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Bosnia and Herzegovina: Overview of corruption and anti-corruption

By Krista Lee-Jones
Reviewed by: Marie Chêne and Ivana Korajlic

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www.U4.no

U4@cmi.no

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About the author

Krista Lee-Jones

Query

Could you please provide an updated overview of corruption and anti-corruption in Bosnia and Herzegovina?

Caveat

This Helpdesk answer is an update of a 2014 [corruption country profile on Bosnia and Herzegovina](#).

Summary

Corruption presents a comprehensive challenge to Bosnia and Herzegovina (BiH). Its complex legal and regulatory frameworks create opportunities for corruption. Further, despite political figures and agencies increasingly voicing their concerns over the dangers presented by corruption, there has been limited activity or political will to combat the issue directly.

The European Commission and Group of States against Corruption (GRECO) assessments has repeatedly issued recommendations that BiH do more to curb corruption, a precondition to its accession to the European Union. Recently, steps have been made to strengthen the anti-corruption framework in BiH, including measures aimed at political party financing and anti-money laundering. However, many of these efforts have been declarative only and failed to substantially improve the anti-corruption legislative framework.

Many of the resulting amendments have been viewed as “lost opportunities.” In 2017, GRECO released the Fourth Interim Compliance Report on BiH which concluded that the country’s current level of compliance with GRECO’s recommendations was no longer “globally unsatisfactory”. Despite this revision in level of compliance, corruption remains a significant concern in BiH.

Overview of corruption in Bosnia and Herzegovina

Background

According to the 1995 General Framework Agreement for Peace (the Dayton Accords), which ended the 1992-95 Bosnian war, Bosnia and Herzegovina (BiH) is a state consisting of two entities, each with a high degree of autonomy: the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), as well as the Brčko District (BD), which functions as a single administrative unit of self-government under the sovereignty of BiH. From a constitutional standpoint, the current system is a very decentralised federal system where each entity has its own constitution, president, government, parliament and judiciary. In addition, the FBiH has a federal structure and consists of 10 autonomous cantons, each with their own government and constitution.

Accession to the European Union is a strategic priority for BiH. However, 17 years after the accession process first started, BiH remains a “potential candidate country”. Anti-corruption reform is among the key requirements for EU accession, and the BiH Anti-Corruption Strategy 2015-2019 recognises that “[s]ince the fight against corruption requires attention at an early stage of the EU accession process ... Bosnia and Herzegovina needs to show determination in taking concrete, comprehensive and sustainable activities in countering corrupt practices” (Agency for the Prevention of Corruption and Coordination of the Fight against Corruption 2014).

In February 2014, widespread popular protests broke out in several major cities in BiH. Next to unemployment, corruption and political inertia were the key drivers of the unrest which led to the resignations of several canton-level ruling politicians. Many hoped for a "Bosnian spring" but the protest movement did not result in any major political changes (SIDA 2017). In July 2015, the country adopted a reform agenda aimed at tackling the difficult socio-economic situation and advancing the rule of law and public administration reforms.

Extent of corruption

A 2016 Transparency International report on the national integrity systems in the Western Balkans and Turkey highlights the fact that the fight against corruption is failing in BiH (Transparency International 2016b). The latest European Commission enlargement reports and the US Department of State's Human Rights Practices 2016 reports also confirm the persistent nature of corruption in BiH (European Commission 2016; US Department of State 2016). The US Department of State identifies government corruption as a contributing factor to continued political and economic stagnation citing, that some political leaders have manipulated deep-seated ethnic divisions, weakening democracy and governance, undermining the rule of law and distorting public discourse in the media (US Department of State 2016).

In 2016, BiH ranked 83 out of 176 countries in Transparency International's Corruption Perception Index, scoring 39 – the same as in 2014, but lower than 2012 and 2013 – on a scale of 0 (highly corrupt) to 100 (very clean): a drop from its ranking of 72 in 2013. Out of the Balkan states, BiH ranked equally with Albania and only ranked higher than the FYR of Macedonia and Kosovo (Transparency International 2016a).

