

# Bosnia-Herzegovina

by Jasna Jelišić

*Capital:* Sarajevo  
*Population:* 3.8 million  
*GNI/capita:* US\$8,020

The data above was provided by The World Bank, *World Bank Indicators 2009*.

## Nations in Transit Ratings and Averaged Scores

	1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Electoral Process	5.00	4.75	4.25	3.75	3.50	3.25	3.00	3.00	3.00	<b>3.00</b>
Civil Society	4.50	4.50	4.25	4.00	3.75	3.75	3.75	3.50	3.50	<b>3.50</b>
Independent Media	5.00	4.50	4.25	4.25	4.25	4.00	4.00	4.00	4.25	<b>4.50</b>
Governance*	6.00	6.00	5.50	5.25	5.00	n/a	n/a	n/a	n/a	<b>n/a</b>
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	4.75	4.75	4.75	5.00	<b>5.00</b>
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	4.75	4.75	4.75	4.75	<b>4.75</b>
Judicial Framework and Independence	6.00	5.50	5.25	5.00	4.50	4.25	4.00	4.00	4.00	<b>4.00</b>
Corruption	6.00	5.75	5.50	5.00	4.75	4.50	4.25	4.25	4.25	<b>4.50</b>
Democracy Score	<b>5.42</b>	<b>5.17</b>	<b>4.83</b>	<b>4.54</b>	<b>4.29</b>	<b>4.18</b>	<b>4.07</b>	<b>4.04</b>	<b>4.11</b>	<b>4.18</b>

\* 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.

## EXECUTIVE SUMMARY

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Competitive nationalism among the three main ethnic groups of Bosnia and Herzegovina (BiH) caused near paralysis in state institutions in 2008. As a result, the country failed to achieve concrete progress in addressing conditions relevant for Euro-Atlantic integration. There was also unsatisfactory progress in addressing the objectives and conditions which have been set for the closure of the Office of the High Representative (OHR) and its transition into an Office of the EU Special Representative. As a result there was no decision on changing the set-up of the international presence in the country.

The political situation in BiH was partly affected by the Kosovo's declaration of independence in February 2008 as well as by the general elections in October 2008. These events led to a further slowdown of reform. The signature of the Stabilisation and Association Agreement with the EU in June 2008 did not change the overall situation in the country, and the six parties of the ruling coalition in the Council of Ministers continued to be unable to place the goal of EU integration and its associated obligations ahead of their divergent political priorities. The themes of the election campaign in the fall were largely unrelated to the everyday concerns of BiH citizens, and the reform agenda, with its promise of economic and democratic development, was almost forgotten.

The presidents of the largest Bosniak, Serb, and Croat parties in BiH—the Party of Democratic Action, the Alliance of Independent Social Democrats, and the Croat Democratic Union–BiH, respectively—concluded what became known as the Prud agreement in November 2008, laying out a way forward on constitutional reform, the conduct of a census, and other matters related to the closure of the OHR. However, no concrete follow-up measures were taken by year's end.

Throughout the year, leaders on all sides of BiH's divided political scene aimed criticism at the international community. The Bosniak member of the BiH presidency, Haris Silajdžić, sent an open letter to the UN Security Council in December to object to an OHR report that blamed him and other local leaders for the continued political deadlock in the country. Mr. Silajdžić argued that the crisis was caused not by political infighting, but by the international community's failure to secure full implementation of the Dayton Peace Agreement.

Milorad Dodik, prime minister of the Republika Srpska (RS), also clashed with the OHR, complaining that it was too deeply involved in BiH politics and should let local leaders reach their own compromises. Moreover, the RS government's claim that it had the right to call a referendum on secession drew repeated rebukes from the international community, including a resolution adopted in October by the European Parliament reaffirming that the BiH's constituent entities did not enjoy

autonomous sovereignty and that only the BiH as a single state had membership prospects in the EU.

The slow pace of reforms during the year prompted the Council of Europe to warn in September that “without greater cooperation between the various state- and entity-level structures, Bosnia and Herzegovina will not be able to benefit fully from European integration.” The statement also condemned moves by the RS to undermine BiH state institutions.<sup>1</sup>

In the last quarter of the year, several analyses claimed that the situation in the country had worsened gravely, with one finding that the BiH was “not at the brink of war, but it has slid well down the slope in that direction.”<sup>2</sup>

**National Democratic Governance.** There were no improvements in democratic governance in 2008, as the ruling coalition lacked consensus on almost every issue, especially when it came to state building. There were no serious attempts to address the fundamental question of constitutional reform. Ethnic identity continued to hamper the functioning of public institutions, while divisive rhetoric negatively affected the overall atmosphere and stalled decision making and legislative activity. *Owing to all these factors continuing from the previous year, the national democratic governance rating remains at 5.00.*

