



Security Council

Distr.: General
26 April 2021

Original: English

Letter dated 27 April 2021 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution [1031 \(1995\)](#), I have the honour to transmit herewith the fifty-ninth report on the implementation of the Peace Agreement on Bosnia and Herzegovina, covering the period from 16 October 2020 to 15 April 2021, which I received from the High Representative for Bosnia and Herzegovina (see annex).

I should be grateful if you could bring the report to the attention of the members of the Security Council.

(Signed) António Guterres



Annex

Letter dated 20 April 2021 from the High Representative for Bosnia and Herzegovina addressed to the Secretary-General

Pursuant to Security Council resolution [1031 \(1995\)](#), in which the Council requested the Secretary-General to submit to it reports from the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina, in accordance with annex 10 to the General Framework Agreement for Peace in Bosnia and Herzegovina and the conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I transmit herewith the fifty-ninth report of the High Representative. I would kindly request that the report be distributed to the members of the Council for their consideration.

This is my twenty-fifth regular report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina and European Union Special Representative on 26 March 2009. The present report covers the period from 16 October 2020 to 15 April 2021.

Should you or any member of the Security Council require any information beyond what is provided in the report, or have any questions regarding its contents, I should be pleased to provide you with that information.

(Signed) Valentin **Inzko**
High Representative for Bosnia and Herzegovina

Fifty-ninth report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations

Summary

The present report covers the period from 16 October 2020 to 15 April 2021. After more than one year since the global outbreak of the coronavirus disease (COVID-19) pandemic, Bosnia and Herzegovina is in the midst of the latest wave of infection, with daily new cases and deaths from the virus at an all-time high, especially in the region of Sarajevo. Restrictive measures, including curfews, have been reintroduced in most areas. Vaccines have only been trickling in, largely through donations, and a coordinated immunization effort is still in the very early stages. As at 15 April 2021, since the first outbreak in 2020, the reported total of confirmed cases of COVID-19 infection stood at approximately 182,000, and deaths from the virus in Bosnia and Herzegovina stood at approximately 7,250.

Although Bosnia and Herzegovina is not alone in the world in terms of experiencing difficulties in procuring vaccines and rolling out a vaccination programme, the pandemic nonetheless continues to reveal serious dysfunctionality in the country, whereby political leaders and authorities in Bosnia and Herzegovina too frequently sacrifice a unified and coordinated approach to combating the pandemic and easing its impact on the population and the economy, in favour of scoring political points against one another. This has led to a situation in which, in the absence of measures pursued by the relevant State-level authorities, the entities have taken unilateral and uncoordinated measures, resulting in different solutions being undertaken in different parts of the territory of Bosnia and Herzegovina. Frustration among citizens has led to protests calling for an urgent effort by the authorities in the procurement of vaccines and other measures to stem the pandemic, or otherwise to resign.

Of concern are the recent challenges by the Republika Srpska authorities – under the de facto leadership of Bosnia and Herzegovina Presidency member and leader of the main Serb party, the Independent Union of Social Democrats (SNSD), Milorad Dodik – to the fundamentals of the General Framework Agreement for Peace, including my office, the decisions of my predecessors and the appointment of my successor, as well as to the sovereignty and territorial integrity of Bosnia and Herzegovina, as part of their long-standing policy aiming to roll back reforms and reclaim competences from the State, as I have enumerated in my reports, including my special report in 2016. In March, the National Assembly of the Republika Srpska adopted several conclusions in that regard, including a call for an end to the military component of the international mission in Bosnia and Herzegovina under annex 1-A to the General Framework Agreement for Peace. Most troubling, the National Assembly of the Republika Srpska called upon local political actors to engage in discussions on the future of Bosnia and Herzegovina and warned that, if the issue is not tabled on the agenda soon, “talks on peaceful dissolution should be launched”.

The mention of “peaceful dissolution”, while also calling for the withdrawal of the international military presence in the country, can only be interpreted as a threat to the sovereignty and territorial integrity of Bosnia and Herzegovina and thus to the peace and stability of the country, which is assuredly how a great many of its citizens understood it. I must reiterate that the Peace Implementation Council Steering Board has consistently reaffirmed its unequivocal commitment to the territorial integrity and fundamental structure of Bosnia and Herzegovina as a single, sovereign State

comprising two entities. There will be no redrawing of the map of Bosnia and Herzegovina.

While the leaders of the Republika Srpska focused their attacks against the General Framework Agreement for Peace and the State of Bosnia and Herzegovina, the Federation remained barely functional. A new Federation Government has still not been appointed, two and half years since the October 2018 general elections, which is inconceivable in a democratic State based on the rule of law, under free and fair elections.

The sitting Government from the previous mandate is missing two ministers, and their replacements cannot be appointed because the main Croat party, the Croat Democratic Union (HDZ Bosnia and Herzegovina), and the main Bosniak Party, the Party for Democratic Action (SDA), remain mired in a stalemate over electoral reforms, and the former has vowed not to support any new appointments in the Federation until an agreement is reached. I deplore the fact that one of those elements has become a precondition to discuss the other. The formation of authorities should be an absolute priority for all political parties in democratic societies. Bosnia and Herzegovina should be no exception. Meanwhile, the Federation Prime Minister (SDA) and Deputy Prime Minister (HDZ Bosnia and Herzegovina) are embroiled in a corruption scandal and are on trial for the dubious procurement of 100 ventilators at the start of the pandemic, the suitability of which for critical COVID-19 cases has frequently been disputed and is being investigated by the competent authorities.

At the State level, there is complete stagnation, evidenced by the poor legislative output of the Bosnia and Herzegovina Council of Ministers and the Bosnia and Herzegovina Parliamentary Assembly. During the current mandate, apart from budget acts, only one new law has been fully adopted. This is part of a general decline in legislative output over the past several mandates but is nonetheless a new low.

In such an environment, it should come as no surprise that the Bosnia and Herzegovina authorities have made no progress in implementing the “5 plus 2” agenda, with the exception of the continued positive trend in Brčko District. Not only has there been no progress on the other objectives, there are also frequent attempts to roll back existing reforms in crucial areas.

Incredibly enough, against this bleak backdrop, there were some positive developments.

In November, citizens voted in the 2020 local elections for mayoral candidates and local assemblies in cities and municipalities in the Federation and the Republika Srpska, and for the Assembly in Brčko District. A month later, citizens of the Mostar voted in the first elections for the Mostar City Council since 2008. The work of the Bosnia and Herzegovina Central Election Commission in successfully organizing two consecutive elections during a pandemic, and in the face of continued political attacks against the institution, taking appropriate safety measures into account and organizing mobile polling teams for quarantined voters, while also reacting promptly to reports of fraud and malfeasance, is commendable. I continue to oppose any attempt to undermine the professionalism and legitimacy of this crucial Bosnia and Herzegovina institution.

These recent elections have shown that goodwill in the institutions charged with conducting elections is not enough to make up for flaws in the system. 2021 constitutes a window of opportunity for electoral reform, which must result in the implementation of the technical recommendations by the Office of Democratic Institutions and Human Rights following the 2018 general elections, as well as the earlier recommendations of the Group of States against Corruption and the Council of Europe Venice Commission. The adoption of amendments to the Constitution and

Election Law of Bosnia and Herzegovina are also required to implement decisions of the European Court of Human Rights in the *Sejdić and Finci* group of cases and bring an end to ethnic-based and residence-based discrimination in the electoral process. All of those changes are crucial and must be implemented in a manner that makes the electoral system more transparent and more open. I have made clear that changes cannot result in further ethnic or territorial divisions in Bosnia and Herzegovina. There is no legal reason that would justify such divisions, and I strongly believe that the implementation of the *Sejdić and Finci* group of cases gives us an historic opportunity to move the Bosnia and Herzegovina institutions away from discrimination and closer to openness.

In October, the members of the frequently-divided tripartite Bosnia and Herzegovina Presidency marked the twenty-fifth anniversary of the initialling of the General Framework Agreement for Peace in Dayton, Ohio, United States of America, with a rare joint statement expressing their commitment to respecting the provisions of the Agreement and the Bosnia and Herzegovina Constitution and to creating a society in Bosnia and Herzegovina tailored to all its peoples and citizens.

In December, after several public calls by me – including in my address to the Security Council in November – for the Republika Srpska authorities to remove the plaque bearing the name of convicted war criminal Radovan Karadžić from the student dormitory in the town of Pale, the plaque was finally and formally removed.

December also marked the fifteenth anniversary of the establishment of the Armed Forces of Bosnia and Herzegovina, one of the most meaningful and successful post-Dayton reforms. Members of the Armed Forces serve with distinction in peacekeeping missions around the world.

In March, Brčko District authorities demonstrated their commitment to reforms by adopting the Law on the Prevention of Conflict of Interest, which establishes clear guidelines, reporting requirements and sanctions to ensure that public office holders carry out their activities in line with the public's interest and not their personal interests. The enactment of the Law will accelerate other good governance reforms in Brčko District, ensure the responsible expenditure of public funds and establish a welcoming environment for private sector investment, all of which are good examples of what is possible in Bosnia and Herzegovina.

I. Introduction

1. This is my twenty-fifth regular report submitted since my appointment in 2009 as High Representative for Bosnia and Herzegovina. It contains a narrative description of progress made towards goals outlined in previous reports, information on factual developments, relevant citations and my impartial assessment of the degree of implementation of the General Framework Agreement for Peace in key areas within my responsibility to uphold the civilian aspects of the Agreement.

2. I continue to focus on fulfilling my mandate in accordance with annex 10 to the General Framework Agreement and relevant Security Council resolutions. Specifically, I continue to encourage the authorities of Bosnia and Herzegovina to make progress on the five objectives and two conditions necessary for the closure of the Office of the High Representative, which presupposes full compliance with the Agreement. The authorities must focus on full compliance or otherwise risk encouraging further rollback of the reforms enacted to implement the Agreement. My office fully supports the aspirations of Bosnia and Herzegovina towards European Union integration, as reflected in decisions adopted by the institutions of Bosnia and Herzegovina.

II. Political update

A. General political environment

3. On 15 November, citizens of Bosnia and Herzegovina voted in the 2020 local elections for 143 units of local self-government (municipalities, cities and the Brčko District). On 15 December – despite various challenges in the process and allegations of fraud – in particular concerning out-of-country voter registration and mail-in ballots – the Bosnia and Herzegovina Central Election Commission confirmed the results of the local elections in accordance with the deadline to do so within 30 days following the election date. While opposition parties to varying degrees scored electoral wins over the main ruling parties in some urban areas, most notably in Sarajevo and Banja Luka, this development posed no immediate threat to the overall dominance of the Party for Democratic Action (SDA), the Independent Union of Social Democrats (SNSD), and the Croat Democratic Union (HDZ Bosnia and Herzegovina), which remain the most powerful political forces in Bosnia and Herzegovina.

4. Of the main parties, SDA, suffered the greatest loss, losing five mayoral races and seven municipal councils out of the nine municipalities comprising Sarajevo Canton to parties from the civic-oriented coalition known as “the four”, including Our Party (NS), People and Justice (NiP), the Social Democratic Party (SDP) and the Independent Bosnia and Herzegovina List (NBL).

5. In the mayoral races in the de facto Republika Srpska capital Banja Luka and the entity’s second largest city Bijeljina, SNSD-aligned incumbents were unexpectedly ousted by candidates from opposition parties Platform for Democratic Progress (PDP) and the Serb Democratic Party (SDS), respectively. SNSD nonetheless retained its dominance in most Republika Srpska municipalities, while HDZ Bosnia and Herzegovina was even less affected in Croat-majority cities and municipalities in the Federation.

6. The Central Election Commission registered irregularities in three Republika Srpska units of local self-government: the municipality of Srebrenica and the cities of Doboj and Zvornik. The Central Election Commission ultimately confirmed the results in Zvornik, but in January it annulled the results in Srebrenica and Doboj.

Following the Bosnia and Herzegovina Court's rejection of several appeals against the annulments, the Central Election Commission announced repeat elections for most polling stations in Dobož and Srebrenica in February. Objecting to the Central Election Commission's decision not to include allegedly approximately 1,000 mail-in votes in the repeat elections, Bosniak/pro-Bosnian parties gathered under the "My Address Srebrenica" coalition to announce their boycott. Repeat elections were held under increased scrutiny on 21 February. Although the "My Address Srebrenica" parties did not participate in the repeat elections in Srebrenica, they ultimately accepted the six municipal assembly mandates won in the polling stations in which the results had not been annulled.