BiH is among the worst performing countries in Europe and Central Asia, according to their own citizens. In the 2016 Global Corruption Barometer, 55% of citizens considered that corruption was one of the three biggest problems facing the country with 54% of citizens saying “most” or “all” members of parliament are corrupt (Transparency International 2016c). Of the BiH citizens surveyed, 27% reported paying a bribe to access basic services (Transparency International 2016c). In 2017, Trace International gave BiH a score of 50, presenting a medium business bribery risk across four domains: i) business interactions with government; ii) anti-bribery laws and enforcement; iii) government and civil service transparency; and iv) capacity for civil society oversight.

A great majority of BiH citizens believe that they cannot do anything to contribute to countering corruption, while more than half of citizens consider that reporting corruption is not socially acceptable behaviour. The unwillingness of citizens to personally engage in anti-corruption activities are attributed to high rates of bribery, social stigma against reporting, and the lack of political and civil rights (Transparency International 2016c). The

fear of consequences and the belief that reporting will not lead to any change are the main reasons for not reporting corruption (Transparency International 2016c).

The World Bank Worldwide Governance Indicators also show a decline in performance across its scores for voice and accountability, and control of corruption. Political stability and absence of violence/terrorism has improved (The World Bank 2017).

Forms of corruption

Corruption in BiH is pervasive across all levels of government. It occurs in the form of undue political influence and interference, clientelism and patronage, bribery and abuse of public office.

Political Corruption

Political corruption at all levels of government remains a serious concern in BiH. Political interference in the selection and appointment of both management and general personnel is believed to be commonplace, especially among state-owned enterprises. The election of the president of the High Judicial and Prosecutorial Council (HJPC) in 2014 is one such example. The media had previously widely reported on his obstructions of investigations of organised crime and corruption cases, and his ties to key political actors in RS while holding the position of president of the district court in Banja Luka. Despite such warnings, he was promoted to one of the highest judicial offices in the country. Since then the HJPC has reverted to operating under the strong influence of political elites and has reversed a decade of integrity and professionalisation reforms (Transparency International 2016b).

There have also been numerous instances of unwarranted political interference in the day-to-day operation and decision-making processes of judicial and anti-corruption bodies. The executive openly exerts pressure on prosecutors' offices by issuing demands and making threats in public. In one example of such pressure, the president of RS threatened to abolish a local court, following its ruling to freeze the bank account of a company that had been taken over by the government after its failed privatisation (Transparency International 2016b).

Regarding elections, according to the Office for Democratic Institutions and Human Rights (ODIHR), during the 2014 election, the campaign finance regulatory system was not adequate to assure the transparency, integrity and accountability of election processes. In the municipal elections in 2016, there was evidence of election malpractice, including irregularities in voter lists and at polling places. For example, in the pre-election phase, there were reports of irregularities in the voter list, and voters being guaranteed jobs in enterprises tied to political parties. During the election phase there were reports of political party members trading places with observers at polling stations. There has also been a lack of prosecution of those who breached electoral laws (Toe 2016).

Grand corruption

According to the Global Corruption Barometer, government officials, members of parliaments, and presidents/prime ministers are considered the most corrupt by BiH citizens (Transparency International 2016c). Several recent cases demonstrate the pervasive nature of corruption among BiH's political elite.

In 2017, the Office of Disciplinary Counsel in Sarajevo opened the case of the chief state prosecutor who was suspended in September 2016 after facing charges of corruption and abuse of power. He is the highest-ranking law enforcement official under investigation for allegedly giving false information to the courts, obstructing the work of colleagues and having professional conflicts of interest (Arnautovic 2017).

In another recent case known as "Pravda" (justice) in Sarajevo, prosecutors issued indictments against 38 people, including a former BiH minister of interior, and eight legal entities for misuse of office, organised crime, money laundering and other corruption-related crimes. The indictments allege the former minister of interior organised a criminal group that was illegally registering and selling real estate located in Sarajevo from 2009 to 2016, profiting 10 million BAM (over US\$6 million) (Rule of Law Insights 2017).

In January 2018, it was reported that a parliamentary member was under investigation for suspicion of corruption in connection with reports authored on behalf of the Parliamentary Assembly of the Council of Europe (PACE). The report concerns a reservoir in the Sarsang region of Azerbaijan's Nagorno-Karabakh region, which is under control of ethnic Armenians. It is

alleged that the Bosnian MP received bribes to influence her reporting in favour of Azerbaijan (Milojevic 2018).