**Electoral Process.** The October 2008 municipal elections were characterized as free and fair by international monitors. Besides confirming once more the decisive roles of ethnicity and fear in BiH election campaigns, the elections showed that the post-Dayton political system does not provide ample opportunities for the emergence of new political forces, partly because of the significant financial and media resources at the disposal of the ruling nationalist parties. Despite these obstacles, newcomers—including Naša Stranka (Our Party), a multiethnic party founded in April—managed to enter the political scene. *Owing to a lack of improvement in the country's electoral dynamic, BiH's electoral process rating remains at 3.00.*

**Civil Society.** There were no signs of improvement in the strength of civil society. Effective advocacy and articulation of citizens' interests are rare, with only a small number of nongovernmental organizations exercising these functions with some results. The most active and numerous civil society organizations are religious groups, which continued to strengthen their agenda and influence during the year. Education in BiH remains a major issue that could prove a catalyst for even greater instability in the future. Civil society is independent but faces growing pressure when dealing with the issue of corruption or tolerance toward minority groups. *The civil society rating for BiH remains 3.50.*

**Independent Media.** The media environment is shaped by ethnic divisions as well as alliances with political circles and business interests. Such special interests continued to influence reporting and editorial independence. The year featured notable attempts to exert influence on the electronic media, which had generally

been less subject to ethnic and political bias than the print media. *These developments, combined with additional threats to journalists, has led to a worsening of the independent media rating from 4.25 to 4.50.*

**Local Democratic Governance.** There was no significant improvement in the implementation of the entity legislation on local self-governance in accordance with the European Charter of Local Self-Government, nor were there any practical steps toward genuine decentralization. The majority of local authorities continued to pay allegiance to the entity and cantonal authorities. The municipalities' lack of resources remains a problem in both the Federation and the RS. The state government had no powers over local self-governance, which complicated BiH compliance with international obligations in this area. *Owing to a lack of improvement, the rating for local democratic governance remains at 4.75.*

**Judicial Framework and Independence.** The judiciary of BiH remained divided into four separate jurisdictions and continued to function in a complex and legally incoherent environment. BiH still lacks a Supreme Court, which would harmonize the application of legislation across the country. The existence of 14 different Ministries of Justice, each preparing separate budgets, negatively affects judicial independence. Delays and backlogs in the courts did not substantially improve, and political interference remained a concern. A National Strategy for Development of the Justice Sector was adopted, but there were no strong indications that it would be swiftly implemented. *As a result, the rating for judicial framework and independence remains at 4.00.*

**Corruption.** Corruption in BiH remains widespread, and government efforts to combat it have been weak. Combined with the country's constitutional arrangements, this presents a major obstacle to political and economic development. Alliances between business and political circles seem stronger than ever. Owing to a lack of political will, there was no progress in implementing the 2006 BiH Anticorruption Strategy, and amendments to the Law on Conflict of Interest that were adopted in July 2008 effectively reduced the scope of the law. No serious efforts were made to establish an independent anticorruption agency. *Owing to the lack of political will and capacity to effectively halt the rampant spread of corruption, BiH's corruption rating worsens from 4.25 to 4.50.*

**Outlook for 2009.** Joining the EU and NATO remain BiH's most important strategic priorities, but events in 2008 suggested that the current political leaders find it difficult to cooperate and make decisions that would bring the country closer to declared foreign-policy goals.

The year's developments highlighted the need for a constitutional reform, without which BiH will be unable to meet the EU's administrative and political requirements or achieve an acceptable level of functionality in its institutions. However, in this respect the ruling parties have hardened their positions since the failure of the

so-called April package of constitutional changes in 2006. If the prevailing negative attitude and distrust among leading politicians prevail, progress will remain blocked.

The harmful influence of events in the wider region on the backsliding trend in BiH prompted strong arguments throughout the year for a serious reengagement by the United States and the EU. The NATO membership perspective and the promise of EU accession have long been the pillars of BiH and regional security. It is expected that these aspects will be strengthened, and hopefully have positive influence of the political situation on the ground.

As a number of analysts have observed, the lack of interest and focused engagement by the international community in 2008 was interpreted by the ethno-nationalist elites as a green light for a return to separatist policies.

Still, BiH fell back under the international spotlight by the end of the year, and reengagement is expected in 2009. Its success will depend on an accurate assessment of the underlying problems and a readiness to address them directly. The policy of waiting for the domestic political elites to do so on their own has amounted to a costly waste of time and resources, and it has even undermined the security situation.

