institutions. At the state level, BiH has a tripartite presidency with one Bosniak representative, one Serb, and one Croat. This structure was introduced by the Dayton Peace Accords (DPA) in 1995 as a temporary measure to end a war. Sixteen years later, BiH remains dependent on international involvement, especially the Office of the High Representative (OHR), which is responsible for the civilian implementation of the DPA and the European Union (EU) Delegation to BiH which guides the European integration process on the ground. Throughout 2011, BiH existed without a central government amidst infighting that paralyzed state governance and blocked state-level legislation required to prepare BiH for European Union (EU) accession.

The current governance impasse stems from personal animosities and long-standing ideological differences between the entities over the purview of BiH governing structures and the future of BiH as a state. RS leadership views state institutions as joint, treating the state as a confederation of two sovereign entities. Bosniak leaders in the FBiH, however, see BiH as a sovereign state with its own autonomous rights. The position of the Bosnian Croats is divided along party lines and fluctuates: the two Croat Democratic Union (HDZ) parties—HDZ BiH and its splinter, HDZ 1990—sided more with the RS leadership’s ruling Alliance of Independent Social Democrats (SNSD) in 2011, while the Croat Party of Justice (HSP BiH) and the People’s Party Work for Betterment (NSRB) sided with the FBiH ruling parties, the Social Democratic Party (SDP BiH) and Party of Democratic Action (SDA). Throughout 2011, RS leaders treated all statewide, BiH-level reforms as efforts to weaken the autonomy of the RS and strengthen the central powers of the BiH, with the ultimate aim of abolishing the RS entity. RS authorities openly and more frequently called for the dissolution of the state, refuting the legitimacy of the BiH Constitutional Court and other state level institutions. Meanwhile, FBiH leaders viewed RS resistance to state institutions and state-level reforms as part of a strategy to weaken BiH while creating the preconditions for a functional, independent RS state. Immobilized by mistrust, the two sides found compromise nearly impossible, refusing to negotiate without continuous international reassurances that neither scenario would occur.
Inability to agree on a list of programs to be financed from EU aid very nearly cost BiH €96 million from the EU Instrument of Pre-Accession Assistance (IPA) fund in September. The original deal signed between Brussels and Sarajevo in February allocated €8.2 million of the funding to agriculture, employment, statistics, and the judiciary. When RS leaders declared that these sectors should be managed at the entity level, the Council of Ministers of BiH (CoM) revised the IPA program for 2011 to exclude the disputed projects, reducing the overall allocation from roughly €96 million to €88 million. After the FBiH government objected to the loss of funding earmarked for state-building efforts, the EU suspended the aid in September and threatened to reallocate the €96 million from the IPA to regional projects. Ultimately, Zlatko Lagumdžija, the leader of FBiH’s dominant party SDP BiH and RS President Milorad Dodik negotiated an agreement on how the contested €8.2 million would be spent.4 The EU restored the funding in October but called for a more effective EU coordination mechanism within the different levels of government in BiH.5

The government took no concrete steps in 2011 to address a 2009 decision of the European Court of Human Rights (ECHR) in the Sejdidić-Finci case, which ruled that Jews and Roma could not be excluded from running for the BiH presidency or House of Peoples, the upper chamber of the BiH Parliamentary Assembly. Constitutional provisions prohibiting BiH citizens that do not belong to the three constituent peoples (Serbs, Croats, and Bosniaks) from being elected to these bodies remained in the BiH constitution and electoral law. Resolution of this issue is one of the two main conditions for enforcing the BiH Stabilizations and Association Agreement (SAA), a key step in the EU accession process. The Interim Agreement has been in place since 2008, but the SAA, ratified by all EU members, will remain unenforced until the conditions are met. In September, both houses of the Parliamentary Assembly adopted a decision to form a working group for addressing the ECHR ruling, but it did not formulate amendments to the Constitution and the Election Law to meet the EU’s condition.