There have been many more examples of grand corruption reported by both the media and civil society which have not been prosecuted. Reportedly, the investigations are dropped or prolonged due to political influences. See, for example, the report of corrupt practices at Bobar Bank and Pavlovic Banka (Nuttall 2016; Transparency International BiH 2015), and allegations against persons working for BiH's largest pharmaceutical company, Bosnalijek (Spaic 2015).

Drivers of corruption

The unique state structure of BiH is often cited as an underlying driver of corruption – the lack of coordination and transparency across the four legal systems, and across the cantons, arguably facilitates corrupt behaviour. In addition, a lack of political will, patronage and weak law enforcement mechanisms hinders the ability to prosecute corrupt activities.

Fragmented state structure and legislative framework

Bosnia and Herzegovina's state structure is often regarded as excessively complex, uncoordinated and ineffective. Legislation is often not consistent throughout the country and issues of jurisdiction often arise during the investigation and prosecution of corruption (Bosso 2014). The complicated constitutional structure and oversized and ethnically divided state framework is a key challenge to anti-corruption efforts. The use of divisive rhetoric by some politicians has had a negative impact on cooperation between the entities that make up the country (Transparency International 2016b). In the absence of a unifying narrative, nationalism and ethnic division thrive, and are often used as a political tool by self-interested politicians. As a result, societal integration has not received much public support, with citizens voting almost exclusively along ethnic lines. This creates the ideal conditions for patronage networks to emerge and become embedded, which is a serious obstacle to tackling corruption in the country (Transparency International 2016b).

Institutional conflict takes the form of frequent, bitter and public accusations between prosecutors' offices, courts and law enforcement agencies. In several instances such mutual accusations have resulted in the filing of

criminal charges against senior officials in prosecutors' offices and law enforcement agencies. Such practices create an atmosphere of distrust among the key actors who are supposed to ensure impartial application of the law (Transparency International 2016b).

Weak justice and law enforcement

In BiH, the responsibility for investigating and prosecuting corruption is shared among different judicial, law enforcement and anti-corruption bodies. Infighting between judicial and law enforcement actors occurs regularly (Transparency International 2016b). In addition, the four autonomous legal systems make inter-institutional cooperation challenging. The lack of harmonisation across the legislation that regulates the work of the judiciary and law enforcement has negative implications for judicial resources, which undermines stability and predictability and makes the judiciary vulnerable to political interference through budgeting processes (Transparency International 2016b). Further, efforts to improve the anti-corruption legislative framework are stifled by political parties refusing to adopt improvements.

The law enforcement's capacity to prosecute corruption is weak. This is primarily attributed to poor cooperation between the police and prosecution services and a lack of specialisation in corruption crimes (GAN Integrity 2016). There is a general perception that investigations initiated against public officials are politically motivated (GAN Integrity 2016).

Few officials are convicted of abuse of office and corruption in BiH, even though the legal framework is considered adequate. There is a tendency among judicial institutions at higher levels to ignore corruption cases altogether (Transparency International 2016b). When media outlets are successful in exposing a high-level corruption case, they generally receive a very limited response from law enforcement and judicial institutions, which either fail to investigate the cases properly or do so only once the person in question is no longer in a position of power.

Patronage and networks

Patronage acts as a driver of corruption in BiH. The main governing parties and their patronage networks are well-established. According to the European Commission's 2014 Progress Report for BiH, "Political patronage networks are widespread and influence all levels of government" (European

Commission 2014). Attempts to streamline government have been stymied by a lack of political will, particularly as the public administration serves as a rich patronage arena for governing parties (Bertelsmann Stiftung 2016). Lack of effective investigations, prosecutions and convictions of corrupt activity have also been attributed to patronage networks, among other things (European Commission 2014).

Main sectors and areas affected by corruption

Public administration

Citizens of BiH believe that civil servants are the most corrupt: government officials (56%), members of parliaments (54%) and presidents/prime ministers (53%) (Transparency International 2016c). Bribery, conflict of interest, nepotism and patronage networks are widespread within the public administration (GAN Integrity 2016). The overall organisation of the public administration in BiH is affected by complex constitutional arrangements that are not conducive to clear lines of accountability (European Commission 2016). The management of public finances is not transparent, especially in public procurement. For example, in 2015, more than 75% of all public procurements were conducted behind closed doors, through direct negotiations (USAID 2017).