EU accession remains the only issue with the potential to change the internal and regional political dynamic in the long run. Public opinion polls show that more than 80 percent of the people of BiH, of all ethnic backgrounds and from both entities, want to join the EU. The prospect of accession could help to drive improvement on a number of governance indicators. However, if the trends of 2008 continue, the perceived likelihood of a deeper crisis or even some form of instability in BiH will increase.

# MAIN REPORT

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## National Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
n/a	n/a	n/a	n/a	n/a	4.75	4.75	4.75	5.00	5.00

The year started with a crisis over the failure of Bosnia and Herzegovina (BiH) institutions to agree on the state budget, and this unwillingness to compromise proved a central theme of 2008. The dispute was temporarily suppressed on February 20, when the BiH House of Representatives (BiH HoR) formally appointed the state-level government of Prime Minister Nikola Špirić, who had resigned in November 2007 to protest High Representative Miroslav Lajčák's introduction of changes aimed at facilitating more efficient decision making in the BiH Parliament and Council of Ministers.

Hopes for further progress grew after the BiH HoR approved a draft police reform bill in its first reading. The measure, which came after four years of negotiations, was expected to pave the way for the final signature of a Stabilization and Association Agreement (SAA) with the European Union (EU). The whole project fell into doubt after the largest Bosniak party, the Party of Democratic Action (SDA), abandoned its previous acceptance of interparty agreements on a two-stage police reform. However, with pressure and heavy involvement by the Office of the High Representative (OHR), the Parliament finally made a breakthrough in April and passed the reform package. The SAA was then signed in June. However, enthusiasm associated with the SAA signing lasted not more than 20 days. It was soon eclipsed by the political dynamic of a typical election year as party leaders prepared for the October municipal polls.

Meanwhile, Republika Srpska (RS) prime minister Milorad Dodik had set his course for the year on January 26, when his Alliance of Independent Social Democrats (SNSD) called for the transformation of BiH into an asymmetric federation (or confederation) and claimed the right to self-determination, up to and including secession by the RS. This move was also seen as a warning shot fired in anticipation of Kosovo's unilateral declaration of independence on February 17. A few days after Kosovo's declaration of independence, the RS National Assembly overwhelmingly adopted a resolution claiming that the RS had the right to secede from BiH if a majority of UN and EU countries recognized Kosovo's independence.

The resolution caused an outcry in other parts of the country and exacerbated the tense political climate. International officials reminded local actors several times during the year that the constitutional structure of BiH, including the existence of the entities, could be changed only in accordance with constitutional provisions. The international community was united in denouncing the RS position, stating that the two entities had no right to secede under the Dayton

Peace Accords (DPA). Verbal attacks on the Dayton-based structure of BiH were common throughout 2008, damaging the mutual trust and confidence among the three major ethnic constituencies. They included a proposal by RS officials to disband the BiH military and frequent inflammatory exchanges between Dodik and Haris Silajdžić, the Bosniak member of the BiH presidency and the only wartime leader still in office.

In September, the RS government began the process of revoking the approval for a 2004 law creating a state electricity transmission operator and cancelling an agreement on the issue among the entity prime ministers. The ambassadors of the Peace Implementation Council (PIC) Steering Board, an international body tasked with advising the OHR on implementation of the DPA, immediately reminded the RS government that an entity could not unilaterally withdraw from previous reforms transferring various functions to the state government.

While the RS authorities claimed that they were simply trying to protect the entity's capital in other parts of the country, international representatives and most of the media in the country's other constituent entity, the Bosniak- and Croat-dominated Federation of Bosnia and Herzegovina (FBiH), saw it as yet another attempt by the RS to create preconditions for secession.

The FBiH-based parties fiercely opposed the RS government moves but did little to improve the situation in the FBiH itself. Its government had been less efficient in adopting and implementing legislation, mainly because of the difficult political atmosphere and diverging party and ethnic interests in the entity's governing coalition.

In general, FBiH politicians seemed to be overwhelmed by and reactive to the RS moves, lacking their own progressive policies. The SDA (Party for Democratic Action) claimed that Dodik was undertaking steps to control resources and proclaim independence, and introduced the idea that unless the DPA was fully implemented, BiH had to return to its pre-war Constitution.

In the RS, threats to pursue secession continued into the fall. In October, RS president Rajko Kuzmanović called a special session of the entity's National Assembly, which served to reinforce the February resolution asserting that the RS had the right to launch a referendum on its status if the majority of EU states recognized Kosovo. The National Assembly also concluded that the RS government could review all past transfers of responsibilities from the entity-level to the state-level authorities and pushed strongly for the transformation of the OHR into the Office of the EU Special Representative (EUSR).