The other EU condition for the SAA ratification was the adoption and implementation of a long-delayed central government State Aid Law, the draft of which was still in parliamentary procedure at year’s end. Having agreed on at least one of the draft law’s central principles—the distribution of ministerial seats in the new Council of Ministers of BiH—the leaders of the ruling parties also agreed to adopt a set of similarly “EU-required” laws, including the Census Law. The EU insists that collection of accurate, statistical data through a census is a precondition for any sound economic policy plan, distribution of EU funds, or even an attempt to answer the European Commission (EC) questionnaire after BiH formally applies for EU candidate status. The ruling parties came close to an agreement on this law, but it was put into a package with other EU laws that legislators were to address during the formation of a government and thus fell hostage to the political stalemate. The census remains a sensitive issue because it will plainly reflect the demographic consequences of the war in each entity and may affect the formation of future governments in each entity, which were originally based on the population
census of 1991. However, none of the EU-required laws were passed in 2011. The five objectives and two conditions necessary for the closure of the OHR were also not completed because of the stalemate.

In the FBiH, efforts by the main Croat parties to form a third, Croat entity in BiH stirred discordant rhetoric. In April, Bosnian Croat HDZ BiH and HDZ 1990 organized a Croat National Assembly in Mostar, where they called for a Croat majority federal unit to be formed through constitutional changes in BiH. The two HDZs also rejected the legitimacy of the FBiH government formed in March, through a coalition agreement. They objected to the decision of the SDP, which won the 2010 general election, to form a government with the other two Croat parties, the NSRB and HSP, rather than the HDZs, which had ruled in the name of the Bosnian Croats since the first multiparty elections in BiH, in 1990. On the initiative of the HDZs, the Croat People’s Assembly, comprising all municipalities and cantons with a Croat majority, convened in Mostar in September. Leaders were instructed to contest decisions by the “illegal and unconstitutional FBiH Government.”

The year also saw a legal crisis. On 13 April, the RS National Assembly (RSNA) held a special session to discuss the role and activities of the High Representative (HR) of the international community in BiH and the establishment, jurisdiction, and practice of state-level judicial institutions in BiH. The RSNA ended up adopting five sets of conclusions. Some of them directly challenged the role of the HR and his powers as defined under Annex 10 of the General Framework Agreement for Peace (GFAP) within the DPA, as well as all decisions and laws enacted by the HR pursuant to his mandate. Others rejected the authority of the Constitutional Court of BiH, a pillar of its constitutional order under Annex 4 of the GFAP.

At the same session, the RS leadership decided to hold a referendum in June to challenge the international supervision of the peace process and the legitimacy of state institutions on RS soil. Brussels intervened in May, issuing a deadline to RS President Dodik to call off the vote or face personal sanctions, including the freezing of his assets and a ban on travel to the EU. The next day, EU Foreign Policy Chief Catherine Ashton flew to the administrative center of the RS in Banja Luka to meet with Dodik, who ultimately agreed the referendum was “unnecessary for now” because the EU had agreed to open “a dialogue” on the judiciary.

The OHR considered the results of RS’s special session a serious violation of the peace agreement because they directly challenged two annexes of the GFAP. The OHR said the conclusions sought to undermine the very constitutional order of BiH and noted that these decisions must be seen in a broader context, as “authorities of Republika Srpska and in particular its president, have continued openly to question the territorial integrity and sovereignty of Bosnia and Herzegovina, repeatedly questioning the sustainability of the country and advocating its dissolution.”

The economic situation in BiH was poor during the year, particularly in the RS, which has a cumulative debt of KM 3.56 billion (€1.78 billion). The RS Pension and Disability Fund continued to rely on short-term loans from commercial banks to maintain payments in 2011. Economists warned the RS government against
borrowing from commercial banks and issuing bonds with high interest rates to cover the deficit.\textsuperscript{11} In September, Mladen Ivanić, an economics professor and RS political leader, said “the RS is facing the Greek scenario if it continues to take more loans.”\textsuperscript{12} Serbian Democratic Party (SDS) President Mladen Bosić warned that the RS is not under existential threat from Sarajevo or the international community, but from the economic policies of its own government.\textsuperscript{13} The FBiH, meanwhile, struggled to pay a debt to the RS related to the distribution of value-added tax (VAT) revenues. The Steering Board of the Indirect Taxation Authority (ITA) decided in September that the FBiH would settle its BAM 33.8 million (US$23 million) debt to the RS within three months. However, the debt remained unpaid at year’s end.