BiH is still at an early stage with the reform of its public administration. The European Commission reported that no progress was achieved in the year 2015-2016 and backsliding has been recorded with the amendments to the legal framework for the civil service in the Federation entity, increasing the risk of politicisation (European Commission 2016).

Members of parliament

According to the 2016 Global Corruption Barometer, more than half of BiH citizens regard their representatives as highly corrupt. Citizens are also critical of their governments' efforts in cleaning up politics and fighting corruption in government (Transparency International 2016c).

Political actors wield enormous influence across almost all walks of public life, as demonstrated by allegations of vote buying and the manipulation of media coverage related to political opponents (Transparency International 2016b). Politically motivated threats on the judiciary by some politicians in

the country have continued (European Commission 2016). This situation is exacerbated by the weak oversight over, and limited transparency of, political parties (Transparency International 2016b).

Judiciary

The judiciary carries a high corruption risk in BiH. The judiciary's efficiency to combat corruption is thwarted by its lack of independence. Irregular payments and bribes are often exchanged in return for favourable judicial decisions (GAN Integrity 2016) and public trust of the judiciary is low. Although codes of ethics for judges and prosecutors exist, there is no formal enforcement mechanism with the power to initiate disciplinary cases (European Commission 2016). The independence of the judiciary is also limited by pressure exercised by the executive and political parties, and court verdicts are perceived to be politically influenced (GAN Integrity 2016).

Business

Corruption is a serious obstacle for businesses operating in BiH (GAN Integrity 2016). The overly complex business registration and licensing process is particularly vulnerable to corruption. The multitude of state, entity, cantonal and municipal administrations, each with the power to establish laws and regulations affecting business, creates a system that lacks transparency and opens opportunities for corruption. Paying bribes to obtain necessary business licences and construction permits, or simply to expedite the approval process, occurs regularly. Foreign investors have criticised government and public procurement tenders for a lack of openness and transparency (US Department of State 2017b).

Legal and institutional anti-corruption framework

On the face of it, BiH has undertaken several anti-corruption reforms in response to recommendations made by organisations such as GRECO and the Financial Action Task Force (FATF). However, in some circumstances, these efforts have been declarative only and failed to address recommendations in their entirety. For example, amendments to the law on political party financing only addressed recommendations “superficially”;

the law on public procurement did not include necessary anti-corruption mechanisms, and the legislation on conflict of interest was derogated.

Lack of political will is often cited as an obstacle in the fight against corruption. The declared political commitment on the fight against corruption has not yet translated into concrete results and “[i]nsufficient” political support for countrywide reforms and the fragmentation of the public service are hampering efforts to carry out institutional and legislative reforms” (European Commission 2016). In 2016, 82% of BiH citizens negatively evaluated the work of authorities to counter corruption (Transparency International 2016c).

At the state level, in 2014, the BiH government adopted an Anti-Corruption Strategy for 2015-2019 – the fifth strategic anti-corruption document with the aim of planned and strategic opposition to corruption in BiH. During the first year of implementation of the strategy, only 25 of 98 activities were implemented completely (European Commission 2016). By the end of the timespan for country's previous strategy (2009-2014), the country had only implemented 9.8% of planned measures (GAN Integrity 2016).

Legal framework

In 2002, BiH ratified both the criminal and the civil law conventions against corruption of the Council of Europe. In 2006, BiH became party to the United Nations Convention against Corruption (UNCAC). Bosnia and Herzegovina underwent the first cycle of the review process for UNCAC for Chapters III and IV in 2014. While noting the efforts made by BiH in the field of anti-corruption, the expert reviewers identified a considerable number of challenges in implementation of the UNCAC and room for further improvement. BiH is listed to undergo a review of Chapters II and IV of UNCAC in the first year of the second cycle of the review process. BiH is also a party to the OECD Anti-Bribery Convention.