7. In unprecedented circumstances, the victorious mayoral candidates in the Federation municipalities of Travnik and Foča-Ustikolina both passed away due to complications from COVID-19. In Travnik, the winning candidate from SDA actually died on election day, prompting HDZ Bosnia and Herzegovina to demand the Central Election Commission declare its mayoral candidate, the runner-up, as the winner. The Commission certified the results in both mayoral races and announced early mayoral elections. HDZ Bosnia and Herzegovina appealed against the Commission's decision to the Bosnia and Herzegovina Court, which rejected the appeal, clearing the way for the Commission to set the early election date for 11 April in both municipalities.

8. I must commend the Bosnia and Herzegovina Central Election Commission in that regard for being resolute and dedicated to prevent, investigate and sanction electoral fraud, in particular by ensuring the transparency of out-of-country voter registration.

9. On 20 December, for the first time in eight years, citizens of Mostar cast their votes for a new City Council. After the appeals procedure and several recounts, the Central Election Commission published the election results on 20 January. As expected, HDZ Bosnia and Herzegovina and the SDA-dominated "Coalition for Mostar" won the most seats in the 35-seat council – 13 and 11, respectively – but with a healthy showing by opposition parties and the first councillor elected from a joint Serb list.

10. The Mostar City Council held its inaugural session on 5 February, electing the Council leadership and peoples' caucuses. Unfortunately, the City Council decided by a wide majority to conduct the election of the mayor by public ballot – despite the stipulation in the Statute of the City of Mostar that the mayor is to be elected by secret ballot – and proceeded with the first round of voting. Thus, I was forced to intervene, and addressed a letter to the City Council advising them to remedy the situation by adhering to the Statute and electing the mayor by secret ballot, including a repeat of the first round accordingly.

11. Following my intervention, the Mostar City Council proceeded to elect the mayor by secret ballot in accordance with the Statute. In the third round of voting on 15 February, the City Council elected the HDZ Bosnia and Herzegovina candidate, Mario Kordić.

12. The elections in that cycle revealed significant opportunities for manipulation in the process and illustrated the need to implement the technical recommendations of the Office of Democratic Institutions and Human Rights following the 2018 general elections, as well as earlier recommendations of the Group of States against Corruption and the Council of Europe Venice Commission. In addition to those crucial reforms, the adoption of amendments to the Constitution and Election Law of Bosnia and Herzegovina are required in order to implement decisions of the European Court of Human Rights in the *Sejdić and Finci* group of cases, of which the judgment in the eponymous case remains unimplemented after nearly 12 years.

13. To that end, and in the context of integration with the European Union, the international community in Bosnia and Herzegovina has persistently underlined the importance of establishing an inter-agency working group to work on amendments to the Election Law. On 17 March, the Joint Collegium of the Bosnia and Herzegovina Parliamentary Assembly adopted a conclusion on the establishment of the inter-agency working group, to include representatives from both houses of the Parliamentary Assembly and the Bosnia and Herzegovina Council of Ministers, but excluding the Central Election Commission from full participation (although it would be invited “as needed”), due to opposition from HDZ Bosnia and Herzegovina and SNSD, despite the urging of the international community to include the Commission. On 30 March, the Bosnia and Herzegovina House of Representatives failed to support the Joint Collegium’s proposal, instead returning it to the Joint Collegium with additional proposals, including the inclusion of the Central Election Commission and opposition political parties. On 15 April, the Joint Collegium agreed to include in the inter-agency working group one member from each of the political party clubs in the Bosnia and Herzegovina House of Representatives, thus ensuring the participation of opposition parties, but again declined to include the Central Election Commission. The Joint Collegium returned the proposal to the Bosnia and Herzegovina Parliamentary Assembly for further consideration.

14. Parallel to those crucial reforms, when SDA leader Bakir Izetbegović and HDZ Bosnia and Herzegovina leader Dragan Čović signed the agreement in June of 2020 that enabled the holding of elections in Mostar, they signed a second agreement on principles for amending the Bosnia and Herzegovina Election Law, committing to implement relevant court decisions aimed at eliminating inequality and discrimination in the electoral process and to secure the legitimate political representation of constituent peoples and citizens at all levels in the Bosnia and Herzegovina Presidency, the Bosnia and Herzegovina House of Peoples, and the Federation House of Peoples within six months and to secure the adoption of the relevant amendments by the end of 2021.

15. Owing to the party leaders’ opposing views of the existing constitutional arrangements in Bosnia and Herzegovina, differing interpretations of European Court of Human Rights judgments and decisions of the Bosnia and Herzegovina Constitutional Court, as well as the manner of their implementation, views on how to proceed differ widely. HDZ Bosnia and Herzegovina favours models based on ensuring the equality of three constituent peoples, in which each constituent peoples is equally represented by “legitimate” representatives. This would require further ethnicization of the system by redefining electoral constituencies in the Federation on the basis of ethno-territorial division or ethnic declaration of voters declared in the 2013 Census, while SDA favours a model whereby representation extends to others and to citizens, in which a balance between collective rights and individual rights must be ensured and the role and responsibilities of the Federation House of Peoples should be diminished to match those of the Republika Srpska Council of Peoples.

16. Moreover, until recently, HDZ Bosnia and Herzegovina maintained the position that the political conditions for amendments to the Bosnia and Herzegovina Constitution do not exist, which limited implementation of the agreement to amending the Bosnia and Herzegovina Election Law, which cannot alone implement the judgments in the *Sejdić and Finci* group of cases, for which constitutional reforms are necessary. In a letter to the international community in October, Mr. Izetbegović said that implementing the proposals of HDZ Bosnia and Herzegovina would permanently prevent the implementation of the European Court of Human Rights judgments.

17. As a result, unsurprisingly, the six-month deadline for reaching an agreement passed on 17 December with no agreement.

18. HDZ Bosnia and Herzegovina continues to condition the formation of the Federation Government on electoral reform, while SDA has suggested that formation of the Federation Government should precede such an agreement. Thus, at the Federation level, the results of the 2018 general elections remain unimplemented and a new government has not been appointed. Likewise, a new government in Herzegovina-Neretva Canton, where the political balance between SDA and HDZ Bosnia and Herzegovina is similar to that at the Federation level, has not yet been appointed. In Canton 10, which had also been without a new government following the 2018 general elections, the Assembly finally confirmed a new government in December, led by Prime Minister Ivan Vukadin of the Croat National Advancement (HNP), a breakaway party from HDZ Bosnia and Herzegovina.

19. On 17 February, the National Assembly of the Republika Srpska adopted a conclusion by which it requested the High Representative to present to it a report within 90 days on the implementation of civilian aspects of the Peace Agreement for the period 1995–2020. In reaction to reports of the imminent appointment of my successor as High Representative, the National Assembly of the Republika Srpska also adopted a conclusion calling on representatives of the international community to use their authority to prevent the appointment of a new High Representative. I note that this session was held not long after I addressed a letter to the Speaker of the National Assembly of the Republika Srpska, Nedeljko Čubrilović (Democratic Alliance-DEMOS), in which I requested that the Assembly revoke within three months decorations awarded in 2016 by an ad hoc committee of the National Assembly of the Republika Srpska to convicted war criminals Radovan Karadžić, Momčilo Krajišnik and Biljana Plavšić.

20. On 10 March, in a special session convened at the request of SNSD President Milorad Dodik, who insisted that the National Assembly of the Republika Srpska declare its position on the reports of the imminent appointment of my successor as High Representative, the National Assembly of the Republika Srpska adopted a set of 10 conclusions that undermine and distort the fundamentals of the General Framework Agreement for Peace. Among other things, the conclusions assert that a new High Representative cannot be appointed without the approval of the Republika Srpska, that the appointments of the High Representatives to date, with the exception of the first High Representative, Carl Bildt, were contrary to annex 10 to the Agreement and that my office should be closed. Furthermore, the National Assembly of the Republika Srpska called for an end to the military component of the international mission in Bosnia and Herzegovina under annex 1-A, which would mean a withdrawal of the European Union military mission in Bosnia and Herzegovina. The National Assembly of the Republika Srpska also called on political actors to discuss the future of Bosnia and Herzegovina and warned that, if that does not happen, talks on peaceful separation should be launched, in line with the Charter of the United Nations. Furthermore, the conclusions call for the establishment of legal teams to initiate legal proceedings against High Representatives and to conduct a review of constitutional competences with the aim of restoring them to the Republika Srpska. I note that the Republika Srpska opposition parties did not participate in the vote.

21. Regarding the position of the National Assembly of the Republika Srpska that the appointment of the High Representative requires the consent of the parties to annex 10 to the General Framework Agreement for Peace, in that annex the parties requested the designation of a High Representative, to be appointed consistent with the relevant resolutions of the Security Council, the first of which was resolution [1031 \(1995\)](#), which was adopted one day after the signing of the Agreement. In that resolution, the Security Council welcomed the establishment of the Peace Implementation Council and its Steering Board and agreed to the Council's appointment of Mr. Bildt as High Representative in London six days earlier. A similar

procedure has been used for the appointment of other High Representatives. The relevant Security Council resolutions do not require the consent of the parties to annex 10. It is also clear that the “request for the designation of a High Representative” provided for in annex 10 is made for as long as the implementation of civilian aspects of the Agreement requires.

22. While many elements of the National Assembly of the Republika Srpska conclusions relate directly to the positions set forth in previous documents adopted by the National Assembly of the Republika Srpska, in many ways they go beyond. By calling into question the legality of nearly everything that has been undertaken under annex 10 to the General Framework Agreement for Peace, the conclusions constitute an extension of the Republika Srpska policy towards Bosnia and Herzegovina as a State. The strategy reflected in the conclusions concerning annex 10 are no different than the views that the Republika Srpska institutions have taken towards annex 4 – the Bosnia and Herzegovina Constitution. The views of the Republika Srpska on the Bosnia and Herzegovina Constitution have led to it opting out of many aspects of the Bosnia and Herzegovina Constitution that it does not support by rejecting numerous decisions taken by the Bosnia and Herzegovina institutions, in particular the Bosnia and Herzegovina Constitutional Court. Likewise, the conclusions concerning civilian implementation aim to allow the Republika Srpska to opt out of annex 10 by claiming that everything undertaken since 1997 – the year the Bonn powers of the High Representative were endorsed by the Peace Implementation Council (and affirmed by the Security Council in 1998) – has been illegal.

23. The positions concerning the High Representative’s mandate and rejection of decisions under that mandate not only challenge the actions undertaken on the basis of the General Framework Agreement for Peace and Security Council resolutions adopted under Chapter VII of the Charter of the United Nations, but have far-reaching consequences. Rejecting past decisions of the High Representative would roll back many reform achievements of the past 25 years, including laws regulating various institutions, such as the Bosnia and Herzegovina Council of Ministers, the Mostar City institutions, the State-level judicial institutions, many Federation and cantonal institutions and the State Border Service, as well as various other fields, including State symbols, Bosnia and Herzegovina citizenship and the unified Bosnia and Herzegovina Ministry of Defence and Armed Forces. This is a threat to the State, its competences and institutions and their ability to take and enforce decisions.

24. While I urge the Security Council to take these threats seriously, more than anything I urge the political leaders in Bosnia and Herzegovina, in particular in the Republika Srpska in this case, to stop playing these dangerous games and instead take seriously the responsibilities that the people have entrusted to them, as well as their stated commitments to upholding the General Framework Agreement for Peace and to the pathway of Bosnia and Herzegovina to accession to the European Union.

25. On 1 April, the one-year anniversary was marked of the deadline for implementing the October 2019 decision of the European Court of Human Rights in the case of *Orlović and others v. Bosnia and Herzegovina*, related to the Serbian Orthodox church illegally constructed in 1998 on the private property of the Orlović family in the village of Konjević Polje, near Bratunac, in the Republika Srpska. In its judgment, the European Court of Human Rights ruled that Bosnia and Herzegovina must take the measures necessary to ensure the enforcement of earlier decisions by official bodies and remove the church from the property. When the judgment was announced, Mr. Dodik publicly indicated his support for implementing the decision.¹

¹ On 7 October 2019, Mr. Dodik said on FTV: “I am in favor of agreeing operationally how the church should be relocated. I was for that five years ago. I prefer that attitude and I think the story needs to end.”

However, as the deadline approached several months later, he reversed his position,² and nothing has been done since to implement the judgment. The illegally constructed church remains in the yard of elderly Bosniak returnee Fata Orlović, a few metres from her front porch. Again, I underline that the European Court of Human Rights judgment in the *Sejdić and Finci* case has been pending implementation for 12 years. Likewise, Ms. Orlović has been pursuing justice in her case for 20 years and does not have another 20 years to wait.

26. In that regard, authorities at all levels continue to disregard or reject the final and binding decisions of the judiciary, including, for example, in the Federation with regard to decisions of the Federation Constitutional Court requiring a number of cantons to harmonize their constitutions with the Federation Constitution in order to ensure, inter alia, the equality of Serbs as a constituent people.