The stability of the country and the region continued to rely on a meaningful international presence, as divisive rhetoric of the political elite continued to trickle down into society. Nationalist rhetoric inspired violent incidents at football stadiums between Serbs and Bosniaks in Banja Luka and between Croats and Bosniaks in Mostar. The renewed ethnic dimension to football hooliganism reminded citizens of similar incidents at sporting events before the wars related to the dissolution of Yugoslavia in the 1990s.\textsuperscript{14}

In this context, the HR international community concluded that the mandate of the High Representative remains crucial for securing the stability of the state. At the same time, the EU reinforced its office in Sarajevo, merging the EU Delegation and the Office of the EU Special Representative, with a mandate to politically facilitate the EU integration process of the country and support BiH on its path to accession. Though political representatives of the three dominant ethnic groups verbally support the BiH’s EU ambitions, some evidently believe different paths to membership are possible, including some outside the BiH institutional framework. EU representatives continue to stress that BiH can join only as a single, unified state.\textsuperscript{15}

### Electoral Process

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The last general elections in BiH were held on 3 October 2010 and were entirely administered by local authorities. There were no elections in 2011. Municipal elections will be held in October 2012.

According to the EU, “a credible effort” is needed to address the 2009 ECHR ruling by adjusting electoral rules to end ethnic-based discrimination in the electoral process. Currently, citizens who do not identify themselves as Bosniak, Croat, or Serb cannot run for the presidency of BiH. RS voters may only vote for a Serb member of the BiH presidency, while voters in the FBiH may only vote for either a Bosniak or Croat candidate. Likewise, a Serb registered in the FBiH or a Bosniak or Croat registered in the RS cannot run for the BiH presidency. The same restrictions apply to the House of Peoples. In December 2009, the ECHR issued a
legally binding decision that ethnicity-based ineligibility is “incompatible with the
general principles of the European Convention for the Protection of Human Rights
and Fundamental Freedoms.” BiH authorities failed to address the issue in 2011.

The BiH Parliamentary Assembly began the process of amending the Election
Law, the Law on Political Party Financing, and the Law on Conflict of Interest. The
lower chamber adopted a conclusion on forming a working group to manage the
proposals. The most important proposed change dealt with the Election Law and
the introduction of closed election lists. In September, Transparency International
BiH (TI BiH) stated its support for the planned amendments, but emphasized that
changes to legal provisions on party lists, party financing, preelection campaigns,
and conflict of interest should be done in consultation with civic groups to ensure
transparency and accountability.

TI BiH noted significant room for improvement of electoral legislation to
harmonize laws with international best practices. It said the Law on Conflict of
Interest should clearly define which situations qualify as conflicts of interest in
order to narrow the space for political influence on the institutions responsible
for the law’s implementation. A clear definition would also enable citizens and
nongovernmental organizations (NGOs) to initiate proceedings in cases of conflict
of interest and to be a party in these cases. TI BiH opposed closed party lists on
the grounds that they prevent democratization within the parties, give even greater
control to party leaders, and break the link of accountability between elected
officials and their electorates.

The parliamentary working group met throughout the year, but no amendments
were formulated or submitted to the Parliamentary Assembly in 2011. Any changes
submitted in the first three months of 2012 will still apply to the October municipal
elections.

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Civil society organizations in BiH have acquired neither the social status nor the
financial self-sufficiency to play a major role in public life. The funding provided
to BiH’s NGOs by the international community was intended to foster indigenous
and community-based peacebuilding endeavors, but NGOs have become wholly
dependent on foreign funding. A few organizations, including TI BiH and the
Center for Civic Initiatives, managed to influence the government during the year
and raise awareness of critical issues such as corruption and political transparency.
A few others made their voices heard and shared their expertise in public debates,
but remained overly dependent on funding from international donors. Because of
the weak economy in BiH, domestic fundraising is nearly impossible.

In general, government officials at all levels remain unreceptive to policy
advocacy, except when pressured by domestic media, which happens mostly when
the interests of the media owners correlate with public interests. Public policy research groups are largely ignored, and the government rarely consults NGOs over policymaking decisions. Important laws are rarely subject to public debate. Meanwhile, some civil society organizations undermine their own credibility by aligning with political parties, a trend particularly evident in the months before and after the October 2010 parliamentary elections. Some NGOs lost momentum after the elections ended without the establishment of a central government.