The PIC Steering Board had discussed the latter issue in February 2008, agreeing on five strategic objectives and two other conditions that must be achieved by BiH authorities before the transition from OHR to EUSR can take place. The five objectives were the resolution of state property disputes, resolution of defense property disputes, resolution of the status of Brčko district, the fiscal sustainability of the state, and the entrenchment of the rule of law. The two conditions were the signing of the SAA and a positive assessment of the political situation in BiH by the PIC.

Some progress on these matters was seen in late March, when the state and entity governments reached agreement on movable defense property. This led NATO to grant BiH an “intensified dialogue” toward a Membership Action Plan. However, little progress was made during the year on the issue of state property.

Resolution of the status of Brčko district required the adoption of an amendment to the BiH Constitution, but this was delayed by the municipal elections and opposition from Silajdžić, who insisted that the problem be discussed within the framework of broader talks on constitutional reform.

After the elections, the leaders of the SDA, SNSD, and Croat Democratic Union–BiH (HDZ–BiH) agreed in November to work on resolving the state property and Brčko final status problems, along with the issue of a population census and other issues addressed by the PIC. But this accord, known as the Prud agreement, did not lead to any concrete actions by year’s end.

It was unclear how the parties would ultimately bridge the gaps in their fundamental positions on constitutional reform. Throughout 2008, all of the major political players in BiH repeatedly touted their mutually exclusive and adversarial proposals in media appearances and other formats. While Serb leaders defended RS autonomy, major Bosniak parties, especially the Party for BiH (SBiH), reiterated their proposal to replace the existing administrative divisions with at least five multinational regions, based on economic, functional, geographic, transport, historical, and ethnic criteria. At the same time, Croat leaders renewed calls for a third ethno-national entity within BiH, and the increased cooperation among the three Croat-majority cantons within the FBiH was seen as laying the groundwork for this objective. However, the Croat parties failed to achieve a unified stance on constitutional reform even among themselves.

These divisions suggested that the ruling ethno-national groups had not given up on key elements of their respective wartime goals and were insisting on them so fiercely that they actually spread a feeling of insecurity among the country’s citizens.

The year ended as it started, with a failure to adopt a state budget for 2009 on schedule. Indeed, numbers collected by the Center for Civic Initiatives (CCI) show just how inefficient the country’s government had become amid the various political battles and stalled reforms. The nongovernmental organization CCI found that the Council of Ministers of BiH realized only 47 percent of its total work program for 2008<sup>3</sup> and indicated that leading politicians’ verbal commitments to EU-related reforms were not matched by a substantial devotion of time and effort.<sup>4</sup> This lack of effectiveness and accountability led to a decline in public confidence. A UN Development Programme poll in June showed that public approval ratings had dropped for all major institutions in BiH.<sup>5</sup>

## Electoral Process

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
5.00	4.75	4.25	3.75	3.50	3.25	3.00	3.00	3.00	3.00

The international community had hoped that the October municipal election campaign would focus on the major concerns of citizens: unemployment, quality of education, lack of economic development, and political stability as a precondition for overall security. An EU-led “perspective campaign,” consisting of open debates in 16 towns and cities across BiH, revealed that these basic governance issues were the main priorities for voters. Several NGOs called upon voters to concentrate on their real, everyday needs and not on the rhetoric of politicians. The group ACIPS (The Alumni Association for Interdisciplinary Studies), for instance, emphasized that 98.8 percent of promises made by politicians before the last elections had not been kept.

However, the political discourse did not shift from its nationalist themes, and the election results showed no sign of a substantial change in voting patterns. The three main ethnic groups voted mostly along ethnic party lines, keeping the same or similar parties in power some 13 years after the war. The overall turnout was 55 percent, with voters in major cities largely abstaining; the turnout in the capital, Sarajevo, was less than 40 percent, with a similar trend in the towns of Tuzla, Zenica, and Banja Luka. This reflected a general disaffection with the political system, which continued to be shaped by dominant interest groups and a structure designed to divide citizens by ethnicity.

The ruling SNSD more than doubled its number of mayors in the RS, while the Serbian Democratic Party (SDS) emerged as the second-strongest party in the entity. In the FBiH, the SDA won the most mayoral posts, gaining votes from the SBiH. Bosniak voters increasingly saw SBiH leader Haris Silajdžić’s constant rivalry with RS prime minister Milorad Dodik as an obstacle to progress. The HDZ-BiH confirmed its dominance in the Croat-held areas of the FBiH, taking mayoral posts in 16 towns. The Social Democratic Party won nine mayoralties, including two Sarajevo municipalities.

The election campaign officially started on September 5, 2008. A total of 3,240,127 registered voters were presented with a choice among 72 parties, 41 coalitions, 147 independent candidates, and 20 independent candidates’ lists. Of the 29,043 candidates who were registered, only 35 percent were women.