27. The Republika Srpska authorities persistently reject judgments of the Bosnia and Herzegovina Constitutional Court and the Bosnia and Herzegovina State Court concerning the registration of defence property and the decisions of the Bosnia and Herzegovina Constitutional Court regarding the 9 January “Republika Srpska Day” holiday, observing the holiday again in 2021.

28. The rule of law is a crucial tenet of the General Framework Agreement for Peace, and the current level of contempt for international and domestic court decisions cannot remain unchecked without an increased risk of Bosnia and Herzegovina sliding further towards a state of legal anarchy. It is difficult to give a positive assessment of Bosnia and Herzegovina when its leaders persistently and openly refuse to respect binding court rulings. Claiming respect for the rule of law is meaningless if it is not followed with action.

29. In April, East Sarajevo (Republika Srpska) City Mayor Ljubiša Ćosić (SNSD) addressed a letter to the Sarajevo City authorities calling for the removal of the plaques on Sarajevo City Hall and Ferhadija Street, which he said characterized the Serb people as criminals and aggressors. Mr. Ćosić also requested the renaming of several streets in Sarajevo, which he said bore the names of members of fascist movements. According to him, the plaques and street names insulted and instilled fear in the Serb people. Recently elected Sarajevo City Mayor Benjamina Karić (SDP) rebuffed the request but invited Mr. Ćosić to discuss development and joint projects.

30. The issues raised are worthy of discussion as an important step towards reconciliation, which is a sorely missing element in the current public discourse. However, an honest and open discussion of these issues cannot be one-sided and should also address public displays that glorify convicted war criminals, such as the plaque dedicated to Ratko Mladić at the entrance to East Sarajevo at the Vraca Memorial Park, a protected national monument.

31. Similar issues exist in other parts of the country, and the authorities and citizens should be open in discussing them with the aim of finding a resolution for each municipality and city in Bosnia and Herzegovina, in which every citizen and every visitor may feel secure, welcome and respected.

32. In December, the plaque dedicating a student dormitory in Pale in the Republika Srpska to Radovan Karadžić, the wartime president of the Republika Srpska who was

² According to the Republika Srpska News Agency, on 28 February 2020, Mr. Dodik said, when addressing the Republika Srpska National Assembly: “I had said earlier [the church] should be relocated, now I think it should not. There you are. Until everything is solved, there is no solution. Until everything is clear, nothing should be done. I had said earlier publicly this should be done, as a human being, that is, but now as a responsible official I think it should not, until we resolve all open issues in our mutual relations, even if it concerns the European Court; let this European Court resolve the Sejdić-Finci issue.”

convicted by the International Criminal Tribunal for the former Yugoslavia to 40 years of imprisonment for genocide, crimes against humanity and war crimes, was finally removed. I had been calling for its removal since it was unveiled in 2016, most recently during my 5 November address to the Security Council, which may have accelerated the removal. Following that welcome development, earlier in 2021 I requested that the National Assembly of the Republika Srpska revoke the decorations that one of its committees awarded in 2016 to three convicted war criminals.

33. On 13 April, the Independent International Commission of Inquiry on the Suffering of Serbs in Sarajevo between 1991 and 1995 released its concluding 1,250-page report, dated October 2020. The Commission was appointed by the Republika Srpska Government in early 2019, pursuant to the August 2018 conclusions of the National Assembly of the Republika Srpska, in which it repealed the Republika Srpska Government's 2004 Srebrenica report, in which the Republika Srpska Government had acknowledged the involvement of Republika Srpska military and police forces in the July 1995 events in Srebrenica. Despite the Commission's claim of independence, it is impossible to disregard the political factors behind the report, including the challenge to the established narratives regarding the outbreak of war in Bosnia and Herzegovina in 1992 and the attempt to establish an equivalence between the genocide in Srebrenica and Serb victims in Sarajevo. Nevertheless, the humanitarian issues concerning Serb individuals and families still missing 25 years after the war warrant further review and assistance from the appropriate authorities in bringing closure to those and all such tragic matters.

34. As a key transit country on the migration route towards the European Union, Bosnia and Herzegovina continues to see a constant inflow of migrants and refugees, nearly all of whom enter from neighbouring Serbia. At any given time, there are approximately 6,000 to 8,000 migrants in the country. Migrants and refugees are accommodated in the Federation, primarily in Una-Sana Canton owing to its proximity to the Croatian border, with fewer numbers in Sarajevo and Tuzla Cantons. While the burden of providing shelter and food assistance has fallen entirely on the Federation, the Republika Srpska authorities remain adamant in refusing to allow the establishment of any reception centres within their entity, again preventing the State from exercising its responsibilities. A number of incidents involving migrants over the past six months have further stirred tensions between the authorities, the migrants and the local population. While the State-level authorities continue to seek the means to return individuals who irregularly enter Bosnia and Herzegovina to their countries of origin, including signing a readmission agreement with Pakistan in November, they must nonetheless continue to uphold their obligations under international and domestic law to provide access to rights, including the right to seek asylum, in accordance with humanitarian standards.

B. Decisions of the High Representative during the reporting period

35. Despite frequent challenges to the core principles of the General Framework Agreement for Peace during the reporting period, I have refrained from using my executive powers – despite increasing calls from citizens to do so – pursuant to the Peace Implementation Council Steering Board policy advocating local ownership over international decision-making.

C. Five objectives and two conditions for the closure of the Office of the High Representative

1. Progress on objectives

36. My office has continued to seek progress by the domestic authorities in the full implementation of the five objectives and two conditions established in 2008 by the Peace Implementation Council Steering Board as essential for the closure of the Office of the High Representative and the graduation of Bosnia and Herzegovina from international supervision. The aim of setting the so-called “5 plus 2” agenda was for the leaders of Bosnia and Herzegovina to assume responsibility and demonstrate their credibility; the onus remains on the authorities to deliver on progress with respect to the agenda. With the exception of the generally positive trends in Brčko District, the authorities elsewhere show no commitment to the “5 plus 2” agenda and have even pursued rollbacks in many key areas.

2. State and defence property

37. There have been some developments related to State and defence property, but unfortunately no substantial progress towards achieving acceptable and sustainable resolution, as defined by the “5 plus 2” agenda. As emphasized on several occasions, only the adoption of comprehensive State-level legislation on State property, which complies fully with legal principles established by the Bosnia and Herzegovina Constitution and the relevant decisions of the Bosnia and Herzegovina Constitutional Court, can lead to the acceptable and sustainable resolution of the issue of State property. In the meantime, the Office of the High Representative continues to monitor developments, including the adoption and implementation of various relevant property-related laws and regulations, with the aim of ensuring enforcement of the State property disposal ban, thereby protecting the property interests of the State of Bosnia and Herzegovina and other relevant stakeholders prior to the enactment of appropriate State property legislation.

38. No significant progress can be reported in the process of registering prospective defence property as under the ownership of the State of Bosnia and Herzegovina. In particular in the Republika Srpska, that process remains completely blocked, despite several court decisions clearly establishing that such property belongs to the State of Bosnia and Herzegovina and should be registered as such in relevant public records. As the responsible Republika Srpska authorities continue to ignore the existing legal framework and reject the legal arguments and reasoning in the final and binding court decisions, instead declining for political reasons to register such ownership of the State of Bosnia and Herzegovina, this has become a pressing issue of the rule of law.

39. On 13 November in Banja Luka, Republika Srpska Prime Minister Radovan Višković (SNSD) and Serbian Prime Minister Ana Brnabić signed a joint statement related to the construction of three hydropower plants in the upper Drina River basin, in the Foča area in the eastern Republika Srpska. Ms. Brnabić stated that the investment totalled €520 million and that Serbia had already allocated the resources needed for the work through 2021. Meanwhile, the Republika Srpska Government issued a decision to approve the change of ownership structure of the concessionaire HES Gornja Drina, thereby allowing the transfer to the Serbian electric company Elektroprivreda Srbije of 51 per cent of the shares of HES Gornja Drina, which holds the concession to build three hydropower plants on the Upper Drina.

40. In reaction, some Federation-based, primarily Bosniak political parties issued statements dismissing the signed joint statement and the planned construction of hydropower plants as an attack on Bosnia and Herzegovina sovereignty, insisting that such agreements may only be concluded with the State-level authorities. They

claimed that the construction plans were legally deficient, as they relied on Republika Srpska legislation that designated all rivers in Republika Srpska territory as property of that entity, which the Bosnia and Herzegovina Constitutional Court previously declared unconstitutional and annulled. In the 7 February 2020 decision of the Bosnia and Herzegovina Constitutional Court, in case No. U-9/19, which also refers to the relevant jurisprudence of the Court's 13 July 2012 decision in case No. U-1/11, waters, as public goods, are considered State property, i.e., property of the State of Bosnia and Herzegovina. This includes river water and riverbeds, lakes and running water. Furthermore, the Court established that decisions concerning State property are to be made at the Bosnia and Herzegovina State level, considering that the decision on the status of State property is within the exclusive competence of the State.

41. Following those developments, on 28 December, 24 members of the Bosnia and Herzegovina House of Representatives submitted a request to the Bosnia and Herzegovina Constitutional Court initiating a constitutional dispute over the planned construction. In their submission, representatives claimed that the Republika Srpska, primarily the Republika Srpska Government, had violated the constitutional competencies of the State of Bosnia and Herzegovina, since the concession decisions and related contracts issued and concluded by the Republika Srpska Government constituted acts of disposing of State property. Referencing conclusions and principles in previous Court decisions, the representatives claimed that the Republika Srpska had violated several provisions of the Bosnia and Herzegovina Constitution. In that regard, they requested the Bosnia and Herzegovina Constitutional Court to annul the relevant decisions and contracts of the Republika Srpska Government and to issue a temporary measure suspending their implementation, considering that continuation of related activities would cause harmful legal effects.

42. In January, the Bosnia and Herzegovina House of Representatives adopted an initiative submitted by SDA representative/Deputy Speaker Denis Zvizdić regarding the use and disposal of non-prospective immovable military property, by which it tasked the Bosnia and Herzegovina Council of Ministers to prepare and submit to the parliamentary procedure, within 30 days of the adoption of the initiative, a draft law on the method of use and disposal of non-prospective immovable military property. The initiative was based on the principle whereby certain property that is no longer required by the Bosnia and Herzegovina institutions to exercise their constitutional and legal competences should be assigned for use or disposal to a local self-government unit in the territory where that property is situated, for the purpose of either protecting it from further decay or reconstructing it for use in the development of local communities in Bosnia and Herzegovina. In principle, the initiative is welcome, as it revives a public, institutionalized discussion on the issue of State and defence property. In general, the initiative complies with the two basic principles established by the Bosnia and Herzegovina Constitutional Court that: (a) the State of Bosnia and Herzegovina is the titleholder of all State property, including so-called "non-prospective defence property"; and (b) that the Bosnia and Herzegovina Parliamentary Assembly has the exclusive responsibility to regulate the issue of (apportionment of) State property. The initiative is currently with the Bosnia and Herzegovina Council of Ministers, which is tasked with its implementation.

43. In February, seven Bosniak delegates of the Republika Srpska Council of Peoples submitted to the Bosnia and Herzegovina Constitutional Court a request to review the constitutionality of the Republika Srpska Law on Forests, claiming that the contested Law violates several provisions and principles of the Bosnia and Herzegovina Constitution. The primary legal argument is the constitutional principle of "continuation of laws", on the basis of which the Law on Forests – adopted by the former Republic of Bosnia and Herzegovina – is still in force and part of the legal

system of Bosnia and Herzegovina, as it is consistent with the Bosnia and Herzegovina Constitution and was never abolished by a competent body. Furthermore, a legal argument was made related to State property, according to which forests and forestland represent a public good and – pursuant to previous decisions of the Bosnia and Herzegovina Constitutional Court regarding succession assets, agricultural land, waters, etc. – are a category of State property that belongs to the State of Bosnia and Herzegovina. To prevent the reregistration and further disposal of forests and forestland, as well as other harmful legal effects for this category of property, the delegates requested the issuance of a temporary measure forbidding the application of the Republika Srpska Law on Forests until the Bosnia and Herzegovina Constitutional Court issues a final decision.

44. The submission of that request to the Bosnia and Herzegovina Constitutional Court was followed by harsh public statements from several Republika Srpska politicians, who said the appeal constitutes a direct violation of annex 4 to the Dayton Peace Agreement, which, as they continue to erroneously claim, regulates that property belongs to the entities.

3. Brčko District

45. My office has continued to provide expert and technical support to the Brčko District Supervisor in encouraging and guiding good governance, infrastructure development and private sector growth reforms so as to achieve a functional, sustainable and resilient District in line with the stated objectives of the Final Award. The Supervisor, with the support of staff of the Office of the High Representative, engaged actively with international community partners to ensure a coordinated and results-oriented approach to help accelerate that outcome.

