

# Bosnia and Herzegovina 2015



**Total: 52.55**

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## Political Freedom

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### **Free and Fair Elections : 6.43**

General elections in Bosnia and Herzegovina, which took place as scheduled in October 2014, were generally free and fair. The results confirmed the victory of nationalistic parties. The building of a national government took considerably less time than in 2010 (some four months vs. more than a year in 2010/2011). Some more trouble appeared during the building of the government on the entity level of Federation of BiH. It ended in September 2015 after a government reshuffle. Same as in every fourth year, also in 2014 the elections for the state Presidency, state Parliament, parliaments of the entities, president of the entity Republic of Srpska and (for the voters in the Federation of BiH) for the cantonal parliaments took place on the same day, confronting the voters with four or five different ballots. That contributed to confusion at the polling stations. The release of the election results was provided within just two days - considerably faster than in 2010. Also, the verdict of the European Court for Human Rights as of 2009 (in the so-called Sejdić-Finci case) concerning the elections of the Presidency has still not been implemented. Since the joint agreement on it was not reached for five years, the EU withdrew it as a condition for the ratification of the SAP Agreement with Bosnia and Herzegovina. Compared to other countries in the region, laws regarding campaign financing are strict and well enforced. The protest which struck the predominantly Bosniak parts of the country, in early 2014, ended without any visible consequences on the political process or election results. The concept of "direct democracy" promoted in a course of the protests has not been accepted by broad population.

### **Absence of Unconstitutional Veto Players : 4.17**

Bosnia and Herzegovina does have unconstitutional veto players. Although its purpose is to protect the implementation of the Dayton Agreement and ensure the representation of all countries involved in the agreement, the Office of the High Representative is often used to prevent the decision-making process in the state. Corruption among the officials remains a serious obstacle to the democracy. According to the Transparency International, prosecution of corruption in BiH was at its lowest in five years. All three dominant religious communities - Islamic, Roman Catholic and Serbian Orthodox - have power to influence public opinion, thus influence government decisions.

### **Freedom of Press : 4.9**

The press in BiH remains to be regarded as partly free. This country, in the heart of Balkans, faces a continuous downward trend concerning assessment of its independent media. This is because

politicians exert pressure on the poorly paid journalists to write on their behalf. Likewise, self-censorship is widespread. Only international media such as Al-Jazeera, accessible on the ground as well as via internet, are able to practice high-standard journalism. Police is targeting journalists. As Freedom House reported, police tried to prevent media from reporting on anti-government demonstrations in 2014. In the spring of 2015, the entity Republic of Srpska adopted a law which might criminalize social network content. This is yet another step towards a tighter control of what social media write about politics or politicians.

## Rule of Law

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### **Independence of the Judiciary : 3**

In spite of huge problems, judiciary in Bosnia and Herzegovina is among the better organized and efficient parts of the public sector. Massive post-1995 institution-building efforts of the international community bore results. Judiciary is more independent than in neighbouring Serbia, Croatia or Montenegro. It further improved in 2014, mainly due to the decrease in backlog of cases, especially regarding war crimes. But, fragmentation to four separate systems at various tiers of government has put a heavy burden on efficacy and efficiency of the overall system of justice. Judiciary is underfunded. Prisons are overcrowded. There are cases of retroactivity. As Freedom House pointed out, even the justice regarding war crimes suffered due to such application of the Criminal Code of 2003 to the war crimes of the 1990s, later overruled by the European Court of Human Rights. Assessing the independence and impartiality of judiciary in BiH in the progress report of 2014, European Commission has especially noted “pressure by political establishment” on the courts processing war crimes.

### **Corruption : 3.9**

Anti-corruption struggle suffers due to unclear division of responsibilities between different tiers of government and poor coordination there between. Politics is the main arena of corruption. Widespread trading in influence in fragmented society and polity, huge public spending, political patronage over foreign investment or infrastructure projects and non-transparent relations in the triangle between state administration, religious communities and political parties are some of the specifics of Bosnia and Herzegovina that additionally nurture corruption. Transparency International, in its Corruption Perception Index 2014 has put BiH, scoring 39, to the place 80 (of 175 countries), a sharp decline from the 2013's place 72 (of 177) and score 42. Bosnia is behind Serbia, Bulgaria and Greece. Direct citizen actions during 2014, i.e. mass street protests that later transformed into “citizen plenum”, succeeded in removing a few politicians but failed to initiate more prosecution for corruption let alone change the favourable political, legal or societal environment for it. Among reassuring developments there was a landmark case of a whistle blower in Brčko, initially fired because he reported corruption in the customs department. Following a pressure by several NGOs, as well as due to authorities' fear of the newly carried Law on Protection of Whistle Blowers, he was reemployed. Freedom House noted other positive developments, such as the new BiH's law against money laundering and new anti-corruption offices established in the Federation of BiH.