Election monitoring was conducted by NGO workers and roughly 20 Council of Europe observers invited by the BiH Central Election Commission (CEC). The Organization for Security and Cooperation in Europe (OSCE) sent only a modest monitoring team, stating that BiH had made sufficient progress on elections and should now be regarded as a well-organized democratic country.

As in previous elections, the local candidates campaigned not on relevant municipal issues like infrastructure and public services, but on major constitutional questions that were far beyond the purview of local governments. In a rare attempt

to dissipate the heated electoral atmosphere, the RS government decided to allow former Srebrenica residents, who had been displaced by the war and were now registered in the FBiH, to vote in Srebrenica. However, a similar problem involving the registration of 2,048 Croats from Posavina who were now living in Croatia created additional political tensions.

In most cases, the main competition was between rival parties within each ethnic group: the SNSD and the SDS among the Serbs, the SDA and the SBiH among the Bosniaks, and the HDZ-BiH and Croat Democratic Union 1990 (HDZ 1990) among the Croats. This dynamic did not promote true issue-based politics, as the parties strove to outdo one another in their nationalist stances.

A notably different approach was adopted by Naša Stranka (Our Party), established in April on the initiative of award-winning Bosnian filmmaker Danis Tanović. The party planned to introduce a novel type of cross-ethnic politics that focused on fighting widespread corruption and improving the public's quality of life.

At the founding assembly of Our Party, delegates elected Bojan Bajić, a Serb from the RS town of Rudo, as the party president. Three vice presidents of different ethnic backgrounds—Maja Marjanović, Boris Divković, and Danis Tanović—were also elected, offering a liberal program with strong social elements. The party's creative and issue-based campaign was largely absent from the public space owing to a lack of financing, but it won a mayoral position in Bosanki Petrovac and became the fourth-strongest party in the BiH capital.

#### Civil Society

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
4.50	4.50	4.25	4.00	3.75	3.75	3.75	3.50	3.50	3.50

NGOs took part in monitoring the October municipal elections and in limited advocacy activities in 2008. However, civil society is still not vibrant and lacks sufficient organizational capacity; many groups are not financially viable. The government did not prove to be receptive to advocacy by different social groups, nor did those groups strongly articulate their interests, although veterans' groups did press the FBiH government to allocate nearly 40 percent of its 2008 budget to social payments, forcing the entity to the brink of bankruptcy.

The most powerful NGOs remain religious organizations, which received the greatest attention from the media. They have been better organized and more articulate than other NGOs. This was particularly obvious after the Sarajevo-based NGO, Q, representing gay, lesbian, and other sexual minority communities, announced the First Sarajevo Gay and Lesbian Festival in September. The festival triggered fierce reactions from members of the Islamic community and a majority of Bosniak politicians, in addition to those representing other ethnic groups.

The ensuing hate speech, widely publicized via dominant media outlets, added to a hostile atmosphere. Misleading news reports suggested that the small-scale

festival, consisting of a few indoor cultural events, would evolve into a public parade during the Islamic holy month of Ramadan. This fueled a broader debate on the nature of BiH society. It was a sobering time for the country's weak liberal groups and showed the ongoing influence of conservative Islamic, Roman Catholic, and Orthodox religious leaders in politics, culture, business, and other secular areas.

What started with hate speech ended with violence, as Islamic radicals attacked attendees at the Sarajevo festival's opening event. A small group of progressive and liberal citizens was deeply concerned about the manifestations of intolerance expressed in the media by religious and political leaders and tried to defend the festival, calling for Bosnian ratification of the European Convention on Human Rights and its protocols against discrimination. However, the festival was closed following the initial violence.

The civic response to a separate incident of violence in February was more vigorous. A 17-year-old Sarajevo resident, was stabbed to death by three youths while riding a crowded mass transit vehicle. The murder caused a public outcry and triggered fierce and long-lasting protests against the canton government for failing to guarantee public safety and combat crime in the capital.

Also in 2008, religious institutions advanced a well-organized initiative to introduce Islamic teaching in public kindergartens in the Sarajevo canton. Citizens opposing the plan began a petition drive, but the Islamic community mounted a sophisticated advocacy campaign claiming that the parents of most children in Sarajevo kindergartens were in favor of religious education. Despite the fact that such a practice would segregate children from non-Bosniak minorities and involve the use of public funds, educational authorities in the canton drew up a program for introducing religious instruction into the kindergarten curriculum.

Opponents argued in part that kindergarten children were not mature enough to follow such courses, and the OSCE mission to BiH warned that the proposal "threatens to work against the fundamental freedoms guaranteed in the country's own Constitution."<sup>6</sup> While Catholic and Orthodox institutions remained very influential, they did not take any concrete steps analogous to those of the Islamic community in 2008.