In contrast to other civil society organizations, religious groups are increasingly vocal and influential. Their demands sometimes conflict with the reform needs of public institutions, including the education system, which suffers from polarization and perpetual financial crisis. In April, the newly appointed SDP BiH minister of education of the Sarajevo cantonal government, Emir Suljagić, attempted to address grade point average (GPA) inflation for students subscribing to majority religions by removing marks earned for religious education classes from students’ GPAs. The decision outraged leaders of the three dominant religious communities in BiH (Islamic, Orthodox, and Catholic), who felt it was calculated to re-incentivize religious education. Mustafa Cerić, head of the Islamic community in BiH, publicly warned Minister Suljagić he would face a “Sarajevo Spring” inspired by the recent uprisings in countries in the Middle East and North Africa, if he did not withdraw the decision.

Numerous NGOs and other members of civil society, including the PEN association of writers, reacted to what they described as hate speech by Cerić at the religious gathering in Herzegovina during which he attacked the decision and Minister Suljagić. Nevertheless, Minister Suljagić’s party soon surrendered to pressure from its coalition partner SDA and the Islamic community, and withdrew the regulation. A “culture and religion” subject was introduced as an alternative to religious instruction in May, financed from the already overstretched cantonal budget.

Many primary and secondary schools across the country separate their students according to language, or according to a curriculum designed for a particular national group. This means that students follow different school textbooks, some of which offer directly opposing information. This practice most visibly manifests itself in the existence of mono-ethnic schools and the existence of “two-schools-under-one-roof” in many districts. In the latter, children of different national groups study in the same building but are segregated into different school shifts based on the above criteria. In schools offering only one curriculum, provided that there is a sufficient demand, students of a minority constitutive national group have the legal right to request to study their own “national group of subjects” (mother tongue, history, geography, music), separately from other students.

Higher education continues to suffer from corruption, outdated curricula, and a lack of sufficient action on reforms required by the Bologna Process, which aims to create a European Higher Education Area with high standards of education and academic exchange among European students and professors. In higher education, integration, depoliticization, and reform are still much needed.
In August, the Riaset of the Islamic community in BiH presented the findings of a report that, among other things, identifies by name all the alleged Islamphobes in government, media, and civil society. Some civic groups heavily criticized the document for publicly branding those among their ranks who had spoken out against certain actions of BiH’s Islamic community and its leadership.

### Independent Media

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A complex, post-Dayton political structure, slow postwar recovery, and lack of economic development have determined the development of media in BiH. Bosnia has a diverse and complex media landscape, with some 200 broadcasters and 100 print media outlets, most of them private; the three dominant public broadcasters are BHRT (BiH state radio and television), RTRS (RS radio and television) and FRTV (FBIH radio and television). Media in 2011 remained free in legal terms, but editorial policy continued to be influenced by ownership structure and affiliations with political parties. Media such as the ATV and Buka portals in Banja Luka, TV Hayat in Sarajevo, and some weeklies have escaped direct political influence, but resisting political affiliations has strained their finances. Media in general remain financially vulnerable and prone to political influence in a continuously shrinking advertising market.

International financial support played a strong role in BiH’s transition from publicly owned to market-driven media. The objective of this assistance was the creation of independent media capable of moderating the nationalist voices behind past conflicts in BiH. International funds were used to create new media outlets such as the Open Broadcast Network (OBN) and to support independent media established during the war (such as Banja Luka-based Nezavisne novine) or immediately thereafter (like Banja Luka-based Reporter magazine). The effort was not self-sustaining, however. The OBN has not developed into an influential broadcaster; after the international financing stopped, it went commercial and began airing reality television programming, rather than substantive news or entertainment. Most print media failed to remain impartial. The public perceives the media as partisan and lacking credibility.

By 2002, the international agencies and donors that had been key backers of BiH’s media development had begun to withdraw their support. In a weak, politicized economy with limited advertising opportunities, pressure grew from local elites to reverse the dynamic of media professionalization and independence. As former opposition parties like SDP BiH and SNSD came to power, the media that had supported them in opposition struggled to remain objective.