## Protection of Human Rights : 5.23

There was no improvement in human rights' situation recently. Minority rights still lag far behind standards in the EU or in neighbourhood. Citizens who do not belong to one of the three "constituent" ethnic groups, or even those who do but live as a local minority, lack numerous opportunities for employment, political advance, equal treatment under the law or societal protection, amid heavy divisions over ethnic lines, official or unofficial quotas and rising inter-entity mistrust. Roma are especially endangered, which was again demonstrated during the distribution of post-flood aid in 2014. Even among the three "privileged" ethno-national groups there is increased tension and occasional violence inspired by ethnic or religious bigotry. Ethnocentrism with elements of hate speech dominates school curricula throughout BiH. Failure to provide political equality of the members of "other" ethnicities is among stumbling blocks for further advance of BiH towards EU accession. Gender equality is all too slowly getting through. Reported domestic violence is often not responded by police in rural areas. Homophobia is stronger than in any of the neighbouring countries, amid cases of an organized violence against indoor LGBT events in early 2014. In June 2015, a research by the independent portal Buka showed that a quarter of all LGBT persons in BiH had suffered physical violence.

## Economic Freedom

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### Security of Property Rights : 4.79

Private property rights are not adequately protected in Bosnia and Herzegovina. Weak judiciary remains one of the most important problems in the country: courts are partial in their decisions and can be influenced by external factors: both the government officials and powerful private interests. Corruptive activities within the judiciary are also present. Judicial process is slow and inefficient, which significantly delays enforcement of legal contracts, while insolvency procedures in addition are met with low recovery rates. Although reforms in the judiciary are a prerequisite for any successful market oriented reforms, the lack of political will to do so, as well constant frictions between the two ethnic-based entities create political instability which postpones action in this area. Another bottleneck for access to justice is in the inefficient proceedings of the Commission for Real Property Claims of Displaced Persons and Refugees. There are some regulatory restrictions on property of foreign investors in the field of defense, but also in the media, in which foreign share is limited to minority shares.

### Size of Government: Expenditures, Taxes, and Enterprises : 5.51

In general, public spending and direct government involvement in the economy are high. Although wide scale privatization process was conducted, many companies are still owned by the state, relying mostly on government - indirect or direct - subsidies. Government consumption is very high, reaching almost half of the GDP (49.4% in 2014). Continuous budget deficits in the last couple of years increased public debt by one half, to 45% of the GDP in 2014. Personal income and corporate tax are flat and both set at 10%. VAT is low for European standards – only 17% (EU fiscal harmonization rules, for example, stipulate the minimum and maximum VAT level of 15%

and 25% respectively), without preferential rates. Excise duties are low as compared to European standards (however, the overall income should also be taken into account). They were raised in 2014 and are envisaged to be raised further in 2015. However, social security contributions are very high (at different rates in the two entities), leading to a high payroll tax wedge, between 39% – 43%. Furthermore, the complicated political division of the country, with two entities and one special district which have different tax rates, and ten cantons within the entity of the Federation of BiH that have different property taxes and prevalent Para-fiscal charges, lead to a lack of coherent national fiscal policy.

## **Regulation of Credit, Labour, and Business : 5.9**

Bosnia and Herzegovina regulatory environment cannot be described as suitable for entrepreneurial activities, with the excessive red tape and prevalent corruptive activities. Labor regulations are flexible in the sections of working hours and of short notice period for redundancy, but rigid in the areas of dismissals with priority retraining or reassignment rules and of trade union notifications. Furthermore, centralized collective bargaining poses a burden in some industries. Fixed term contracts are set at a relatively short period of maximum two years. Labour code rigidity is one of the reasons for high unemployment rates in Bosnia (nearly 27% of the active labour force). There is a government initiative for changes, in order to make it more flexible, as was recently done by neighbouring countries in the region Serbia and Croatia. Administrative requirements for business operations are very burdensome. Starting a business is costly and time-consuming. Tax regulation is complicated to comply with, involving many annual payments. Getting electricity and obtaining construction permits are other notable examples.

## **Freedom to Trade Internationally : 8.72**

Bosnia and Herzegovina, generally speaking, fosters free trade. Although Bosnia (alongside Serbia) is not a member of the World Trade Organization (WTO), the applied tariffs are low. The problem remains within the area of non-tariff barriers to trade, such as in standardization procedures. Furthermore, the custom service is not well organized, with many obsolete or complicated procedures and the corruption in the sector as still existent. Since Croatia's EU accession there has been a problem regarding over-reaching procedures for transportation of goods from Croatia through Neum area. Bosnia's main trade partners are countries from the region of Western Balkans or from the EU: namely Serbia, Croatia and Germany. Therefore, the bulk of trade is conducted under the Central European Free Trade Agreement (CEFTA), signed in 2007, or the Interim Agreement on Trade and Trade-related Issues (IA), signed in 2008. The IA, in the meantime, has been replaced with the Stabilization and Association Agreement (SAA), which came to force on 1 June 2015. Although the SAA did not bring important changes to the trade aspect as compared to the IA, it did serve as a positive signal, making the already existing trade regime more official. Further EU accession process is envisaged to lower the non-trade barriers and further liberalize international trade. However, this process is very slow (Bosnia, Kosovo excluded, is the only country in the region that is not an official EU-membership candidate) due to political tensions within the country and to the lack of will to implement the necessary reforms.