The State Framework Law on Higher Education remained largely unimplemented during the year. The separation of children of different ethnic backgrounds through a system of "two schools under one roof" was also left in place. Almost 50 percent of schools in BiH did not satisfy the criteria from an agreement on the rights of the returnee children that was signed in 2002 by ministers of education at all levels of government. School names and symbols in classrooms were characterized as "insulting for minority national groups" in a survey on the situation in schools, which showed that many schools in BiH "have no proper lavatory facilities or computers, but have humongous religious monuments in school yards, sometimes costing more than the school building."<sup>7</sup>

Reports by the Foundation of Local Democracy and the Ministry for Human Rights came to the same conclusion after examining 2,088 schools, confirming that 72 schools in FBiH did not fulfill criteria for school names, while 220 schools in

the RS did not fulfill the same criteria. School symbol provisions were violated in 205 FBiH schools and 351 RS schools. Some schools did not allow the survey to be carried out, including facilities in Livno and Western Herzegovina cantons.

The OSCE and other international organizations operating in BiH believe that reform of the education sector at all levels remains one of the most important strategic priorities for securing long-term stability in the country. The current segregated, politicized, and poorly funded education system is widely seen as a breeding ground for growing intolerance and future conflict.

Brčko district remained an exception, as unacceptable and discriminatory elements were removed from all schools. The Brčko Assembly adopted a Law on Primary and Secondary Education in March, giving the district the only truly multiethnic education system in BiH and providing a model for the rest of the country. The new law requires modernization and harmonization in line with European standards, including rationalization of the school structure and higher professional requirements for teachers. A wide range of both ruling and opposition parties voted for the law, indicating general acceptance of an integrated educational system in the district.

#### Independent Media

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
5.00	4.50	4.25	4.25	4.25	4.00	4.00	4.00	4.25	4.50

The state of media freedom deteriorated in 2008, owing in part to verbal and physical abuses against journalists as well as threats to the independence of the Communication Regulatory Agency (CRA). The OSCE noted that “the level of political coercion, pressure by nationalist lobbies, and financial bullying against journalists was growing.”<sup>8</sup> The OSCE also warned of obstacles to reforming the country’s public broadcasting system.

The EC’s 2008 Progress Report on BiH added that the “withholding of financial resources from certain media by the authorities, including the public broadcasting system, as a result of political pressure, is a matter of serious concern.”<sup>9</sup>

Public broadcasting reform was one of the prerequisites of the SAA signing and will continue to be one of the key issues in EU accession negotiations. An integrated system with public broadcasters overseen by a single corporation, striving for balance and objectivity in reporting, has not yet been achieved. Nor has a joint newsroom shared by all three public broadcasters in BiH.

Media representatives of FTV (the entity broadcaster of the FBiH) and BHRT (the state-level broadcaster) claimed that political representatives constantly sought to exert pressure on their financial, managerial, and editorial policies during the year.

RS prime minister Milorad Dodik and his government intervened in media matters several times in 2008. The state government’s ongoing block on the

independent selection of a CRA director was generally attributed to pressure from the RS. Separately, Dodik filed a number of lawsuits against FTV news editor Bakir Hadžiomerović and correspondent Slobodan Vasković for alleged libel after reports on the station's newsmagazine *60 Minutes* accused him of corruption and other abuses. A Sarajevo court struck down at least one of the suits in July. Dodik also accused BHRT of trying to hide a loss of nearly BAM 10 million (around US\$7 million) and violating procurement rules, claims that the state broadcaster's director vehemently denied. In September, the head of the governing board of BHRT tried to dismiss the director, a move that was also seen as political interference by the RS government.

In a step that could further divide the media space along ethnic lines, the BiH Parliament in May adopted a resolution to oblige the Council of Ministers to found a separate Croat-language public radio and television broadcaster.

Print media in BiH remained subject to the influence of powerful political and business interests. Electronic media were divided into private outlets dedicated to light entertainment and public stations that lacked financial stability and sound management.

#### Local Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
n/a	n/a	n/a	n/a	n/a	4.75	4.75	4.75	4.75	4.75

There were no serious improvements in the field of local self-governance. The RS government remained centralized, with municipalities dependent on the authorities in Banja Luka, while the cantons in the FBiH continued to exercise more power than municipalities, which provide the majority of services to citizens.

Laws on local self-governance adopted at the entity level are largely unimplemented, mainly because of the reluctance of the higher levels of government to surrender authority and revenues to local officials. Legislation on local self-governance has not been enacted at the state level. As a result, local authorities are not free to design programs and governance processes that would suit the needs of the population.

Higher authorities sometimes use their control of public funds to enforce political loyalty at the local level. During the campaign for the October 2008 municipal elections, politicians in the RS reportedly warned citizens that if they did not vote for the candidates preferred by the entity government, the community in question would not receive financing for local services and development.