Anti-corruption laws

Domestically, there are four criminal codes in BiH used at different levels of government (state level, Federation of BiH, RS and BD). This structure has created legislative inconsistency throughout the country and issues of jurisdiction often arise during the investigation and prosecution of corruption (Bosso 2014). Each of the criminal codes criminalises several

forms of corruption, including active and passive bribery, concealment, embezzlement and misappropriation (Conference of the State Parties to UNCAC 2015; GAN Integrity 2016). There are some inconsistencies in coverage across the criminal codes. For example, concerning active bribery, third-party beneficiaries of the advantage are covered in the Criminal Code of BiH but not in the other criminal codes (Conference of the State Parties to UNCAC 2015).

Despite the high number of allegations and investigations concerning corruption in BiH, there are relatively few indictments and still fewer convictions. Officials frequently engage in corrupt practices with impunity, and although the law provides criminal penalties for corruption by officials, the government does not implement the law effectively nor prioritise public corruption as a serious problem. Prosecutions of corruption have also been selective (US Department of State 2016; GAN Integrity 2016).

Money laundering

The main legislation defining BiH's anti-money laundering regime includes the Law on Preventing Money Laundering and Terrorist Financing, criminal codes of BiH, criminal procedures code and the laws on banks.

BiH is on the FATF list of anti-money laundering deficient countries. The US has also placed BiH on its blacklist of major money laundering countries (US Department of State 2017a). The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in BiH was undertaken by the FATF in 2009. According to that evaluation, BiH was deemed partially compliant or non-compliant for three of the six core recommendations. In 2015, BiH made a high-level political commitment to work with the FATF and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) to address its deficiencies. Since then, BiH has substantially addressed its action plan at a technical level, including, among other things, by developing an adequate anti-money laundering/counter-terrorist financing supervisory framework; establishing adequate cross-border currency controls; harmonising criminalisation of money laundering in all criminal codes; and ensuring adequate procedures for the confiscation of assets (FATF 2017).

Political party financing

In May 2016, amendments to the electoral legislation were adopted as the result of work conducted by an Interministerial Working Group. This work was reportedly “marked by disagreements” and the country missed yet another opportunity to significantly improve the transparency and accountability of political parties. Instead, cosmetic changes to the law merely created a fulfilment of recommendations (Transparency International BiH 2016). Specifically, the amendments failed to address four of the nine recommendations made by GRECO in its initial evaluation report, while other recommendations were only implemented superficially or partially (Transparency International BiH 2016).

In 2017, GRECO released its Fourth Interim Compliance Report on BiH, which examines the transparency of political party financing. In the report, GRECO acknowledged that some progress had been achieved, for example, by introducing electronic reporting by political parties on their finances and amending the regime of sanctions available for violations of the rules. However, GRECO highlighted its concerns that the reform only presented partial solutions to the shortcomings identified in its evaluation report. Much more needs to be done to, for example, harmonise the complex legal framework, promote the use of the banking system for contributions to political parties and increase the financial and personnel resources allocated to the Central Electoral Commission (CEC) for the supervision of political financing (GRECO 2017).

Conflict of interest

Amendments were made to the Law on Conflict of Interest in Governmental Institutions of BiH in 2013 which have “fatally weakened the institution of conflict of interest and rendered it senseless, primarily through the politicisation of the body responsible for implementing the law.” These amendments transferred the responsibilities for implementation of the law away from the CEC, which has left the FBiH level without a body responsible for its implementation (Transparency International BiH 2016).

Earlier amendments to the law had gradually narrowed the range of public offices and officeholders to whom the law applies, and the situations that give rise to conflict of interest. Both GRECO’s fourth evaluation report and the 2016 Report of the European Commission note that the legal and institutional framework relating to conflict of interest remains inadequate

(GRECO 2015; European Commission 2016). The existing bodies monitoring conflicts of interest have important shortcomings regarding the effectiveness of their role: they either lack the required powers or independence to ensure abidance by the rules (GRECO 2015).

Asset declaration

In BiH, the asset disclosure legal framework is dispersed across multiple laws, including the election law (for elected officials), the law on government service (for public servants and all government employees), the law on high judicial and prosecutorial council (for judges and prosecutors). Income, real estate, moveable property and money are all required to be declared, but beneficial ownership is not (Open Data Kosovo 2017).