46. The fiscal reforms from the previous period – including the successful completion of the fiscalization process and the adoption of a new budget law aimed at improving fiscal discipline, transparency and responsibility in spending – prompted District authorities to focus on the bylaws required for the full application of the budget law in the 2021 budget cycle. Their adoption was finalized in mid-March. Owing to the local elections on 15 November and the subsequent process of forming new authorities in the District, and the delayed adoption of the bylaws, the District did not meet the 30 November deadline for the adoption of the 2021 budget. Nonetheless, the continuity of financing of the District institutions was secured through the adoption of the decision on temporary financing for the first quarter of the year. On 31 March, the District Assembly, under the defining parameters of the bylaws, adopted the draft 2021 budget in the amount of KM 238 million.

47. Additional good governance measures enacted in the previous reporting period – notably the Law on Peaceful Assembly, the Law on Foundations and Associations, the Law on National Minorities and the online registry of public sector employees and appointees and their assets – encouraged District authorities to adopt new complementary initiatives. The Law on Prevention of Conflict of Interest, adopted in its final form on 24 March, is the first such law in Bosnia and Herzegovina that is in line with international standards and best practices and will further strengthen good governance in the District. Preparations for public administration reform are ongoing, while improving the oversight of State-owned enterprises in the District by monitoring their financial position and identifying and managing fiscal risks will proceed in line with the International Monetary Fund (IMF) recommendations from 2020, and thus, as with the laws and public administration reform, will serve as a model of reform for the entities.

48. Several steps were also undertaken to ensure a credible and issues-based electoral process as key to re-establishing voter trust in elected officials, again as a

model for Bosnia and Herzegovina. This included updating the list of voters in Brčko District, curbing the abuse of public funds for election purposes, investigating and prosecuting allegations of election fraud, which included the arrest of the three sitting Assembly representatives, and organizing the presence of independent observers for each polling station in Brčko.

49. These steps helped not only to dissuade 3,000 suspicious overseas voters from casting their ballots, but also to foster a new quality of politics and governance in the District. A new multi-ethnic majority was formed on 23 December, just two weeks after the certification of the 15 November elections. The agenda for its mandate has been the rapid implementation of reforms introduced as deliverables into the issues-based election campaign. On 8 April, three opposition parties in the Brčko District Assembly, also reflecting different ethnic groups, signed an agreement on political collaboration, with a focus on the rule of law, the fight against corruption and the adoption of economic reforms. For the first time, the Assembly has committed to adopting legislation in two readings and has placed opposition representatives on committees, thus fostering transparent political and public debate on reform legislation adopted in the District.

50. Despite being impeded by the COVID-19 pandemic throughout much of 2020, key infrastructure projects resumed and accelerated towards the end of the year. Preparations for the modernization of the Brčko Port and the construction of the Brčko-Gunja Bridge were largely completed, paving the way towards commencing construction works. The District and the European Bank for Reconstruction and Development reached an understanding on a €6.5 million project to ensure a sustainable, clean water supply, while establishing a start date for the project in the third quarter of 2021. The District authorities are also pursuing negotiations for an array of infrastructure projects under the World Bank Sava and Drina Rivers Corridors Integrated Development Programme.

51. The District also took steps towards mitigating the uncertainty of electricity supply by securing a two-year electricity supply contract with the Republika Srpska power utility company, Elektroprivreda Republika Srpska. In parallel, it moved to diversify and strengthen its energy security by preparing legislation on electricity, renewable energy sources and energy efficiency to create a modern, European Union-compliant legal framework for the energy sector. To further complement such efforts, the District allocated KM 1.5 million for electricity infrastructure expansion and commenced construction preparations, while the transfer by the District of ownership rights over the electricity transmission facilities to the Bosnia and Herzegovina Electricity Transmission Company – aimed at ensuring continued maintenance of key electricity transmission infrastructure and contributing to the security of electricity supply – is expected to be completed in the second quarter of 2021.

52. While the District leadership's efforts, with the extensive engagement of the Supervisor and my office, in cooperation with other international organizations, are crucial to maintain the positive reform trend in the District, there is also a requirement on the part of the entities to facilitate the establishment of the District.

53. Regrettably, as in previous years, the commemoration of 9 January as "Republika Srpska Day" was held in Brčko District on 10 January, organized on the basis of decisions by the Republika Srpska authorities as part of the overall commemoration activity for the Republika Srpska. In 2021, this included the presence of the police band of the Republika Srpska Ministry of Interior. As such, the commemoration organized in Brčko by the Republika Srpska authorities interferes with the Final Award and the obligation of both entities not to exercise any authority within the District boundaries. On 1 February, I set out my views on the implications of commemorating "Republika Srpska Day" on the basis of unconstitutional

legislation, including in Brčko District, to Republika Srpska President Željka Cvijanović, Republika Srpska Prime Minister Višković (both SNSD) and the Speaker of the National Assembly of the Republika Srpska, Mr. Čubrilović (DEMOS), reminding that all citizens of Bosnia and Herzegovina, particularly public officeholders, are obliged to adhere to and to ensure respect for the constitutional order of Bosnia and Herzegovina.

54. The 10 March conclusions of the National Assembly of the Republika Srpska are an attack on the constitutional order of Bosnia and Herzegovina that build on the previously articulated positions of the Republika Srpska authorities towards the State, and thus are also a threat to Brčko District, given its unique status and its dependence on the constitutional order and institutional structure of Bosnia and Herzegovina developed over the past 25 years, including through the exercise of the High Representative's mandate.

55. Additional concerns over the status and powers of Brčko District arose from the 26 November decision of the Bosnia and Herzegovina Constitutional Court, by which it rejected the admissibility of the request of the Brčko District Appellate Court in the case concerning the Brčko District Law on Attorney's Profession. The Court's decision in the case – the first case brought before the Court under amendment I to the Bosnia and Herzegovina Constitution – has far-reaching consequences regarding the possibility to challenge acts that could affect the status and powers of Brčko District, since it limits the possible applicants who may approach the Bosnia and Herzegovina Constitutional Court on questions concerning the compatibility of laws with amendment I. As such, the decision narrows the level of protection of the status and powers of Brčko District before the Bosnia and Herzegovina Constitutional Court. The Brčko District Supervisor has notified the presiding arbitrator of the Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brčko Area of the substance of the decision and its implications, recognizing that the Tribunal clearly retains its authorities to enforce or modify its Final Award if any party is in serious non-compliance with its obligations under the Award.

4. Fiscal sustainability

56. My office continued to follow, analyse and report on developments and legislative actions relevant to fiscal sustainability, including monitoring and reporting to the Peace Implementation Council Steering Board on the activities of the Governing Board of the Indirect Taxation Authority, in which the Office of the High Representative is the only international community representative, and of the Bosnia and Herzegovina Fiscal Council. The trends in both institutions continue to raise concerns over the ability of governments at all levels, particularly the State level, to ensure the unimpeded functioning of institutions and the discharge of their constitutional and legal obligations.

57. During the reporting period, the Bosnia and Herzegovina Fiscal Council held only three sessions, all in December, in which it attempted to agree on a new three-year IMF Extended Fund Facility programme. No such agreement was reached owing to, inter alia, the continued opposition of the Republika Srpska officials in the Council to reforms perceived as strengthening State competences and institutions. The opposition was mostly evident in two areas singled out by IMF: promoting a single economic space through reforms aimed at, inter alia, creating a single energy market, and strengthening financial stability, both necessary in order to strengthen the resilience of Bosnia and Herzegovina to an economic or financial crisis and to the accelerated development of Bosnia and Herzegovina and its aspirations towards European Union accession. Republika Srpska officials also opposed the reforms needed to efficiently fight money-laundering and the financing of terrorism, such as the establishment within the Bosnia and Herzegovina Central Bank of a nationwide

banking accounts registry for individuals. My office followed closely all developments related to the Extended Fund Facility programme and was at the disposal of IMF and members of the Peace Implementation Council Steering Board for all inquiries and requests for political, economic and legal guidance during the negotiations, and will remain engaged.

58. My office also continued to follow closely and report and advise on developments related to the single indirect tax system and its institutional structure, including activities of the Indirect Taxation Authority's Governing Board. The Board held four sessions, the most recent one late in March. While the sessions demonstrated a higher degree of compliance with Board regulations, resulting in the adoption of the indirect tax revenue allocation coefficients for the fourth quarter of 2020 and the first quarter of 2021, other long-standing issues remained unresolved.

59. One example is the financial threat faced by the Indirect Taxation Authority as a result of the Republika Srpska lawsuit against it for damages stemming from the Federation debt to the Republika Srpska in 2009 and 2010 (settled in 2011) and, following a 2015 Bosnia and Herzegovina Court decision in its favour, the attempted enforcement by the Republika Srpska of those damages against public revenue accounts managed by the Authority. The consequences, which the Bosnia and Herzegovina Court somewhat mitigated by suspending the attempted enforcement, include financial damage to all indirect tax revenue beneficiaries, including both entities and Brčko District, as well as recipients of value-added tax refunds and customs insurance depositors, and are again attributed to and sought from the Authority as the indirect tax system operator. Moreover, the lawsuit created a precedent that opened the door to future entity lawsuits against the Authority over their mutual debts, as well as for financial damages resulting from their enforcement.

60. Another long-standing inter-entity dispute that the Governing Board failed to resolve in the reporting period concerns the manner of distribution of the accumulated road toll revenue reserves (approximately KM 120 million) intended for highway and road construction.

61. The failure to address those and similar issues burdens inter-entity relations and affects the unimpeded functioning of and the confidence in the single indirect tax system and its State-level institutional structure. By extension, this provides a pretext for challenging the State's competence for indirect taxation and for advocating the return of this competence to the entities. Such a threat was renewed in the 10 March conclusions of the Republika Srpska National Assembly, by which it tasked the Republika Srpska Government to establish expert teams of national and international experts in each area for which the responsibility has been taken away and transferred from the Republika Srpska, and to propose procedures for the enactment of new laws and acts in order to restore those responsibilities at the Republika Srpska level. If pursued in the case of indirect taxation, this action by the Republika Srpska authorities would roll back one of the most important reforms of the past 25 years, which safeguards the macroeconomic and thus also the political stability of Bosnia and Herzegovina.

62. My office continued to follow closely and inform the Peace Implementation Council Steering Board of other developments relevant to the fiscal stability of Bosnia and Herzegovina, including the adoption and details of 2021 budgets at all levels of government. Particular attention was paid to developments related to the Bosnia and Herzegovina Central Bank, given its importance for maintaining the financial and overall macroeconomic stability of Bosnia and Herzegovina.

5. Issues related to the rule of law

63. The mandate of the current Director General of the Bosnia and Herzegovina Intelligence-Security Agency has expired and a new appointment must be made. The appointment has apparently been postponed, seemingly owing to suspicion surrounding the accuracy of the current Director General's evidence for the education required for the position by law. In October, the Bosnia and Herzegovina Prosecutor's Office accused the Director General of abuse of office, for allegedly obtaining under false pretences a video recording of the post office from which a criminal report against him was mailed to the prosecutors, in order to find out who filed the report. In February, he was acquitted, while the Prosecutor's Office continues with other cases against him.

64. In April, the Office of Disciplinary Counsel within the High Judicial and Prosecutorial Council filed disciplinary complaints against the Bosnia and Herzegovina Chief Prosecutor, Gordana Tadić, and the Bosnia and Herzegovina Court President, Ranko Debevec. The complaint against Ms. Tadić relates to the disciplinary offenses of lack of commitment in office, failure to act on decisions, orders or requests of the High Judicial and Prosecutorial Council without justified reasons and public conduct damaging to the reputation of the prosecutorial function. The disciplinary complaint against Mr. Debevec states that he intentionally provided false, misleading or insufficient information when applying for his position, and concerns abuse of office and the recording of private conversations with the Director General of the Intelligence-Security Agency during his trial.

65. The Federation legislation establishing a special prosecutor and court department for fighting corruption and organized crime, adopted in 2014, remains unimplemented.

66. In February, the Banja Luka District Court issued a judgment that negated the legality of the High Representative's authority to make binding decisions in Bosnia and Herzegovina. In concluding that neither the General Framework Agreement for Peace nor the Security Council have authorized the High Representative to impose legislation in Bosnia and Herzegovina and that any law imposed by the High Representative is unconstitutional and cannot be enforced by the Banja Luka District Court, the judgment contradicts binding decisions of the Security Council, prior decisions of the Bosnia and Herzegovina Constitutional Court and the European Court of Human Rights, as well as prior decisions of the High Representative. With the aim of disseminating the correct information, I informed the High Judicial and Prosecutorial Council of the correct legal references.