The multiethnic city of Mostar benefited from greater political maturity on the part of the local political parties in 2008. The city council adopted its annual budget on time for the first time since the unification of the body in 2004. City officials also made progress in establishing a unified public utility company, finally qualifying for a World Bank waste management program. However, a number of

issues, including outstanding items on the unification agenda, were put on hold owing to the October elections.

Meanwhile, Brčko district continued to function better than the state according to most major indicators, although the country still needed to enshrine the district's unique autonomous status in the Constitution; that step remained entangled in BiH's broader political disputes over constitutional reform. Despite the disturbed political situation in the rest of BiH, politics in Brčko were relatively stable during 2008, and its healthy economy attracted investment. A new customs terminal that met EU standards was opened in March. Brčko also introduced BiH's first modern real estate tax law during the year.

#### Judicial Framework and Independence

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
6.00	5.50	5.25	5.00	4.50	4.25	4.00	4.00	4.00	4.00

The limited progress the country achieved during the year in the areas of judicial independence and the rule of law came only as a result of heavy international involvement. Some legislation was passed, but it has yet to produce significant results.

One of the key objectives that must be reached before the OHR can transition into the EUSR is the “entrenchment of the rule of law” in BiH. The PIC has stated that such entrenchment would entail the adoption of a national war crimes strategy, the passage of a law on aliens and asylum, and the adoption of a national justice sector reform strategy.

After almost two years of pressure and turmoil, a draft of the war crimes strategy was completed on December 17, 2008, and it was adopted by the Council of Ministers on December 29. The document envisioned the resolution of the country's nearly 10,000 registered war crimes cases over the next 15 years, although it remained unclear whether the Parliament would provide the courts with sufficient resources to process the backlog.

The July 2008 capture of Bosnian Serb wartime leader Radovan Karadžić in Belgrade and his transfer to the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague, the Netherlands, contributed to the sense that concerted international pressure on domestic institutions led them to exert pressure in turn on persons and networks suspected of protecting ICTY fugitives.

The BiH Parliament adopted the Law on the Stay and Movement of Aliens and Asylum in April. Meanwhile, the draft of the National Strategy for Development of the Justice Sector was prepared by January, and thanks to international pressure, it was adopted by the Council of Ministers, both entity governments, and the government of the Brčko district in June. The RS government had argued for the maintenance of exclusive entity competency over judicial reform.

The year's developments in the judiciary sector did not amount to a significant improvement. Fragmentation and disparities across the judicial framework continued to impair the courts' efficiency, and the European Commission reiterated its call for a sustained effort to ensure the independence and accountability of the judicial system. Constitutional flaws were left unaddressed because of the fundamental disagreements among major political parties and nationalist politicians on constitutional reform, and progress on antidiscrimination legislation was similarly lacking.

### Corruption

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
6.00	5.75	5.50	5.00	4.75	4.50	4.25	4.25	4.25	4.50

The level of corruption and tolerance for corruption in BiH is seen as high. Transparency International's 2008 Corruption Perceptions Index ranked BiH 92nd out of 180 countries surveyed, marking a decline from the previous year's index, and making BiH the worst performer in its region.

The existing anticorruption strategy was not implemented, and all the deadlines have expired. The small number of NGOs dealing with corruption issues claimed that the survival of the country was at stake. They appealed to the EU and other institutions to help combat the problem, the magnitude of which they said outmatched the abilities of domestic institutions.

According to the 2008 annual report of the Transparency International BiH (TI BiH) Advocacy and Legal Advice Center, the level of corruption in the country has a major influence on human rights abuses. During the year, the organization received 1,354 complaints from citizens, civic groups, and legal bodies referring to potential cases of corruption. As in previous years, the largest number of complaints involved the proceedings of local administration bodies (25 percent), while corruption in the area of education, mainly bribery, was the second-largest category (14 percent).<sup>10</sup> The corruption exposed at institutions of higher education in 2008 indicated that the phenomenon needed to be addressed more seriously, since it threatened to prevent BiH from fostering an intellectual elite capable of carrying out necessary reforms and social development, even as a chronic deficit in political, professional, and moral responsibility became more obvious.

Widespread corruption at public universities became a subject of regular media reports in the second half of the year. Some private universities reportedly guaranteed diplomas to students paying a high enrollment fee, and a sex abuse scandal involving Sarajevo law school professors stirred public outrage. EU police advisers praised a students' Web portal initiative that would allow users to submit data on corruption cases.

The RS National Assembly adopted the Law on Conflict of Interest in Governmental Bodies of Republika Srpska in July 2008. The FBIH followed suit in

October, while Brčko district had passed such legislation in 2003 and amended it in 2007. However, there was no convincing evidence that these laws were properly implemented in the entities. The public has a low degree of confidence that they are or will be enforced.

