

# Bosnia and Herzegovina 2018



Total: 51.22

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## Political Freedom

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### Free and Fair Elections : 6.07

Political life in Bosnia and Herzegovina (BiH) is shaped by the strong division in society alongside ethnic lines and by use of inflammatory nationalistic rhetoric by political parties so as to dominate the electoral process. Political parties are able to freely compete at the elections however this process often abounds with electoral violations and irregularities, such as fraud on the election-day, misuse of state resources, or unfair coverage in media, which all question the fairness of elections. Also, the process remains restricted for BiH's citizens who are neither ethnic Serbs nor Croats nor Bosniaks, since only these three constitutional ethnicities are eligible to run for the Presidency of BiH and for the Houses of Peoples (parliamentary upper chambers on various tiers of government). European Court of Human Rights declared this constitutional provision as a violation of human rights, but it nevertheless remained unaddressed during the period under review. Political system is characterized by large, complicated and asymmetric state apparatus, separated into two entities – Federation of BiH and Republic of Srpska, and numerous other tiers of government. Country's tripartite collective Presidency is represented by one elected representative from the ranks of each of the constitutional – “constituent” - ethnicities: Bosniaks, Serbs and Croats. General elections in the country were scheduled for autumn 2018, whereby in mid-2018 all political parties were already largely in the campaign. Still it is perceived that divisive rhetoric will benefit nationalists, with the outcome similar as during several previous electoral cycles.

### Absence of Unconstitutional Veto Players : 3.33

Democratic institutions and procedures in Bosnia and Herzegovina (BiH) are influenced but often also undermined by constitutionally empowered veto players. According to Dayton Peace Agreement as of 1995, each constitutional ethnicity has been given power to veto legislation in order to protect its “vital national interests”, which is often abused, so as to benefit narrow interests of political parties or their leaders. Weak system of decision making makes any progress in various aspects of life very difficult, creating a fertile soil for ethnic nationalism. Constitutional veto powers are also granted to the Office of the High Representative, an international institution in charge of overseeing a peace treaty. However, in practice, OHRs have recently ever more restrained from interfering into country's political decision making. Deadlock in BiH is additionally instigated by the lack of independence and impartiality of judiciary, itself proving unable to hold politicians accountable for their actions. Religion is separated from the state. However, religious institutions play an important role in shaping public opinion and have got significant influence on decision

making.

## **Freedom of Press : 4.9**

Freedom and independence of the press in Bosnia and Herzegovina is limited by numerous factors. Media market is highly pluralistic and diverse however the reporting is often shaped by strong ethnic and political divisions in society. Problem of the lack of transparency of media ownership remained unresolved. Journalists are exposed to strong economic and political pressure, thus practicing self-censorship and contributing to partisan reporting of the media. Bad market conditions left media outlets dependent on state funding, while the unclear process of financing made them prone to political pressure. Both state and entities' public broadcasters are showing clear bias in favor of ruling parties and often serve as propaganda tools. Besides pressure, journalists face physical and verbal harassment, often as a result of insults coming from politicians. Reporting on sensitive cases, such as war-related stories, many times led to death threats against journalists.

\* Press freedom score will be updated after data from primary source have been published. For more information see Methodology section.

## **Rule of Law**

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### **Independence of the Judiciary : 2.84**

Freedom House, in its Nations in Transit 2018 report, noted a decline in the anyway low level of independence of judiciary in Bosnia and Herzegovina (BiH), due to dysfunctions across the system, widespread political pressure and non-implementation of Constitutional Court decisions. Not least courts of the BiH's entity Republic of Srpska, but state-level ones as well, are unable to address obvious highhandedness of the entity's strongman Milorad Dodik, be it the anti-constitutional referendum as of 2016, or grand corruption in his inner political circle, or hate speech against either ethnic Bosniaks or inner-RS political opponents or NGO-based critics. Elsewhere in BiH, political class, or at least its highest echelons, is also protected by de facto immunity and impunity. An OSCE report, published in February 2018, based on an extensive research into corruption trials in BiH in 2010-2017, has revealed numerous shortcomings of the system, from lack of competence or integrity to systemic deficiencies such as overlaps of responsibilities between courts at different levels, or else judicial vacuums thereof. The fierce debate over the participation of foreign judges in the Constitutional Court is still on.

### **Corruption : 3.8**

State capture by political parties at all six tiers of government, huge public sector, discrepancy between promised and realistically achievable level of welfare state protection of citizens, high public spending and unclear division of responsibilities between various tiers of government, plus poor coordination between anti-corruption actors, are the main factors that facilitate a very high level of corruption in Bosnia and Herzegovina (BiH), placing it behind all her neighbors. Namely, in

its CPI 2017 listing, Transparency International put BiH, with the score 38/100, to shared places 91-95/180, together with Albania, while behind Kosovo. Corruption is present country-wide and across public life. Many researchers find financing of political parties and de facto impunity of the political class as main factors of its persistence. Bribery rate is very high, 27%, according to the Global Corruption Barometer 2016. Portal GAN finds the public procurement sector as particularly vulnerable to corruption, while the risks are quite high also in judiciary, police and tax administration.