The length of time a record of declarations is required to be kept is unspecified, and there is no obligation for parliamentarians to update financial information when a significant variation in wealth occurs (GRECO 2015). In addition, there is no verification of the asset information, and declarations are not available to the public, making it difficult to ensure a declaration's accuracy and truthfulness (Open Data Kosovo 2017). There is no obligation on behalf of the Central Election Commission (the entity responsible for collecting asset declarations of elected officials) to control the accuracy of declarations. Asset declarations for elected officials were only published at the end of 2017 after a lag of years, while asset declarations from the judiciary are yet to be published.

Public procurement

The system of public procurement in BiH is regulated by the law on public procurement (which came into force in 2014) and an accompanying series of implementing regulations. According to Transparency International BiH, the civil society sector had great expectations of the new law, primarily in terms of addressing procurement practices prone to corruption and political pressure including: implementation of procurement procedures in contravention of legal requirements; misapplication and misuse of the exemption of protection of privacy; poor planning or lack of transparency in public procurement plans or complete absence thereof; among others. However, the new [aw only partially addressed these issues (Transparency International BiH 2016).

The Public Procurement Strategy of Bosnia and Herzegovina 2016-2020 recognises public procurement as one of the most important areas of activities to be implemented under the Reform Agenda in BiH, with a view to improving accountability in the spending of public money, as well as creating a positive climate for foreign and domestic investors. The strategy consists of five pillars of development: i) public procurement legal framework; ii) monitoring; iii) training capacity and education; iv) legal protection; and v) e-procurement.

According to Transparency International BiH, provisions relating to conflict of interest are among the most problematic in the public procurement legal framework as they are imprecise and refer to other conflict of interest regulations in BiH which are not harmonised and rarely implemented (Transparency International BiH 2016). A working group has since been established and amendments to the law are expected to be drafted soon.

Access to information

The first Freedom of Access to Information Act (FOIA) was adopted by the Parliamentary Assembly of BiH in 2000, and entity-level acts were adopted a year later. A lack of proactive provisions has been cited as the biggest drawback of current access to information legislation. All three currently existing FOIAs (BiH, FBiH and RS) fail to make a large amount of information subject to mandatory disclosure (Rajko 2014). Some commentators cite lack of harmonisation and inconsistency in the country's legal system relating to FOIA, which affects access to information. In addition, Transparency International BiH's 2016 survey on the implementation of FOIAs indicated a general disregard for the purpose and scope of the law, and a high degree of legal uncertainty in the process of seeking and obtaining information held by public authorities (Transparency International BiH 2016). There is also no effective oversight body to ensure timely implementation of the law or to impose sanctions for those violating the law.

Whistleblower protection

There are currently two laws on the protection of whistleblowers in BiH: one at the national level (the law on the protection of persons who report corruption in the institutions of Bosnia and Herzegovina) and one in RS (the law on the protection of people who report corruption). The first applies to the employees of the institutions of BiH and to the legal persons that are

their founders; the second to all persons, both physical and legal, who report in good faith corruption in the public or private sector in RS. A similar bill was before the FBiH parliament but did not proceed any further.

The main difference between the two laws is their protection mechanism. In the case of external reporting, the national law protects whistleblowers through the Agency for the Prevention of Corruption and for the Coordination of the Fight against Corruption (APIK), which has competence to decide on the requests for whistleblower status, as well as to take measures to counter retaliation. On the other hand, the law in RS offers whistleblowers the opportunity to avail themselves of judicial protection by filing a complaint before the competent court.

According to APIK's 2016 report, only 16 requests for whistleblower status had been submitted, three of which were accepted. These small numbers are disproportionate compared to the perception of corruption in BiH and may signal the distrust of potential whistleblowers towards the existing protection model and the institutions that implement it (Vuković 2018).

Institutional framework

Anti-corruption bodies (aside from the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption) have not been established in a way that ensures functional guarantees of independence (BiH Transparency International 2016).