Long overdue reforms of the public broadcasting system—a key issue in EU accession negotiations—made no progress in 2011, hampered chiefly by nationalist elites struggling to maintain control over the public broadcasters in their
Launched in 2002, reforms were intended to create an integrated system with public broadcasters overseen by a single corporation, striving for balanced and objective reporting. The changes were also meant to include a joint newsroom shared by all three public broadcasters in BiH. However, due to a lack of political support for a unified system, cooperation among the public broadcasters remained poor. BiH’s main telecommunications and electronic media regulatory body, the Communications Regulatory Agency (CRA), has not had a director-general since 2007. In 2011, parliament ordered the agency to appoint an SDS official to the directorship, despite provisions in the Law on Communications that require the selection of the director to be merit-based and apolitical.

Regional press lack independent editorial policy and sufficient resources for quality production. The media landscape may improve, however, with the launch of Al Jazeera Balkans, which began broadcasting news and current affairs programming to audiences across the Balkans in regional languages in late 2011. The channel is available on most major cable services and via satellite. Based in Sarajevo, the team is made up of regional staff. In its first two months of operation, Al Jazeera Balkans emphasized its commitment to independence and professionalizing news production in the region. The station also provides a documentary program that attempts to tackle cultural and ethnic prejudices.

Internet penetration reached 55 percent in 2011, up from 52 percent in 2010. According to CRA statistics, the number of internet users in BiH has doubled since 2007. As of June 2011, 1.1 million BiH residents were members of the social networking site Facebook. The government did not attempt to restrict internet use in 2011.

Local Democratic Governance

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The status and rights of local self-government (LSG) as guaranteed by the European Charter on Local Self-Government were secured by the HR’s decision on the 2004 reorganization of the City of Mostar and its incorporation in the FBiH constitution. These statutes protect the right to LSG and are a powerful tool for many local government units in BiH to challenge FBiH or cantonal legislation before the FBiH Constitutional Court.

Though municipalities can draft and implement policy in every area except elementary education and the use of natural resources, they are not financially independent from the higher levels of government. The RS government must approve every loan undertaken by a municipality, as well as European IPA funds. The rules are more flexible in the FBiH.

Municipal tax regulation remains murky, and there is no law on LSG financing. The 10 cantons in FBiH control the majority of public financing sources for the Federation’s 79 municipalities, and the RS entity controls finances in the Serb-
dominated area of BiH. During the political crisis, however, the higher levels of government did not share budgetary funds from the World Bank or International Monetary Fund (IMF) with the municipalities.

Implementation of LSG legislation is weak. Passed in 2006, the FBiH Law on the Principles of Local Self-Government is a systematic framework that requires cantons to transfer certain duties and the related finances to the municipalities. The law foresees the creation of numerous laws at the entity and cantonal levels, but very few have been adopted.

When disputes arise between FBiH municipalities and cantons or the FBiH entity, local authorities have the right to appeal to the FBiH Constitutional Court, which they did frequently in 2011. This hampers municipal reform and the functioning of the different levels of government. The Sarajevo Canton has been particularly problematic. In October 2010 the FBiH Constitutional Court ruled that the Sarajevo Canton had violated the right to local self-governance in the Sarajevo Center Municipality. It had apparently failed to harmonize provisions in the relevant cantonal legislation with those in the Law on Principles of Local Self-Government, among other shortcomings. The dynamic between the strata of government in BiH is expected to be a significant issue in the 2012 election campaign.

The FBiH is trying to improve intergovernmental coordination. In October, FBiH Prime Minister Nermin Nikšić signed an agreement with the Association of Municipalities and Cities of the FBiH intended to ensure closer cooperation and institutionalized dialogue on improving both LSG and the decentralization process in accordance with the Law on the Principles of Local Self-Government.28 Under the agreement, a code of relations was drafted to improve coordination between different levels of government in FBiH, which are charged with implementing the Law on the Principles of Local Self-Government and cooperating on issues related to LSG property and the use of natural resources. The FBiH government indicated a readiness to discuss relations between the local, cantonal, and federal levels and the division of responsibilities.

In 2011 the RS also drafted a code to coordinate relations between entity and local governments. However, the Association of Towns and Municipalities of the RS was less focused than its federation counterpart. LSG experts said it was trying to avoid conflict with entity authorities that oppose further autonomy for the municipalities.