## **Protection of Human Rights : 5.27**

Selective approach to war crimes of the 1990s, whereby one`s ethnic compatriots` are whitewashed while others` are vilified, is commonplace in Bosnia and Herzegovina (BiH). Ruling SNSD majority in Republic of Srpska (RS) entity - and their leader Milorad Dodik - are leading the way in revision of history as determined by ICJ and ICTY and even once conceded by RS institutions. Ethnocentrism in BiH goes beyond the treatment of past events. Hate speech might be found everywhere and extremism is in the rise. Schools are segregated along ethnic lines, and so are the curricula. BiH`s citizens who don`t belong to any of the three "constituent nations", or those who live in an ethno-religious environment different from their own, face various hardships. Especially Roma are in dire position. Human trafficking remains as a huge problem. With the rise of a new migrant route, which passes through BiH, there is a new, dangerous dimension to it - migrant smuggling by cross-border organized criminal groups. Treatment of refugees differs widely not least between but also within entities, cantons or ethno-national communities. On 21 May 2018, a dispute between state and cantonal police over relocation of asylum seekers led to their brief standoff at a cantonal border, quickly resolved yet frightening and ominous. RS meanwhile refuses to accept any of the migrants that recently came to FBiH. Around mid-2018, would-be legalization of same-sex unions in the BiH`s entity Federation of BiH was discussed. The case of David Dragievi, 21, who died in March 2018, officially by accident, drew thousands of people in Banja Luka and other towns in BiH to the streets multiple times, in a multi-ethnic citizens` initiative against police arrogance, arbitrariness and cover-ups in this and a few other similar cases.

## **Economic Freedom**

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### **Security of Property Rights : 4.35**

Private property rights in Bosnia and Herzegovina are not adequately protected. Judiciary is not independent from external influences such as politicians and powerful private interests; court decisions therefore can be partial and are not necessarily aligned with the existing practice. Corruption is also one of the problems that plague the judiciary. Judicial processes and enforcement of judicial decisions are slow and inefficient, and bear high costs. Courts do not uphold the stipulated time standards, while the number of adjournments is not prescribed. Another problem is the high number of backlogged cases, which further aggravates the situation. The level of expertise of judges in commercial cases could be dubious, especially in specific areas, leading to prolonged court procedures and uneven decisions in similar cases. Although there are specialized commercial courts, commercial cases are not always regarded as priority ones.

Bankruptcy procedures do not put sufficient emphasis on rehabilitation or reorganization of companies, so the latter are mostly sold through a piecemeal sale. Insolvency procedures are also extremely long and lead to very low recovery rates, below 40% of the claim. Registering property is a very long procedure, which could be expensive in some Federation's cantons due to high property transfer taxes. This tax, however, is not applied in the entity Republika Srpska. The two entities have different real property cadastre services. A significant proportion of land does not have a clear title, due to an inefficient and slow restitution process but also to weak administration capacities. This situation is further aggravated by the unnecessary role of municipality courts in land registration process. Very slow and inefficient proceedings of the Commission for Real Property Claims of Displaced Persons and Refugees in effect do not protect property rights of internally displaced persons and war time refugees, although more than two decades have passed since. Foreign nationals face few ownership restrictions, such as in defense industry, media and electricity transmission, while land ownership is restricted but on a reciprocal basis. Yet, the latter is easily circumvented through establishment of a foreign owned legal entity.

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

### **6.25**

With government expenditures reaching 41% of GDP in 2016, the size of government in Bosnia and Herzegovina is moderate as compared to other European countries. However, when the level of economic development is taken into account, government expenditures are much higher than expected. As a direct legacy of the war, there are several different layers of government, meaning that the bureaucracy is omnipresent and the country does not make a single economic space. In order to put under control the public debt that was rising, the country took on the IMF backed program conditional on economic reforms. Most of the fiscal goals of the program were reached, as the budget reached a significant surplus of almost 2% of GDP in 2017, but the goal of the reform package accompanying it was not. Banking sector reform was partial, as there were no changes in the fiscal mix that would increase competitiveness of the economy (increase in consumption taxes and decrease of taxes of labour). The wage bill put expenditures under control, but there was little increase in capital expenditures in order to provide for important infrastructure. As a result, growth rates are still sluggish, with 2.7% in 2017, well below the rates necessary to reduce unemployment, that is close to 25% of the labour force. Total investments are very low in regional comparison, leading to low growth rates, mostly propelled by rise of economic activities in the European core (through increase in exports and rising local consumption through higher remittances). Government gross debt is on a downward path, reaching 41% of GDP in 2017. Although a wide scale privatization process was conducted after the war, there are still many state owned enterprises (SOEs). Most of them are owned by the two entities, which further lessens their efficiency since it disables the economy of scale (with two different rail companies, for example). Many of these SOEs are inefficient, with management that is not independent from daily politics and political parties in power, leading to low business performance. Some of these companies rely heavily on government indirect or direct subsidies, and produce with high unpaid arrears. Privatization plans have been drafted in both entities, but were implemented more in the Federation, which sold its either full or minority stake in several important companies in pharmaceuticals, insurance, tobacco and petrol retail sectors during recent years. But, the privatization of the two telecom companies was put on hold. Instead of using profits of SOEs for higher investments, that have been low for years, the Federation government used it to finance infrastructure projects. At the same time, restructuring of railways in the RS continued, aimed at putting expenses under control. Corporate and personal income taxes have been harmonized between the entities. Both taxes have flat rates of just 10%. However, social security contributions