Agency for the Prevention of Corruption and Coordination of the Fight against Corruption

In 2009, the BiH parliament passed a law establishing an Agency for the Prevention of Corruption and the Coordination of the Fight Against Corruption (APIK) as the central anti-corruption body in BiH. This agency is an independent agency that reports to parliament and whose main responsibilities are the prevention, education and coordination of anti-corruption activities, including the analysis of corruption trends, development of anti-corruption policies and monitoring of their implementation (Bosso 2014). Due to a lack of political will, funds were not allocated to the agency until 2012 (Transparency International 2013). However, the agency is now almost fully staffed and has an appropriate budget (European Commission 2016). With regards to the enforcement of

anti-corruption and integrity plans, codes of conduct for civil servants and rules on incompatibility of office for public servants, the agency has limited powers to enforce these plans, and the perception of corruption remains high (European Commission 2016).

Prosecutors office of BiH

The Prosecutor's Office of BiH is unique in that it is not superior to the prosecutor's offices of the individual entities. Its jurisdiction is limited to the prosecution of specific crimes, including corruption, involving BiH civil servants. The two entity-level Prosecutor's Offices of the Federation of BiH and of RS, as well as the Public Prosecutor's Office of the BD are each competent and "supreme" within their own area of jurisdiction (Bosso 2014).

In 2015, there were a total of 140 investigations at state level into financial crimes and corruption, out of which 77 (55%) were finalised and 23 sent to the BiH Prosecutor's Office. From 1 September 2015 to 15 August 2016 there were a total of 296 confirmed indictments countrywide, while the number of convictions was 173, a majority of which were suspended sentences. Most of the convictions were for abuse of office or authority (European Commission 2016).

The principle of prosecutorial autonomy is set out in the legislation at all levels and enshrined in entity constitutions, although not in the BiH constitution. There are no established procedures carrying penalties against undue influence or threats to judicial independence. Politically motivated threats against courts and prosecutor's offices continued, particularly at state level (European Commission 2016). Integrity of the office is of concern. The last three chief prosecutors have been subject to corruption-related investigations, disciplinary procedures or have been suspected of corrupt behaviour.

High Judicial and Prosecutorial Council

The HJPC is the key institution managing the judiciary throughout the country. Shortcomings remain in the law on the HJPC, notably concerning appointment and disciplinary procedures, conflicts of interest, declaration of assets as well as the right to appeal HJPC final decisions (European Commission 2016).

Central Election Commission

The CEC is responsible for investigating violations of political party and election financing regulations – either on its own initiative or in response to complaints filed by individuals. The CEC has a “very limited mandate when it comes to audit and control of party financing, particularly in the field of expenditure auditing. Stemming from the deficient legal framework, all these problems result in inefficient and ineffective implementation of the law”. (Transparency International BiH 2016). The CEC Department for Auditing Political Party Financing is understaffed given the high number of political entities whose statements are subject to audit (Transparency International BiH 2016).

General elections held in 2014 were competitive, with candidates and political parties freely campaigning and presenting their programmes. According to ODIHR, the CEC administered the elections efficiently, but other international observers provided numerous, credible descriptions of political parties manipulating the makeup of the polling station committees, which endangered the integrity of the election process (ODIHR 2015; GAN Integrity 2016). There were also reports of problems with the counting process due to inadequate knowledge of appropriate procedures among polling station committee members. Municipal elections held in October 2016 were assessed by election monitors from a coalition of local NGOs as having been conducted overall in accordance with electoral law (US Department of State 2016; European Commission 2016). However, many incidents took place in some municipalities which resulted in the closing of polling stations in one municipality, and a temporary closing in several others (European Commission 2016).

State Investigation and Protection Agency

The State Investigation and Protection Agency (SIPA) is a state-level, internationally supported anti-corruption agency in charge of collecting and processing information of interest for the implementation of international laws and BiH criminal codes. SIPA’s criminal investigation department and its financial intelligence department are responsible for the prevention, detection and investigation of criminal offences that fall under the jurisdiction of the Court of BiH (Bosso 2014).

Auditor general

All four main government levels have their own supreme audit institutions (SAIs), each with its own laws and regulations in this area. Their main task is to audit the legality and regularity of financial management and accounting, and to provide recommendations for improving the performance, effectiveness and efficiency of public administrations. They do not have inspection and supervision capacities – these are performed by the financial police, investigative institutions and other financial bodies.