Under domestic law, citizens have the right of direct participation in local policymaking processes—through public hearings and other means—but public participation hinges largely on the strength of the NGO sector in each municipality. For example, in municipalities where civic groups are strong and local authorities are receptive to their initiatives, public debates are held regularly; in districts where such groups are weaker, public debates are not held at all. In general, the mainstream press ignores developments at the local level, which are covered only in municipalities with their own radio stations and other media outlets.

Transparency in local governments remains problematic. While existing legislation grants freedom of information, not all municipalities publish their budget drafts online, and budget documents are not easily available to citizens. Under
law, municipal governments do not have to publish so-called “citizens’ budgets” (short, clear summaries of government spending) or websites. Accountability has nevertheless improved significantly since the introduction of direct mayoral elections in the RS (in 1999) and the FBiH (in 2004). Mayors are usually more accountable to the citizenry than Municipal Council members, who remain under the strong influence of political party presidents and dependent on funding from the higher levels of government. Employees of municipal administrations are often more experienced and competent than their counterparts at the higher levels of government, where personnel turnover is higher because of staff changes after national elections.

Participation of women in LSG institutions matches that of the higher levels of government. However, ethnic minorities remain less represented in local government because the principle of equal proportionality in representation of constituent people in governing structures is not as well implemented on the local government level.

The Brčko District remained under international supervision throughout 2010, ensuring that its institutions continued to function effectively. The HR issued decisions in September 2009 concerning the technical steps needed to complete the Brčko Final Award and resolve its status, but the RS government and National Assembly adopted measures that nullified those decisions.

### Judicial Framework and Independence

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BiH has four separate judicial systems—state-level, RS, FBiH, and Brčko District—with no single body authorized to guarantee uniform application of the law. The judicial system is overly complex and inefficient as a result. Legislation and judicial practice differ between the two entities. The judicial system is not fully independent, and political pressure and verbal attacks against the judiciary intensified during the year.

In its 2011 Progress Report, the EC noted that “attempt[s] to undermine the independence of the judicial system remains an issue of serious concern.” Further undermining the independence of the judiciary, the budgetary procedures and competences of the 14 responsible authorities still need to be harmonized and narrowed. The EC noted little progress on judicial reform in 2011.

The April RSNA special session had significant implications for the judiciary, as it concluded by rejecting the authority of the BiH Constitutional Court and that of all state-level judicial institutions on RS territory. In May, RS President Dodik agreed to cancel a referendum on state courts and the international presence in exchange for negotiations with the EU on the judiciary, a key institution-building priority on BiH’s path to European integration. The so-called Structured Dialogue on Justice began in June as a platform for BiH authorities to discuss reforms and
legislative changes in line with European standards to ensure an independent and accountable judicial system to the benefit of every citizen. In the past, Dodik had said Muslim judges should not preside over cases in the RS because of the threat of bias.

At the first dialogue meeting, the EU asked a set of technical questions. BiH authorities submitted answers in August, and, following a review by Brussels, a second meeting was held on 10–11 November. No major achievements were made, revealing the gulf between the two entities on the state judiciary. The dialogue continued in 2012 and is envisioned as a long-term process.

In September, the FBiH House of Representatives adopted draft amendments to the FBiH Penal Code to criminalize genocide denial. Though the provision was not adopted in 2011, if it becomes law persons found guilty of genocide denial could face prison sentences ranging from three months to three years.

Throughout the year, RS authorities criticized the effectiveness and legitimacy of the High Judicial and Prosecutorial Council (HJPC), the BiH body responsible for the independence and professionalism of judicial institutions. As over 2 million pending cases are in the courts, HJPC President Milorad Novaković publicly endorsed the criticism that the BiH judicial system is inefficient. In September, Novaković emphasized, however, that the HJPC has a legal mandate and ensures the independence of the judicial system to guarantee that “there is no return to the times when members of parliament were electing judges and prosecutors.”

The HJPC created a special unit to address inefficiency in the judiciary. It also adopted measures to reduce the backlog of pending cases, most of which concern unpaid utility bills. The backlog decreased slightly, but due to funding constraints the HJPC could not combat inefficiency by filling many newly created posts, including judgeships. State courts continued to process war crimes cases, with modest progress on reducing the attendant backlogs. Lower courts had less success, according to the EC.