67. The adoption of amendments to the Bosnia and Herzegovina Law on the High Judicial and Prosecutorial Council, as well as a thorough reform of Council regulations, is in progress, with the international community's hope that Bosnia and Herzegovina authorities recognize the Council as an institution essential to ensuring that Bosnia and Herzegovina develops as a rule-of-law State, by accepting standards of judicial impartiality and integrity. Rule of law is a priority, and I join the efforts of the European Union and the wider international community to strengthen the integrity of judges and prosecutors and the Council itself.

68. Following the 2019 scandal involving alleged bribery and the then-President of the High Judicial and Prosecutorial Council, Milan Tegeltija, of which audio and video was leaked to the public, and for which Mr. Tegeltija was not disciplined, in December yet another audio recording was released, in which he appeared to discuss the professional judicial advancement of the relative of another Council member outside the legal framework. Following a public outcry, Mr. Tegeltija submitted his

resignation as Council President and member and subsequently became an advisor to Bosnia and Herzegovina Presidency member Milorad Dodik.

69. In February, the High Judicial and Prosecutorial Council elected its new leadership, raising hopes that the Council may now be unhindered in developing the integrity, professionalism, independence, impartiality, efficiency and accountability of judges, prosecutors and the Council members themselves. There remains an urgent need to improve the standards of the Council, primarily through changes to the Law on the High Judicial and Prosecutorial Council. The international community strongly advocates technical changes to yield a properly functioning Council, while preserving it as a State-level body with jurisdiction throughout Bosnia and Herzegovina.

70. The ongoing failure to appoint four missing judges to the Federation Constitutional Court continues to have direct implications on the ability of the Court and its Vital National Interest Panel to exercise its constitutional responsibilities. The Court continues to operate with five sitting judges, out of the nine required under the Federation Constitution, meaning that all five sitting judges must be present for a quorum to exist, and that the Court requires the consensus of all five judges for any decision to be adopted. This has also resulted in the Vital National Interest Panel being unable to function, as it presently has only four sitting judges and there is no quorum. The process of filling the vacant positions in the Court has been ongoing since the retirement of two judges in 2015 and 2016, and the retirement of another two in June 2019. In October 2019, the High Judicial and Prosecutorial Council submitted to the Federation President and Vice Presidents candidates for three of the vacancies, pursuant to the vacancy published in February 2019. Federation President Marinko Čavara (HDZ Bosnia and Herzegovina) has refused to proceed with the appointments, and this process has been stalled ever since. The Council recently finalized the process for the fourth vacancy and submitted proposed candidates to the Federation President and Vice Presidents on 26 February 2021. Should the Federation President and Vice Presidents finally decide to forward the nominations to the Federation Parliament, all four judges could be appointed, and the Federation Constitutional Court could return to full functionality.

71. I must note that, in the absence of a functional Vital National Interest Panel in the Federation Constitutional Court, I am increasingly called upon to provide legal interpretations in the disputes involving challenges to constitutional provisions governing vital national interest procedures in the Federation cantons.

72. Although the Revised National War Crimes Processing Strategy was adopted in the previous period, thereby establishing a new deadline of 2023 for the completion of “category A” cases (for which the International Tribunal for the Former Yugoslavia assessed as having sufficient grounds for prosecution), the members of the new Strategy Supervisory Board have not been appointed. The Board, which should include representatives of the Bosnia and Herzegovina Prosecutor’s Office and the Bosnia and Herzegovina State Court, should serve to increase the speed of prosecutorial work and the prioritization of the most serious cases, enable the efficient transfer of cases within Bosnia and Herzegovina to allow more cases to be processed in less time and improve regional cooperation, particularly where “category A” cases are concerned. While I commend all efforts in war crimes prosecution, members of the Supervisory Board must be appointed without further delay.

73. Twice in 2020, in accordance with the relevant provisions of the Bosnia and Herzegovina Constitution, the President of the European Court of Human Rights selected replacements for departing International Judges of the Constitutional Court of Bosnia and Herzegovina. Most recently, in December, Judge Helen Keller of Switzerland replaced Judge Margarita Tstatsa-Nikolovska of North Macedonia, whose mandate expired at the end of November. Earlier, in April, Judge Angelika

Nußberger of Germany replaced Judge Giovanni Grasso, whose mandate expired the same month.

74. While I recognize that there will come a time in the future when the Constitutional Court comprises entirely domestic judges, it is my assessment that the country has a very long way to go before that should happen. In any case, political leaders and, above all, citizens, demand “more Europe” and more European values. Therefore, the presence of the international judges heralds the shape of things to come and to welcome. Their presence remains highly beneficial.

75. To assess the perception of the situation in the Bosnia and Herzegovina judiciary, in March, my office commissioned a public opinion poll that showed that two thirds of Bosnia and Herzegovina citizens over the age of 15 considered the current situation in the judiciary unsatisfactory and believed it was necessary to return to the Bosnia and Herzegovina Court and Prosecutor’s Office those international judges and prosecutors who worked in those bodies until 2009. Their mandates were not extended thereafter. It is clear that the judiciary remains ineffective and that strong international engagement remains desirable to accelerate changes in that respect. I have long supported the notion of having international judges and prosecutors again in key domestic institutions.

D. Challenges to the General Framework Agreement for Peace

1. Challenges to the sovereignty of Bosnia and Herzegovina and its territorial integrity, competences and institutions

76. In addition to the challenges raised in the conclusions of the National Assembly of the Republika Srpska, statements challenging the sovereignty and territorial integrity of Bosnia and Herzegovina continued, with Mr. Dodik again being the most frequent exponent of such proclamations, including renewed threats to organize a referendum in the Republika Srpska on secession,^{3,4} and more recently the notion of a “peaceful dissolution” of Bosnia and Herzegovina.^{5,6} He frequently predicts the eventual demise of Bosnia and Herzegovina⁷ and, despite publicly supporting the

³ On 25 October 2020, Mr. Dodik said on RTV Pink: “How are we going to leave? Of course, the international context is important here. We, the people in the Republika Srpska, we are absolutely living the Republika Srpska as our state, we are staring at Serbia, none of that is unknown. Formally speaking, I often hear from foreigners, from the High Representative, that it is not written anywhere that the Republika Srpska can hold a referendum and determine its status.”

⁴ On 21 January 2021, Mr. Dodik said on RTRS “Why then is my proposal not legitimate when I say that the Serbs will go to a referendum one day, they will decide where they want to go and what they want to do. Decide on their status, whether they are going to stay in Bosnia, etc. Why is this not legitimate, if we say it?”

⁵ On 29 March 2021, Mr. Dodik said on RTRS: “Only the parties, the two parties that can decide what to change in this country are exclusively the Republika Srpska and the Federation as entities. And no one else. No High Representative. And that is why Bosnia was brought before the collapse. Here, too, it is sought and I suggest a peaceful separation.”

⁶ On 13 April 2021, Mr. Dodik said on RTRS: “The Republika Srpska is not thinking of gaining its independence in a way that would be a war conflict. And that is why we are persistently waiting for the moment when we will make this dissolution real in a peaceful way. In any case, until then, it is quite realistic that the option of a peaceful dissolution should be one of them and that it can be discussed equally.”

⁷ On 31 October 2020, Mr. Dodik said on TV Kurir: “[Bosnia and Herzegovina] will certainly fall apart and you will see that it will be without war. It will simply collapse and only that what can work will function, and the only thing that can function on its own in Bosnia and Herzegovina is Republika Srpska. Not Bosnia and Herzegovina, nor the Federation.”

pathway of Bosnia and Herzegovina towards accession to the European Union, has also disparaged that initiative.⁸

77. At least one Croat political leader, HDZ Bosnia and Herzegovina 1990 President Ilija Cvitanović, raised the spectre of resurrecting “Herzeg-Bosnia”,^{9,10} the wartime Croat proto-state within Bosnia and Herzegovina, much of the leadership of which the International Criminal Tribunal for the former Yugoslavia convicted in 2017 for, inter alia, participating in a joint criminal enterprise to “cleanse Bosnian Muslims from areas claimed to be Herzeg-Bosnia”. While I acknowledge that Mr. Cvitanović sometime later offered an apology for his remarks,¹¹ the damage was already done.

2. Glorification of war crimes

78. Nationalist leaders continue to deny war crimes, glorify convicted war criminals and lead divided commemorations that perpetuate the notion of group victimhood while ignoring or downplaying empathy and compassion for the suffering and loss of others. The attitude and behaviour of political leaders gives a green light to the general population that such behaviour is acceptable, when in reality it only prolongs the suffering of all peoples of Bosnia and Herzegovina and further dampens the prospects for meaningful reconciliation in the country.

79. On 7 March, a banner was placed above the main crossroads in Bratunac, on the road to Srebrenica, congratulating convicted war criminal Ratko Mladić and Mr. Dodik, on their upcoming birthdays. In 2017, the International Criminal Tribunal for the former Yugoslavia convicted Mr. Mladić for war crimes, crimes against humanity and genocide in Srebrenica.

80. On 29 November 2020, a Croat cultural association in Mostar organized a commemorative display dedicated to convicted war criminal Slobodan Praljak, and on the same date a candlelit vigil in Mr. Praljak’s honour was organized in Kiseljak. On the same date in November 2017, the International Criminal Tribunal for the former Yugoslavia upheld Mr. Praljak’s conviction for war crimes, including crimes against humanity, immediately after which he proclaimed his innocence, drank poison and died.

81. On 27 January 2021, a public rally was held in support of Sakib Mahmuljin, the former commander of the Third Corps of the Army of the Republic of Bosnia and Herzegovina, whom the Bosnia and Herzegovina Court convicted and sentenced in the first instance on 22 January to 10 years in prison for failing to prevent Islamic volunteer fighters from torturing and killing Serb prisoners. Earlier, the Bosnia and Herzegovina Minister for Foreign Affairs, Bisera Turković (SDA), hailed Mr. Mahmuljin as a defender of Bosnia and Herzegovina and denounced the Court’s ruling.

⁸ On 31 October 2020, Mr. Dodik said on TV Kurir: “You know, I admit that I was a man who was in favour of the European Union and I thought we should be there and I was a big fan. But that was 15 years ago. Today everything has changed, the European Union has changed.”

⁹ On 22 March 2021, Mr. Cvitanović was quoted in *Bild* as saying: “We know that 30 June is sort of a deadline and that [the Bosnia and Herzegovina Election Law] should be amended by then. If that doesn’t happen, Croats have but one option left – Herzeg-Bosnia. Are we ready?”

¹⁰ On 22 March 2021, Mr. Cvitanović was quoted in *Bild* as saying: “If [SDA President Bakir Izetbegović] wants Bosnia and Herzegovina as a state of three constituent peoples equal in everything, then it is necessary to accept Croat proposals of amendments to the Election law. If he wants Herzeg-Bosnia, he will have it!”

¹¹ On 1 April 2021, Mr. Cvitanović said on Federation TV: “If I have offended anyone, which was not my goal, I never have a problem apologizing. My goal was never to hurt anyone, but to show the seriousness of the situation we are in.”

3. Genocide denial

82. The denial of the genocide in Srebrenica, particularly by the Republika Srpska authorities, remains another stumbling block on the path to reconciliation. While I face increasing calls to use my authority to impose a law on genocide denial, such a law would have more meaning and value if it were the result of a domestic initiative. In that regard, I regret that, on 8 April 2021, when the Bosnia and Herzegovina House of Peoples had the opportunity to consider such a proposal, in the form of amendments to the Bosnia and Herzegovina Criminal Code, it rejected the proposal through the opposing votes of all present Croat delegates and most Serb delegates.

III. State-level institutions of Bosnia and Herzegovina

A. Presidency of Bosnia and Herzegovina

83. The Bosnia and Herzegovina Presidency was minimally active throughout the reporting period but maintained its regular protocol duties, including receiving dignitaries, ambassadors and delegations, making official visits abroad and jointly marking the twenty-fifth anniversary of signing of the General Framework Agreement for Peace. The Presidency held only two regular sessions while holding an unreported number of extraordinary sessions via telephone, focused on the COVID-19 pandemic, the migrant crisis, the European Union integration process and regional cooperation. The Presidency took other decisions within its competencies relating to the adoption of reports and information and the conclusion and ratification of international agreements. Serb member Mr. Dodik has been Bosnia and Herzegovina Presidency Chair since November, assuming the position from Bosniak member Šefik Džaferović (SDA) in accordance with the eight-month rotation between the three Presidency members.

84. In December, a scheduled meeting of the Presidency, under the chairpersonship of Mr. Dodik, with the Russian Federation Minister for Foreign Affairs, Sergey Lavrov, which had been originally scheduled for October but was delayed owing to COVID-19 measures, exposed existing divisions within the Presidency. Presidency members Mr. Džaferović and Željko Komšić (Democratic Front (DF)) boycotted the meeting, which they said was owing to Mr. Lavrov's remarks regarding the aspirations of Bosnia and Herzegovina of joining the North Atlantic Treaty Organization (NATO), and the continued presence of the Office of the High Representative following his private meeting the day before with Mr. Dodik. A meeting between Mr. Lavrov and the Bosnia and Herzegovina Minister for Foreign Affairs, Ms. Turković, took place as scheduled.