are still different, since entities have their own healthcare and pension systems. This also leads to a different labour tax wedge - 40% in Federation (which is on the upper threshold of the Western Balkans) and 34% in Republika Srpska (which is slightly below the regional average). VAT is low for European standards, and consists only of one standard rate of 17%, without preferential rates.

## **Regulation of Credit, Labour, and Business : 5.63**

Business environment in Bosnia and Herzegovina suffers from excessive red tape, which leads to very high bureaucracy cost to businesses. Legislation is often ambiguous or contradictory, and the business activities are overly regulated. Corruption thrives in this kind of environment, both petty corruption and centralized high corruption that stems from political influence of high officials. Inspection reform in Republika Srpska entity delivered good results in this area, by cutting uncertainty among entrepreneurs, but this is yet to be introduced in the Federation. Multilayered executive government, with the national, entity, cantonal and municipality governments leads to complex regulatory environment, often with conflicting jurisdictions or unclear borderlines. Unstable political situation and divisions across ethnic and entity lines stifle much needed reforms of the business environment, and the economic space of the country remains effectively fractured. Starting a business is a very slow procedure, lasting 2.5 months on average, burdened with bureaucracy. It includes not only notaries but also municipal courts and various other bodies; it also incurs high costs not only due to high fees but also due to a high minimum capital requirements. This procedure also differs between entities; since Republika Srpska established a more efficient one stop shop (registration procedure lasts for between one and two weeks only). Obtaining a construction permit and getting electricity also incur very high costs, due to high fees involved, as well as to numerous and slow procedures. Compliance with tax regulation involves a high number of payments, with complicated and inconsistent procedures, of which VAT regulations are considered the most burdensome. Both entities introduced labour code changes in 2016 in order to make labour market more flexible, easing the process of hiring and firing. Fixed term contracts are not prohibited for permanent tasks, and their duration is 36 months. On the other hand, severance pay still increases with years in tenure, thus protecting more seasoned workers, but notice periods have been significantly shortened. Recent changes decreased wage premiums for overtime, weekly holiday and night work. Minimum wage in the country is high relative to the average wage, which encourages activities in the shadow economy, and was recently increased again.

## **Freedom to Trade Internationally : 8.78**

Freedom to trade internationally in Bosnia and Herzegovina is generally respected. BiH is, alongside Serbia and Belarus, the only European country that is not a member of the World Trade Organization (WTO). Although this lengthy accession process was almost finished in 2013, it was then effectively put on hold due to unwillingness of the BiH side to alter its domestic policies that were against the WTO rules. The working group met again in February 2018, after five years, and due to the reforms implemented during previous years BiH is now much closer to the WTO membership than before. However, bilateral negotiations have not yet been concluded. Tariffs are on average higher than in the region, especially as compared to the EU trade policy, with the average applied MFN tariff rate of 6.3%. Furthermore, there are also regulatory trade barriers in certification and quality standardization, which poses significant burden on international trade. Custom service is not well organized, with inefficient or complicated procedures and with outdated electronic systems. Corruption and partial treatment of different companies by the administration also remain present. Since the most important foreign market for BiH goods are EU countries,

most notably Croatia and Germany, the majority of trade is conducted under the Stabilization and Association Agreement (SAA) that supplanted the Interim Agreement on Trade in 2015. This agreement provides free access of BiH goods to the EU market, apart from some agriculture products. Regional trade is also very important for the BiH economy, since Serbia and Montenegro also play an important role in trade flows, which are conducted under the Central European Free Trade Agreement (CEFTA). However, since BiH does not recognize Kosovo as an independent state, this leads to factual discrimination of goods in specific situations, making barriers to trade with Kosovo, even though both countries are members of CEFTA. The Law on Internal Trade was finally amended in October 2017 in order to erase the discriminatory measure by which at least 50% of all items in retail chains had to be of domestic origin, which was a clear protectionist measure, against WTO and EU rules. Potential WTO accession would liberalize trade, as well as the EU accession, but these are yet to be reached.