The functional, operational and financial independence of each SAI is addressed by the respective laws on external audit at the state and entity level and in the BD. These are in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). The SAIs at state level and RS entity level have sufficient staff. However, the SAIs of the BD and the federation entity lack capacity to cover the wide scope of external audit (European Commission 2016). SAI annual reports are submitted to the legislatures regularly. They are published online and receive wide media and public attention (European Commission 2016).

In 2017, the ruling coalition in the RS requested from the Auditor General of the Supreme Office for the RS Public Sector Auditing to resign, threatening dismissal in lieu of resignation. Transparency International BiH reported that this represented a direct violation of the independence of the SAI for the RS and an attempt to establish political party control over the SAI (Transparency International BiH 2017).

Public procurement agency

The Public Procurement Agency of BiH (PPA) is mandated to initiate, implement and monitor public procurement reform in all sectors. However, the PPA lacks capacity to carry out all its responsibilities (European Commission 2016). In addition, the European Commission noted that “there has been no improvement in implementation of the provisions on integrity and conflict of interest in public procurement procedures” and that more efforts are needed to prevent corruption during the procurement cycle (European Commission 2016).

Other stakeholders

Media

The media environment in BiH is described as “partly free” (Freedom House 2018). Freedom of the media and freedom of information are guaranteed by the constitution of BiH, but governmental respect for these rights continues to deteriorate. In 2017, BiH ranked 65 on the Reporters Without Borders’ Press Freedom Index according to which, despite having the world’s most liberal media freedom laws, their implementation is held back by a saturated judicial system and a lack of good practical implementation of the adopted legislation (Zurovac 2016). Established measures and guarantees are reportedly willingly breached by politicians with no reaction for such breaches of media freedom and endangerment of journalists (Zurovac 2016).

The situation is aggravated by the fact that the pro-government media continue to enjoy direct and indirect state subsidies (Reporters Without Borders 2017). Transparency in media ownership is an on-going concern, with most media dependent on, and controlled by, the ruling elite and powerful oligarchies.

In 2017, the IREX indicator 4 (crimes against media professionals) scored more than half a point lower compared with 2016, signifying worrying trends of decreased safety for journalists and bloggers (IREX 2017). Journalists are often the targets of threats and political pressure (Reporters Without Borders 2017). Pressure on journalists and media outlets mostly stems from BiH’s ethnic and political cleavages. Intimidation, harassment, and threats against journalists and media outlets have reportedly intensified, while media coverage continued to reflect ethnic and political allegiances (Transparency International 2016b). Deterioration of the political situation further encouraged reporting that incited political and ethnic intolerance (US Department of State 2016).

For example, in 2014, the police raided the offices of BiH's most popular news website after it had published an audio recording alleging high-level political corruption (Freedom House 2015). In 2016, the Association of BH Journalists (BHJ) registered 13 physical attacks on and threats to journalists (IREX 2017). Several journalists and bloggers left the country, noting that

their lives were in danger after publishing stories or sharing opinions that are against the political elites or dominant ideologies (IREX 2017).

Civil society

The legal framework for establishment and operations of civil society organisations (CSOs) in BiH is regulated by four laws on associations and at BD level, as well as a range of other legislative acts (Žeravčić 2016). Setting up non-government organisations is subject to a lengthy and cumbersome process (BTI 2016).

BiH does not have strong civil society traditions (BTI 2016) and is considered fragmented, institutionally very weak, financially unsustainable and highly dependent on political and financial support of the international community (Žeravčić 2016). Civil society is “dominated by small grass root organisations without full time employees that operate locally with an aim of protection of interests and gained social rights of specific social or interest groups” (Žeravčić 2016). There is no political will to define the role of civil society in social protection, health and education; and civil society is not regarded by the public sector as a relevant partner in social and economic development of BiH (Žeravčić 2016).

Transparency International BiH reports that intimidation and violence against activists and civil society organisations are evident, mostly involving human rights advocates and activists investigating alleged corruption. There are cases of external interference in the operation of CSOs, including media-led smear campaigns aimed at tarnishing their image, arrests of activists and a failed attempt to introduce a “foreign agents’ law,” which would have imposed even greater government control of CSOs receiving foreign support (Transparency International 2016b).

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