85. In early March, the Presidency greeted Serbian President Aleksandar Vučić at the Sarajevo Airport to formally receive a donation of 5,000 COVID-19 vaccines from Serbia to the Federation. Later that month, the Presidency considered the draft 2021 budget of the Bosnia and Herzegovina institutions in its capacity as formal proponent and decided to return it to the Bosnia and Herzegovina Council of Ministers for reconsideration.

86. In April, Presidency member Mr. Komšić sent a non-paper to the European Union institutions in Brussels, complaining about the increasing level of interference of Croatia and Serbia in Bosnia and Herzegovina internal affairs. Mr. Komšić further warned of a growing threat by the Russian Federation to the pathway to NATO membership by Bosnia and Herzegovina, but also cautioned about the lack of leadership and coordination by the European Union and the United States in the electoral reform processes in Bosnia and Herzegovina and what he characterized as

their “worrisome servitude” towards the demands of SNSD and HDZ Bosnia and Herzegovina.

B. Bosnia and Herzegovina Council of Ministers

87. The Bosnia and Herzegovina Council of Ministers met regularly throughout the reporting period, holding 16 regular and 17 urgent sessions. The Council of Ministers adopted only one new law (the Law on Protection of Right to a Trial in a Reasonable Time Frame before the Bosnia and Herzegovina Court) and three amendments to existing legislation, including to the Law on Public Procurement (as one of the 14 priorities from the European Commission Opinion), the Law on Litigation Before the Bosnia and Herzegovina Court, and the Law on Excise Tax.

88. In its 2020 work programme, the Council of Ministers planned for the adoption of 49 laws, yet in the same time frame the Legislative Office of the Council of Ministers issued opinions for only 13 draft laws. In fact, throughout the entire current mandate of the Bosnia and Herzegovina Council of Ministers and the Bosnia and Herzegovina Parliamentary Assembly, not including budget acts, only one new law has been fully adopted, which is part of a general downward trend in legislative output over the past several mandates, but which represents a new low. This suggests stagnation on the part of the ministries of the Council of Ministers in terms of submitting legislative proposals and poor leadership in terms of insisting that the ministries live up to their obligations. The failure of the Council of Ministers to propose new legislation has been the cause of persistent criticism by representatives in the Bosnia and Herzegovina Parliamentary Assembly. Defending himself against such criticism, the Chair of the Council of Ministers, Zoran Tegeltija (SNSD), has stated that, without political consensus, there is no point in proposing legislation destined to fail.

89. In February, the Council of Ministers adopted the draft law on budget of institutions of Bosnia and Herzegovina and international obligations for 2021, and forwarded it to the state-level Presidency, which is the official proponent of the law to the Bosnia and Herzegovina Parliamentary Assembly. The Council of Ministers adopted the draft without consensus, as all ministers from the Republika Srpska voted against it, owing to the exclusion of funds to mitigate the consequences of the COVID-19 pandemic. As anticipated, the Presidency returned the draft to the Council of Ministers, which adopted a new draft on 25 March, this time with funds to address the pandemic, and returned it to the Presidency.

90. In the absence of an adopted budget, the Council of Ministers adopted two decisions on temporary financing of the State institutions and on its international obligations at the level of the 2020 State budget. The most recent decision on temporary financing was adopted on 17 March and covers the period from April to June.

91. In March, the Chair of the Council of Ministers, Mr. Tegeltija, took a decision on the removal of the Minister for Human Rights and Refugees, Miloš Lučić (Democratic People’s Alliance (DNS)), and submitted it to the Bosnia and Herzegovina Parliamentary Assembly for approval. The removal was the direct result of DNS leaving the Republika Srpska ruling coalition, as the seat previously allocated in the Council of Ministers as part of the so-called Republika Srpska Serb quota was to be substituted with a member of SNSD.

92. On 24 February, the Council of Ministers agreed to establish the Commission for Cooperation with NATO, changing the Commission’s name from the Commission for NATO Integration, in keeping with the Serb parties’ opposition to Bosnia and Herzegovina joining NATO, and installing voting rules that resemble those of the

Council of Ministers itself. NATO integration remains an issue for which political consensus is lacking, despite it being a component of the Bosnia and Herzegovina Law on Defence, which has not been changed.

C. Parliamentary Assembly of Bosnia and Herzegovina

93. The Bosnia and Herzegovina Parliamentary Assembly met on average less than once a month and with very little output. The Bosnia and Herzegovina House of Representatives held five regular sessions, and the Bosnia and Herzegovina House of Peoples held four regular sessions and one urgent session. Only two laws were adopted, which were amendments to existing laws, while six laws were rejected.

94. In all cases, legislative initiatives were lacking, owing to the failure of the Council of Ministers to exercise its capacity to propose legislation, as outlined in the previous section. Continued disputes between key political stakeholders, including between the parties forming the governing State-level coalition, do not justify the absence of adoption of legislation by the Parliamentary Assembly, which is its key responsibility under the Bosnia and Herzegovina Constitution.

95. Agendas in both houses mostly consisted of various delegates' initiatives, requests and conclusions, primarily from opposition parties but including some from the ruling coalition, which aimed to pressure the Council of Ministers, which was a frequent target of criticism owing to its failure to propose legislation, address the pandemic and migrant crisis and engage in the fulfilment of the conditions needed for Bosnia and Herzegovina to acquire European Union candidate status. This led to formal calls for the removal of the Council of Ministers as whole, as well as individual ministers and deputy ministers, none of which succeeded.

96. In February, in an effort to expedite the purchase of COVID-19 vaccines, the Bosnia and Herzegovina House of Representatives unanimously adopted amendments to the Law on Public Procurement and the Law on Medicines and Medical Devices. However, the House of Peoples subsequently rejected the amendments, with delegates from SNSD claiming the amendments were unnecessary, and insisting that the Republika Srpska authorities had succeeded in purchasing vaccines within the existing legal framework and that the Federation authorities should follow their example.

IV. Federation of Bosnia and Herzegovina

97. As a new Federation Government has still yet to be appointed following the 2018 general elections, the Government from the previous mandate (2014–2018) remains in place, albeit reduced from 16 to 14 ministers (from SDA, HDZ Bosnia and Herzegovina and the Union for a Better Future of Bosnia and Herzegovina (SBB)), following the death of one minister and the departure of another in 2020 and the lack of any political agreement on their replacements. In addition, the Federation Minister for Interior, Aljoša Čampara, left SDA in September 2020 and is now independent, leaving SDA in a weakened position with only three ministers, compared with four from its rival, the mostly-Bosniak party Union for a Better Future (SBB) and six from HDZ Bosnia and Herzegovina.

98. Regarding the non-implementation of the 2018 General Election results at the executive level in the Federation, in February, Mr. Čampara – in his capacity as the Federation House of Peoples Deputy Speaker, having been elected in 2018 to the Sarajevo Cantonal Assembly and subsequently to the House of Peoples – requested the three caucuses of the constituent peoples in the House of Peoples to submit their

candidates for Federation President and Vice Presidents. In his request, Mr. Čampara underscored that the Central Election Commission cannot legally affirm that the 2018 general elections results are implemented until the Federation President and Vice Presidents have been appointed.

99. As a further complication, the Federation Prime Minister, Fadil Novalić (SDA), and Federation Deputy Prime Minister and Minister for Finance, Jelka Miličević (HDZ Bosnia and Herzegovina), have been under criminal indictment since late last year. In December, the Bosnia and Herzegovina Court confirmed the earlier indictment by the Bosnia and Herzegovina Prosecutor's Office against Mr. Novalić, Ms. Miličević and others for their roles in the controversial May 2020 KM 10 million procurement of 100 ventilators and KM 3 million procurement of protective medical equipment from China during the first wave of the COVID-19 pandemic. Mr. Novalić is accused of abuse of power, influence peddling, money-laundering and document forgery, while Ms. Miličević is accused of negligence. They, and the others accused, have pleaded not guilty. The Court has twice rejected the motions of the Prosecutor's Office to prohibit Mr. Novalić and Ms. Miličević from performing official duties while their trial, which began on 24 February, is ongoing.

100. The case recently took a new turn. When the ventilators in question arrived in May 2020, medical experts with the Federation Crisis Headquarters assessed them as unusable for COVID-19 cases. Several months later, the Bosnia and Herzegovina Institute of Metrology assessed the respirators as being of high quality and suitable for COVID-19 treatment. However, in early April 2021, medical staff at the main hospital in Sarajevo renewed the claim that the ventilators were unsuitable and that their use had resulted in the deaths of COVID-19 patients, prompting the Sarajevo Canton Prosecutor's Office to open a new investigation.

101. Nevertheless, the Federation Government continued to meet regularly, holding 24 regular and 26 urgent sessions. Both houses of the Federation Parliament, however, met infrequently, with the Bosnia and Herzegovina House of Representatives holding five regular sessions and one extraordinary session, while the House of Peoples held only two regular sessions. Legislative output remained poor, with the adoption of only two new laws and four amendments to existing laws.

102. In addition, the collegiums of both houses remain incomplete. The House of Peoples has not appointed the Deputy Speaker from the Serb peoples since its inaugural session, while the Bosnia and Herzegovina House of Representatives has also been without a Deputy Speaker from the Serb peoples since a reshuffling of the parliamentary majority in July 2019.

A. Failure to appoint members of the Securities Commission

103. On 4 March, the Federation House of Peoples rejected the issuance of an approval for the decision on the appointment of members to the Federation Securities Commission. In accordance with provisions of the Federation Law on the Securities Commission, the decision on appointment was originally taken on 24 June 2018 by Federation President Čavara (HDZ Bosnia and Herzegovina) with the consent of Vice Presidents Melika Mahmutbegović (SDA) and Milan Dunović (DF) and submitted to the Federation Parliament for approval. Although the Federation House of Representatives adopted it on 18 December 2019, when it finally considered the decision almost 15 months later, the Federation House of Peoples ultimately did not support it, owing to the objection of the Serb Caucus over the lack of a candidate from the ranks of the Serb people and the Caucus' view that the candidates did not possess the required professional qualifications and experience.

104. As the 2018 decision on appointment has reached the end of the legislative procedure, it is now the responsibility of the Federation President, with the consent of the Vice Presidents, to reinitiate both the selection and the appointment of members of the Securities Commission and to submit the new decision to the Federation Parliament for approval. To that end, on 6 April, the Special Representative of the European Union, the Ambassadors of the United Kingdom of Great Britain and Northern Ireland and the United States and I met with the Federation President and Vice Presidents to urge them to ensure an expedient process in full accordance with the Law on the Securities Commission. Our interlocutors reported that the vacancy notices had been published the previous week and their tasks in the process would be fulfilled within two months, after which it would again fall to the Federation Parliament to finalize the appointments.

105. Meanwhile, the Securities Commission has no quorum for decision-making and cannot meet its key responsibilities, thus, inter alia, blocking joint stock companies from increasing or decreasing their capital, registering management changes and issuing shares. As a consequence, the capital market in the Federation and by extension the overall economy face serious problems.

B. Reshuffling of Sarajevo and Tuzla Canton Governments

106. Late in 2020, the civic-oriented coalition known as “the four” (NS, NiP, SDP and NBL), most of whose representatives had formed the majority in the Sarajevo Canton Assembly following the 2018 general elections and had led the Sarajevo Canton Government until being ousted by an SDA-led majority earlier in the year, again took majority control and ousted the SDA-dominated Sarajevo Canton Government, appointing the new Government in January. “The four” would go on to have the majority in the Sarajevo City Council following the 2020 local elections but did not hold together long enough to elect their preferred candidate as Sarajevo City Mayor in April, after NBL exited the coalition, leaving “the four” as “the three”.

107. Similarly, a coalition led by SDP in the Tuzla Canton Assembly ousted the SDA-led Tuzla Canton Government in January.

C. Appointment of Federation Chief Prosecutor

108. In October, the High Judicial and Prosecutorial Council decided to delay for 60 days the appointment of a new Federation Chief Prosecutor. The Council President said that the vacancy for the position had been issued in 2018 and that, before the final selection was made, certain dilemmas about the constitutionally mandated ethnic representation in key Federation offices must be resolved. According to the Federation Constitution, the six key positions in the Federation Authority Structure – the Prime Minister, the Speaker of the House of Representatives, the Speaker of the House of Peoples, the President of the Constitutional Court, the President of the Supreme Court and the Chief Prosecutor – cannot be filled by more than two representatives of any one constituent people or the group of others.