Serb and Croat representatives in the BiH House of Peoples refused to adopt a report on the work of the BiH Prosecutor’s Office for 2010. They objected to the role of foreign prosecutors and judges and the international community’s influence on the BiH judiciary. They also questioned the legality of the Prosecutor’s Office, rhetoric that many observers interpreted as a form of political pressure.

### Corruption

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Little was achieved in the fight against corruption in 2011. Graft and misconduct remain widespread, posing major impediments to political and economic development. The existing anticorruption strategy has not been implemented, and political will to tackle misconduct is weak. The year saw no high profile anticorruption cases.
Bosnia ranked 91 out of 183 countries in Transparency International’s *Corruption Perceptions Index 2011*. In the former Yugoslavia, only Kosovo had a worse rating.  

Public opinion surveys show that that Bosnians believe corruption is worst in education and healthcare. Over 60 percent of respondents to a July survey said the healthcare sector, where informal payments are commonplace, is corrupt. Civic groups have launched advocacy campaigns on anticorruption efforts, the linchpin of which is the government’s 2009–14 Anticorruption Strategy and Action Plan. In 2011, the Center for Civic Initiatives distributed informational pamphlets and badges with the mantra “I do not give bribes” in various public institutions, including hospitals. Despite such efforts, awareness among institutions about the strategy and their role in its implementation is low.

Implementation and oversight of the anticorruption strategy has been weakened by operational delays regarding the Agency for the Prevention and Coordination of the Fight Against Corruption. The agency was established in 2009, but the BiH Parliamentary Assembly did not appoint a director and other personnel by the June 2010 deadline. In 2011, TI BiH appealed to the Assembly to appoint a director and two deputies, which it did in August. Two unsuccessful candidates for the directorship subsequently disputed the appointments, arguing that others had finished higher on a public exam for the position. Their complaint was still pending at year’s end.

Despite the appointments, the agency remained nonoperational in 2011 because the government had not allocated the necessary office space or staff. Deadlines for meeting the 2009–14 Anticorruption Strategy and Action Plan, an integral part of the EU’s decision to grant BiH visa liberalization in 2010, were missed as a result.

The Public Administration Reform Coordinator’s Office has the personnel and financing to implement the Public Administration Reform Strategy and Action Plan, but it lacks critical political support. The civil service remains politicized, and the bloated bureaucracy in BiH enables corruption to thrive at all levels of government.

Implementation of the Freedom of Access to Information Act remained uneven in 2011. Ten years after the law was passed, only around 50 percent of responses to requests for information are granted within the deadline by public institutions subject to the law, and the information provided is often incomplete.

Media coverage of corruption issues remained superficial. In August, TI BiH monitored news reporting on graft and misconduct in 11 newspapers, 3 television stations, and 7 websites. Most of the 135 relevant reports from that period were based on one source, or none at all. TI also noted political bias and selective coverage of corruption cases. The monitored RS media, for example, only reported on corruption cases taking place in the FBiH or at the state level.

Assessing the potential for renewed ethnic violence in BiH, the Atlantic Initiative and Democratization Policy Council published a security risk analysis in October that questioned the capacity of law enforcement to successfully combat serious problems such as organized crime and corruption, particularly in cases where members of the political elite and representatives of state institutions might be involved. The authors claim that under circumstances of significant political pressure, BiH police forces would split along ethnic lines and defend their ethnic group instead of keeping public order in the event of a renewed violent conflict. See Vlado Azinovic, Kurt Bassuener, and Bodo Weber, A security risk analysis: assessing the potential for renewed ethnic violence in Bosnia and Herzegovina (Sarajevo: Atlantic Initiative and Democratization Policy Council, October 2011), http://www.atlanticinitiative.org/images/stories/ai/pdf/ai-dpc%20bih%20security%20study%20final%202010-9-11.pdf.

Ibid., 7.

The €8.2 million was allocated as follows: €2 million for a mine clearance project, €1.2 million to technical development of projects, and €5 million to the process of refugee and displaced persons return.


Reported by Srpska Republika News Agency (SRNA), 27 September 2011.