Contributing to this poor public perception was a prominent incident in which TI BiH asked the CEC (Central Election Commission) to investigate a conflict-of-interest case involving F BiH prime minister Nedžad Branković. The CEC argued that it had no authority to adjudicate cases at the entity level and refused to act on the allegations. TI BiH also clashed with RS prime minister Milorad Dodik after it published two reports on RS government privatization deals in January. Following harsh exchanges in the media, TI BiH suspended its activities on July 10, citing security concerns stemming from a campaign to publicly discredit the organization. TI BiH had resumed its activities by the end of July, but the incident clearly reflected an atmosphere of political pressure on civil society organizations, especially those engaged in anticorruption work. While domestic politicians remained largely silent on publicly revealed corruption cases, members of the European Parliament expressed deep concern about the difficult environment faced by anticorruption watchdogs in BiH.

In the last quarter of the year, it was reported that state-level investigators were examining the RS government's sale of an oil refinery to Russian buyers. The terms of the deal were suspected of harming taxpayer interests. The media speculated that the contract included several severe violations, noting the fact that the RS authorities had classified the document as strictly confidential.

The RS government in October initially refused information requests from the state investigation agency and Office of the Prosecutor, questioning the state's jurisdiction.<sup>11</sup> The documents were eventually handed over after several weeks, with international officials demanding that the RS authorities respect the rule of law.

The F BiH also saw a downward trend in this area. In November, F BiH vice president Mirsad Kebo stated that the entity's problems with organized crime and corruption were much more alarming than the public knew. He argued that "it is high time the F BiH authorities took measures and settled accounts with organized crime and corruption and established the foundation of a state which would allow every citizen to work and live freely."<sup>12</sup>

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- <sup>1</sup> PACE “Reforms Stalling in Bosnia and Herzegovina Warns PACE Committee,” September 9, 2008, [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=4041&L=2](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=4041&L=2). The RS authorities reacted harshly to the PACE report, denying that they were undermining state institutions and attributing the claim to lobbying by their opponents in the Bosniak-Croat Federation.
  - <sup>2</sup> “Sliding Toward the Precipice: Europe’s Bosnia Policy,” briefing of the Democratization Policy Council, November 7, 2008, <http://www.democratizationpolicy.org>.
  - <sup>3</sup> Under its work program for 2008, the Council of Ministers planned to adopt 102 laws. During the first six months, the council adopted only 15 laws (together with 9 that were not planned under the program). Some 85 percent of the planned laws had not been considered. The research showed that the Council of Ministers would need the entire mandate to realize only the laws that it had planned for 2007.
  - <sup>4</sup> According to the CCI report, the ministers spent approximately six eight-hour days in sessions during the first half of the year. The FBiH Parliament and government were no more efficient. CCI summary reports on monitoring government performance, <http://www.ccibh.org/main.php>.
  - <sup>5</sup> UNDP Early Warning System, Second Quarterly Report, June 2008, <http://www.undp.ba/index.aspx?PID=36&RID=82>.
  - <sup>6</sup> OSCE, “Education in Bosnia and Herzegovina Should Be Inclusive, Not Exclusive,” press statement, February 2, 2008, <http://www.oscebih.org/public/default.asp?d=6&article=show&id=2164>.
  - <sup>7</sup> “Monitoring i analiza provedbe Kriterija za školske nazive i obilježja” [Monitoring and analysis of the implementation of Criteria for names and symbols], Fondacija lokalne demokratije [Foundation of Local Democracy], <http://www.fld.ba/index.php?type=0&id=20>.
  - <sup>8</sup> OSCE, “Conclusions of the Conference on the Freedom of the Media,” Sarajevo, May 8, <http://www.oscebih.org/documents/11370-eng.pdf>.
  - <sup>9</sup> *Bosnia and Herzegovina 2008 Progress Report, Commission Staff Working Document*, Commission of the European Communities (Brussels: Commission of the European Communities, November 5, 2008), SEC (2008) 2693 final.
  - <sup>10</sup> Transparency International, “Corruption in Local Administration and Education Most Reported by Citizens,” *Banja Luka*, January 26, 2009, <http://www.ti-bih.org/Articles.aspx?ArticleId=59bbeed2-0b39-4355-ac99-5003c4b7ed20>.
  - <sup>11</sup> The Prosecutor’s office asked for information in relation to the construction of the RS administrative center building (copies of tax returns and balance sheets of the contracted companies, and other information from the RS Government and a number of Ministries).
  - <sup>12</sup> “Kebo: Alarming State of Affairs,” *SRNA*, November 14, 2008.