109. The implementation of the provision of the Federation Constitution governing the assignment of the six key functions in the Federation Authority Structure follows the election of the Federation Legislature and the appointment of the Prime Minister. However, since the Federation Government has been functioning under a technical mandate, the High Judicial and Prosecutorial Council decided to consult with the Federation Constitutional Court and my office before engaging in the final stage of selection of the Federation Chief Prosecutor. Relying on my stance that only those positions allocated after the 2018 general elections could be counted in this quota,

and that the relevant provisions of the Federation Constitution must be interpreted and applied in such a way that ensures the functionality of the competent institutions and makes the exercise of their constitutional and legal responsibilities possible, including by upholding those provisions guaranteeing the independence and autonomy of the judiciary, the Council appointed in December Munib Halilović as the top-ranked candidate for the position of Chief Prosecutor of the Federation Prosecutor's Office.

D. Failure to adopt the Law on Forestry

110. No progress has been made in addressing the issue of adoption of the Federation Law on Forestry, which the Federation has been without since 2009. The adoption of the Law is not only crucial to the development of the forestry sector, but also represents a legal obligation to a ruling of the Federation Constitutional Court from 2009. The Federation Government attempted to address the issue through a decree, but in March 2010 the Federation Constitutional Court determined that the Government had neither the constitutional nor legal basis to regulate the field of forestry by decree. The Court instructed the legislative bodies to regulate it within six months, which still has not been done.

E. European Court of Human Rights ruling on discrimination against Serbs in the Federation

111. On 8 December, the European Court of Human Rights ruled on the issue of discrimination against Serbs residing in the Federation through their ineligibility to run for the Bosnia and Herzegovina Presidency. The Court delivered its judgment in the case of the late Svetozar Pudarić, a Serb residing in the Federation and senior official of SDP, who in 2018 had not been allowed to stand for election to the Bosnia and Herzegovina Presidency. Although Mr. Pudarić died in March 2020 while the case remained pending before the Court, his widow, as his heir, informed the Court of her wish to continue to pursue the case.

112. In its judgment, the Court recalled previous case law on the subject, mentioning *Sejdić and Finci v. Bosnia and Herzegovina* and in particular *Pilav v. Bosnia and Herzegovina*, which concerned the ineligibility of the applicant, a Bosniak residing in the Republika Srpska, to stand for election to the Bosnia and Herzegovina Presidency, in which the Court confirmed discrimination against the applicant. Accordingly, the Court determined that, in the case of Mr. Pudarić, article 1 of protocol 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms had been violated.

113. In its judgment, the Court also noted that the Bosnia and Herzegovina Constitution itself did not expressly make the exercise of passive electoral rights conditional on residency requirements, and that such a condition had been introduced by the Elections Act in 2001, reiterating that no legal provision of domestic law should be interpreted and applied in a manner incompatible with states' obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms, particularly if it would be inconsistent with the prohibition of discrimination and more broadly with the principles underlying the Convention.

F. Constitutional equality of Serbs in the Federation cantons

114. The 2002 decision of the High Representative enacted amendments to the Federation Constitution to implement the earlier decision of the Bosnia and

Herzegovina Constitutional Court on the equality of constituent peoples, which determined that all three constituent peoples were equal in the Federation, that the official languages of the Federation were Bosnian, Croatian and Serbian and that the official scripts were Latin and Cyrillic. The cantons remain obliged to harmonize their constitutions with the Federation Constitution. In 2018, the Federation Constitutional Court determined that several provisions of the constitutions of Posavina, Herzegovina-Neretva and West Herzegovina cantons did not conform to the Federation Constitution in that regard and ordered their assemblies to amend them accordingly. West Herzegovina recognized Serbs as constituent peoples but did not recognize the Serb language or the Cyrillic script, while Posavina and Herzegovina-Neretva Cantons have not taken any steps in that regard.

115. The non-implementation of the Federation Constitutional Court decision continues, and I urge those cantons to harmonize fully their constitutions with the Federation Constitution and provide for the constitutional equality of all three constituent peoples.

G. Expiration of four-year mandates of the heads of municipalities and city mayors

116. On 29 October, I received a letter from the Federation Association of Municipalities and Cities concerning the problems related to the expiration of the four-year mandates of the Heads of Municipalities and City Mayors in the Federation due to the postponement of the 2020 local elections. Since the applicable legal framework does not explicitly regulate the rights and duties of directly elected heads of municipalities and mayors in the Federation in the period following the expiration of their four-year mandates, I issued a legal opinion restating my office's consistent view that, in situations such as this, and in the absence of explicit provisions to the contrary, the principle should be that the authorities, at least those exercising executive functions, should continue to function beyond the expiration of their mandate until they are replaced in their position. My legal interpretation was well received, as it clarified a situation that could otherwise have had serious consequences.

H. Expiration of the mandate of the Mayor of the City of Sarajevo

117. On 9 March, I received a letter requesting my legal opinion concerning the rights and duties of the Mayor of the City of Sarajevo in the period between the expiration of the mandate and the date when the newly elected City Mayor of Sarajevo assumes duty. Considering the urgency of the matter, I replied with my legal interpretation on 10 March, reiterating my opinion provided earlier to the Federation Association of Municipalities and Cities that, in situations such as this, and in the absence of explicit provisions stating otherwise, the principle of continuity of public office should apply and therefore that the functioning of the executive power and the exercise of its functions in the City of Sarajevo as the local self-government units must be secured at all times.

I. Crisis in Tuzla Canton

118. Late in 2020, a crisis emerged in Tuzla Canton in which a power struggle between the two coalition blocks – the former SDA-led majority and the new SDP-led majority – resulted in a series of actions and decisions by both sides in defiance of the constitutional and legal framework. This included an attempt by the new majority

to convene and hold a “parallel Assembly session” to remove the Tuzla Canton Assembly leadership and the Tuzla Canton Government, and a declaration of a state of emergency by the Government to assume the decision-making authorities of the Assembly and adopt, inter alia, the 2021 budget. To prevent an escalation of the crisis and its far-reaching implications, and following numerous requests from both blocs, on 8 January, I addressed a letter to the leadership and members of the Tuzla Canton Government and Assembly with my legal interpretation of the actions and decisions taken by both sides, while providing a path towards unblocking the situation. As a result, on 15 January, the Tuzla Canton Assembly held a session in which the peaceful transfer of power between the two blocs was conducted and key decisions restoring functionality were adopted within the constitutional and legal framework.

V. Republika Srpska

119. While SNSD continued to lead the Republika Srpska ruling coalition, a rift between SNSD and the new leadership of long-time coalition party DNS led to the exit of that party from the coalition in November. The exit of DNS also reduced the ruling majority’s seats in the National Assembly of the Republika Srpska to below two-thirds – which, inter alia, is required to support a veto raised by the Serb member of the Bosnia and Herzegovina Presidency. Furthermore, one DNS minister in the Republika Srpska Government was replaced by a candidate from coalition leader SNSD.

120. Nonetheless, the Republika Srpska Government met regularly throughout the period, holding 26 sessions, while the National Assembly of the Republika Srpska held three regular sessions and two special sessions.

121. In February and March, SNSD, prompted by its leader Mr. Dodik, initiated discussions in the National Assembly of the Republika Srpska on the Office of the High Representative. Both sessions resulted in the adoption by the National Assembly of conclusions calling into question the competences of the High Representative and the validity of the High Representative’s decisions, as well key aspects of the General Framework Agreement for Peace, including the presence of international military forces under annex 1-A.

122. The conclusions of the National Assembly of the Republika Srpska are consistent with frequent public statements by Mr. Dodik, as well as Republika Srpska President Cvijanović and Republika Srpska Prime Minister Višković (both SNSD) and other leading ruling majority politicians over the past several years. SNSD also publicly pursued the adoption of a new Republika Srpska Constitution to be adopted by a referendum, which would eliminate the Republika Srpska Council of Peoples, an institution under the current Republika Srpska Constitution that exists to protect the vital interests of the constituent peoples in the entity.

123. While SNSD was the overall victor in the 15 November local elections, the party lost mayoral races to opposition candidates in the two biggest Republika Srpska municipalities, Banja Luka – significantly, the de facto entity capital, where its candidate was the long-time incumbent – and Bijeljina.

A. David Dragičević case

124. The new Mayor of Banja Luka, Drasko Stanivukovic (PDP), and his administration launched an anti-corruption campaign and focused on civil freedoms, particularly the freedom of assembly, allowing “Justice for David” activists to protest freely in the city centre. For three years, the activists have protested in relation to the

unsolved mysterious death in March 2018 of Banja Luka student David Dragičević, but have been increasingly pushed out of public view and harassed by the Republika Srpska authorities. Although the Republika Srpska Ministry of Interior continues to refuse to grant permits to the protestors, for the time being police are not interfering with the protests in the city centre, owing at least in part to the attitude of the new city administration.

125. Possibly as a result of the increasing profile of the protests, in February the Bosnia and Herzegovina Prosecutor's Office requested that the Dragičević case file be transferred to it from the Banja Luka Prosecutor's Office, which has issued no indictments in the case. The transfer was made in March. Closure for David's parents is long overdue.

B. Criminal indictment against the Republika Srpska Minister for Interior

126. On 26 March, the Banja Luka District Prosecutor filed a criminal indictment against the Republika Srpska Minister for Interior, Dragan Lukač (SNSD), for endangering security in connection with the criminal offense of physical injury inflicted against Drasko Stanivukovic during a December 2019 session of the National Assembly of the Republika Srpska, when Mr. Stanivukovic was a representative in the National Assembly of the Republika Srpska. During the session, Mr. Lukač allegedly punched Mr. Stanivukovic in the face. To proceed to trial, the Banja Luka Basic Court must confirm the indictment.

C. Srebrenica

127. The November 2020 local elections in Srebrenica were preceded by a heavy voter registration drive. As in previous cycles, local political actors grouped along ethnic lines, with each side backing a joint mayoral candidate. While both the Serb and Bosniak political blocs facilitated the registration of supporters in Srebrenica, enabling them to vote, each bloc accused the other of attempting election fraud. As a result, the voter registry in Srebrenica was inflated with Serb voters residing in Serbia, and with Bosniak voters residing in the Federation.

128. Due to numerous reports and allegations of suspected fraud before and during the election day in Srebrenica, the Central Election Commission delayed the confirmation of the election results and eventually annulled the results from 26 out of 28 polling stations, announcing that repeat elections would be held on 21 February 2021. The Bosniak/pro-Bosnian coalition "My Address Srebrenica" filed numerous appeals during the process, claiming fraud by the Serb side and procedural violations by the Commission. Faced with the rejection of their appeals, "My Address Srebrenica" opted for a boycott of the repeat elections.

129. While the boycott was successful in terms of a lower turnout of Bosniak voters for the repeat elections, it also as expected led to poor results and a lower level of Bosniak participation within the Srebrenica municipal institutions. Even with the boycott of the repeat election, on the basis of the confirmed results from the 15 November election, Bosniaks won 6 of the 21 mandates in the Srebrenica Municipal Assembly. Despite calls by some coalition representatives to reject those mandates, the "My Address Srebrenica" coalition eventually accepted them in order to participate in decision-making in the municipality.

130. Bosniak representatives walked out of the inaugural session of the Srebrenica Municipal Assembly in late March, owing to a lack of agreement on the appointment

of the Municipal Assembly Secretary. However, in mid-April, the Bosniak and Serb blocs signed a coalition agreement defining the distribution of positions and finally completed the inaugural session. Almost immediately, the two parties who benefitted most from the agreement, SNSD and SDA, came under attack from other parties. As at the end of the reporting period, the coalition agreement nonetheless still stood.

D. Non-cooperation with the High Representative

131. Consistent with its now 17-year practice, the Republika Srpska Government continued actively to refuse access by my office to official information and documents, as required under article IX of the General Framework Agreement for Peace and annex 10 to the Agreement, which obliges all authorities in Bosnia and Herzegovina to cooperate fully with the High Representative. Repeated calls by the Peace Implementation Council Steering Board reminding the Republika Srpska authorities of their obligations in this regard have so far had no impact.

E. Commission on the Sufferings of Serbs in Sarajevo

132. On 13 April, the Independent International Commission on the Sufferings of Serbs in Sarajevo Between 1991 and 1995 issued its final report, dated October 2020. The Republika Srpska Government appointed the six members of the Commission in February 2019.

133. According to the general conclusions outlined in the report, 800 Serbs were reported missing from Sarajevo and 260 have yet to be found. The authors suggest that the numbers may be higher and that entire families disappeared with no one to report them missing.

134. The report comprises seven chapters, which, apart from the chapter on Sarajevo Serbs, are devoted to the history of Bosnia and Herzegovina during the Ottoman and Austro-Hungarian Empires, the Kingdom of Yugoslavia, the Second World War and post-Second World War period, and role of radical Islamists in the Bosnia and Herzegovina conflict.