The HR also emphasized that the Republika Srpska (RS) authorities have pursued a “policy of obstructing, undermining and questioning the authority of other key state-level institutions, such as the Indirect Taxation Authority, the Electricity Transmission Company and the Institute for Missing Persons.” The HR added: “The same authorities have also taken unilateral action on state property, which is one of the objectives for closing the Office of the High Representative and they have continued to deny that genocide took place in Srebrenica in 1995, notwithstanding the confirmation of this fact by two international tribunals in numerous rulings.” See OHR, 39th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations.
As reported by RTRS, BHT1, and Pink TV on 21 September 2011.

In September the RSNA issued €120 million in bonds at 8 percent interest to finance the budget deficit. It also accepted nearly €100 million in international loans for a public works project.

Sanja Bjelica-Sagovnović, “Republika Srpska will face the Greek scenario,” Interview with Mladen Ivanić, Dnevni list, 8 September 2011. The economists also predicted that BiH will enjoy no big foreign investments in the next year because of the political instability.

For example, a football match in September was interrupted after a large group of fans of the Banja Luka club Borac breached security and raided the pitch. They attacked fans of the Sarajevo club Željeznizac and threw rocks at them. Violence continued on the streets of Banja Luka. Banja Luka Public Security Center spokesperson Gospa Arsenijević said a group of Borac fans injured four police officers, damaged two official police vehicles and one private vehicle. On Hayat TV, on 25 September, sports psychologist Jasna Bajraktarević said politicians “unfortunately reached their goal as the hatred has been refreshed.” Another football match was interrupted in less than a week by confrontations between Bosniaks and Croats. A match between two clubs from Mostar, the Croat-dominated Zrinjski and the Bosnian-dominated Velez, was interrupted when Zrinjski supporters broke into the pitch after Velez scored a goal. The incident was reported by numerous media on 28 September 2011.


In the FBIH the Center for Interdisciplinary Post-Graduate Studies and the Dosta (Enough) movement became strongly perceived as aligned with the SDP BiH. At the same time, the role of civil society in the RS was negligible, as the government dominated all major communication channels.

In April, Minister Suljagić ordered all primary and secondary schools in the Sarajevo Canton to remove the marks that students receive in religious education from overall GPAs. When leaders of all three dominant religious communities in BiH objected, Minister Suljagić tried to defend the move by explaining that students who choose to attend religious education classes end up with inflated GPAs. Religious education classes are optional, and students who opt-in usually receive high marks, improving their GPA and, thus, their university prospects.


Marius Dragomir, “No News is Bad News: One of Bosnia’s public TV stations doesn’t seem to care if anyone watches its news programs,” Transitions Online, 7 February 2011.

Alenko Zornia, “Postignut dogovor 15 mjeseci nakon izbora: Hrvat premijer, Srbima novac, Bošnjacima vanjski poslovi i sigurnost” [The agreement reached 15 months after the elections: Croat as a prime minister, money goes to the Serbs, foreign affairs and security to the Bosniaks], Vjesnik, 31 December 2011, http://www.vjesnik.hr/Article.aspx?ID=E063C5DE-6CE5-4CC3-A803-C9951DC14C94.

“Godišnja anketa korisnika RAK dozvola za pružanje internet usluga u BiH za 2011” [Annual survey of users of the CRA permits for providing Internet services in BiH in 2011], Communications Regulatory Agency (CRA), http://www.rak.ba/bih/.


Faruk Vele, “Interview with the President of the High Judicial and Prosecutorial Council Milorad Novakovic: ‘MPs will not elect judges and prosecutors,’” Dnevni avaz, 16 September 2011.

EC, Bosnia and Herzegovina 2011 Progress Report, 13.


EC, Bosnia and Herzegovina 2011 Progress Report, 14.

Ramiz Huremagic and Blanka Benkovic said the BiH parliament broke the principles of quality, legality transparency, and accountability of public service under law because the appointed director and two deputies placed third, sixth, and the last in the exam.

EC, Bosnia and Herzegovina 2011 Progress Report, 14.

Ibíd., 11.

As presented by TI BiH Executive Director Srdjan Blagovcanin. “Gradani moraju čekati više od mjesec dana na odgovor javnih institucija” [Citizens have to wait for the answer from public institutions for more than a month], TI BiH, 28 October 2011.