VI. Public security and law enforcement, including intelligence reform

135. The practice of improper political interference in operational policing has not diminished during the reporting period.

136. In October 2020, the Brčko District Assembly adopted, in an urgent procedure, significant changes to the Brčko Law on Police that were determined to undermine the existing transparent, merit-based and open competition procedures and rules for appointing the police chief, deputy police chief and members of the independent board. The amendments also extended those mandates without the prescribed legal processes and appeared to violate the Brčko District Statute in several instances. The Brčko District Supervisor, with technical support from my office, the United States Embassy, the Organization for Security and Cooperation in Europe (OSCE) and the European Union delegation, pointed out the shortcomings to the Brčko authorities, while also underscoring that the changes were out of synch with the new reform approach adopted in the District. The authorities subsequently drafted legislation to be submitted to the Brčko District Assembly in late April to repeal the changes adopted in October and restore the Brčko Law on Police to the previously existing state of affairs.

137. In October, the Federation Government (serving a technical mandate since 2018) adopted a long-dormant update to the Federation Law on Police Officials. Subsequent analysis showed, inter alia, a new provision stating that the Federation Police Director and Federation Deputy Police Director cannot be from the same constituent peoples, which differed from the draft law endorsed by my Office in July 2017. In December 2020, the Federation Government withdrew the law from the parliamentary procedure owing to objections by the Federation-level police union.

138. In December, the Zenica-Doboj Canton Assembly adopted amendments to the Zenica-Doboj Law on Internal Affairs which, yet again, led to the postponed implementation of a separate police budget necessary to buttress police independence and accountability, over the strident objections that I and the United States Ambassador made in a joint letter sent prior to the Assembly session. Implementation of the separate police budget has been pending since the passage of the provision in 2017.

139. In March, a representative in the Zenica-Doboj Canton Assembly introduced, under expedited procedure, proposed amendments to the Zenica-Doboj Canton Law on Internal Affairs that would seriously undermine police professionalism and usher in political interference in professional policing. In a joint letter, the United States Ambassador and I asked that the amendments be withdrawn and further considered by a body of experts.

140. In January, the new ruling majority in Sarajevo Canton publicly issued its plan of activities, which entails the full implementation of the Sarajevo Initiative adopted in June 2020 by the Sarajevo Canton Assembly. The Initiative encompasses far-reaching reforms of the public security arrangement in the Canton by eliminating the Sarajevo Canton Ministry of Interior, while the Sarajevo Canton Police Administration remains in place. In January, in a joint letter addressed to the Sarajevo Canton authorities, the United States Ambassador and I emphasized the importance of achieving the Sarajevo Initiative.

141. The Posavina Canton authorities failed to insert a required provision in the relevant police law required by the letter of the President of the Security Council of 2007 on police denied certification by the former United Nations International Police Task Force, despite repeated assurances from canton authorities.

142. Controversial appointments and dismissals of police commanders and independent boards continued to be strong indicators of improper political interference in operational policing.

143. The Herzegovina-Neretva Canton authorities have not yet appointed a new independent board, police commissioner, public complaints bureau or police board. The Canton has not had a duly appointed police commissioner since October 2018, nor a functioning independent board since March 2017.

144. The Federation Government has not yet appointed the Federation police director, despite the fact that the Federation Independent Board completed the selection process for that position in April 2019. In February, the Federation Minister for Interior forwarded the top-ranked candidate selected by the board to the Federation Government, which sparked media controversy. In March, the Federation House of Representatives Security Commission called for the cancellation of the appointment process and reissuance of a vacancy announcement. The security commission does not have a role in the selection and appointment process.

145. In February, the Tuzla Canton Government reinstated Dževad Korman to the position of police director following a Tuzla Canton municipal court ruling that the January 2020 dismissal of Mr. Korman had not been in compliance with the law. Prior to Mr. Korman's return to his former position, my Office and the United States

Embassy criticized the dismissal as improper political interference in professional policing.

146. In December, the West Herzegovina Canton Assembly appointed a new independent board, and in February the Bosnia and Herzegovina Parliamentary Assembly appointed a new independent board for overseeing the work of the directors of the State Investigation and Protection Agency, the Border Police and the Directorate of Police Coordination. The mandate of the previous board had expired in March 2018.

147. The Council of Ministers has not yet appointed the next Director General of the Intelligence-Security Agency of Bosnia and Herzegovina. The mandate of the current Director General (serving a technical mandate) expired in November 2019.

148. In March, the Heads of the European Union Delegation, the Council of Europe and OSCE, the Ambassadors of the Netherlands, Sweden, the United Kingdom and the United States and I sent a joint letter to all Ministers for Interior in Bosnia and Herzegovina encouraging them to initiate the procedure aimed at advancing legislation governing the enjoyment of freedom of peaceful assembly in their respective jurisdictions by using the model of the new Brčko District Law on Peaceful Assembly adopted in July 2020, as it is in line with European and international human rights standards.

VII. Economy

149. The COVID-19 pandemic has seriously disrupted the Bosnia and Herzegovina economy. In its February 2021 report on macroeconomic indicators for January to October 2020, the Council of Ministers' Directorate for Economic Planning notes a 3.7 per cent decline in the gross domestic product (GDP) of Bosnia and Herzegovina in the first half of 2020 compared with the same period in 2019, while IMF and the World Bank forecast the GDP decline for 2020 at 5.5 per cent and 3.2 per cent, respectively. Industrial production in the period decreased by 7.5 per cent, while exports and imports decreased by 8.5 per cent and 13.4 per cent, respectively. At the annual level, Bosnia and Herzegovina registered deflation. The price level in 2020 decreased by 1.6 per cent over the previous year.

150. According to the Bosnia and Herzegovina Agency for Statistics, the number of employed persons in Bosnia and Herzegovina in December was 813,942, which is 2 per cent lower than December 2019. At the same time, the number of unemployed persons was 413,627, which is 2.9 per cent higher than a year earlier. The registered unemployment rate in December was 33.7 per cent. Unemployed young people represented an estimated 60 per cent of the total number of unemployment persons. The number of pensioners now totals 699,121 persons, an increase of 1.7 per cent.

151. The average net salary of KM 988 and the average pension of KM 415 remain significantly below the average basket of goods price of KM 1,998 for a four-member family, suggesting that even those with a steady income struggle to make ends meet, in particular pensioners with the lowest pension payments. The COVID-19 pandemic has further aggravated the poverty levels in Bosnia and Herzegovina. In its report entitled "Economic and Social Impact of COVID-19", the World Bank forecasts that, depending on whether the crisis lasts one or two quarters, about 35,000 to 85,000 individuals are likely to fall into poverty. While the number of poor in Bosnia and Herzegovina before the pandemic was 600,000 to 700,000 persons, this is now estimated at 800,000 persons.

152. The negative trends apply also to corruption levels. In its Corruption Perceptions Index 2020, Transparency International ranked Bosnia and Herzegovina as 111th of

180 countries, which is 10 places down from 2019 and significantly below the ranking of its neighbours (Croatia is 63rd, Montenegro is 67th and Serbia is 94th). During the pandemic, the country experienced numerous violations of human and labour rights, as well as discrimination in economic aid distribution and alleged unlawful procurement of medical equipment.

153. The COVID-19 pandemic has also had a negative effect on foreign direct investments. Preliminary estimates indicate a decline of over 10 per cent in 2020 and forecast a further decline of 5 to 10 per cent in 2021. The estimates are especially worrisome considering that the 2020 decline is calculated in comparison with 2019, when foreign direct investments totalled a modest KM 699 million and were already 26.6 per cent lower than in 2018.

154. Under the circumstances, the March affirmation of the credit rating of Bosnia and Herzegovina by Standard & Poor's rating services (B, with a stable outlook) is positive news. Likewise, although the commercial banking sector recorded a profit decline of almost 40 per cent in 2020, it is still assessed as generally stable and liquid.

A. Fiscal issues

155. The COVID-19 pandemic has not disrupted debt servicing or regular monthly budget payments, largely owing to continuous indirect tax revenue inflows and domestic borrowing. Although indirect taxes remained the vital revenue source for all levels of government and thus the backbone of their budget stability, their inflows have declined significantly. For the first time since the 2009 global financial crisis, the Bosnia and Herzegovina Indirect Taxation Authority recorded a decrease in the collection of indirect tax revenues. In 2020, the gross collection totalled KM 7.23 billion, 9.5 per cent less than in 2019.

156. Domestic borrowing contributed not only to budget stability in the reporting period, primarily at the entity level, but also to the country's overall indebtedness. According to the Bosnia and Herzegovina Ministry of Finance and Treasury, the overall Bosnia and Herzegovina public debt at the end of 2020 totalled KM 12.1 billion, of which 71.3 per cent was foreign debt and 28.7 per cent domestic debt. The Federation share of the debt was 51.1 per cent, while the Republika Srpska share of the debt was 47.9 per cent. Compared with 2019, the overall Bosnia and Herzegovina public debt at the end of 2020 increased by 8.5 per cent, with foreign debt increasing by 6.4 per cent and domestic debt increasing by 14 per cent.

157. Bosnia and Herzegovina did not benefit from international budget support during the reporting period. An agreement on a new three-year IMF Extended Fund Facility programme was not reached owing, inter alia, to the continued opposition of the Republika Srpska authorities to reforms that it perceived as strengthening the State competences and institutions. This was mostly evident in two areas singled out by IMF: promoting a single economic space and strengthening financial stability, both necessary to strengthen the resilience of Bosnia and Herzegovina to an economic and/or a financial crisis, and for its accelerated development and its aspirations towards accession to the European Union.

158. The reforms opposed by the Republika Srpska authorities also included those needed to efficiently fight money-laundering and the financing of terrorism. The persistent views of the Republika Srpska on the aforementioned matters, as well as the subsequent lack of progress on other measures within the original Extended Fund Facility programme – including, inter alia, the failure of the State authorities to ensure the timely adoption of a State budget for 2021 and the failure of the Federation authorities to appoint a new Securities Commission – signal little prospect for a prompt agreement between Bosnia and Herzegovina and IMF.

159. As for the 2021 budget process, the State institutions and one Federation canton – Una-Sana – still operate on temporary financing, while both entities and the other nine cantons have 2021 budgets in place.

160. It has become the practice that the 31 December deadline for the adoption of a State budget for the following year is not met, with the State institutions consequently forced into temporary financing as of 1 January. Despite expectations that the 2021 budget would be adopted prior to the end of the first quarter of 2021, this did not happen, as on 11 March the Bosnia and Herzegovina Presidency denied support for the draft budget previously adopted by a majority vote in the Bosnia and Herzegovina Council of Ministers. The Bosnia and Herzegovina Presidency objected to the absence of funds for mitigating the consequences of the COVID-19 pandemic and – disregarding all other options – instructed that the funds for this purpose be taken from those planned for adjustments of the employee salary base that would revert the base to the 2012 level. Although such adjustments would still keep the salary base below the 2009 level and would be crucial to narrowing the gap between State-level salaries and salaries at lower levels of authority and to address capacity deficiencies of the State institutions and support their functionality, political party calculations prevailed. This was condemned by employees of the State institutions – including those in the Bosnia and Herzegovina security sector – and was followed by employee protests and threats of strikes. On 25 March, the Bosnia and Herzegovina Council of Ministers unanimously adopted a new draft 2021 budget of KM 1.87 billion, including KM 21.7 million for mitigating the consequences of the pandemic. The draft is still subject to consideration by the Bosnia and Herzegovina Presidency. The uninterrupted financing of the State institutions – albeit on the basis of temporary financing – is provided for through 30 June.

161. The 2021 Federation budget was adopted by the Federation House of Representatives on 29 December and by the Federation House of Peoples on 11 January. The budget amounts to KM 5.48 billion, a 0.5 per cent decrease from the 2020 rebalanced budget. Total domestic revenues are projected in the amount of KM 4 billion, an increase of 6 per cent, and include, inter alia, indirect tax revenues of KM 1.44 billion (approximately the same as 2020), revenues from pension contributions of KM 1.99 billion (a 13 per cent increase) and non-tax revenues of KM 499.1 million (a 1 per cent decrease). The budget shows a deficit of KM 1.36 billion, a 1 per cent decrease compared to the rebalanced 2020 budget, to be covered by short-term domestic borrowing (KM 410 million), long-term domestic borrowing (KM 210 million), loans received through the State (KM 640.9 million) and receipts from financial assets (KM 100 million). For expenditures, the budget foresees, inter alia, KM 252 million for gross salaries (a 5 per cent increase), KM 107.8 million for material and service expenditures (a 10 per cent decrease) and KM 3.67 billion for current transfers (a 5 per cent decrease), which include transfers for social welfare and veterans, pension funds, transfers for economic stabilization and transfers to lower levels of government. The Federation debt payment in 2021 totals KM 1 billion (an 8 per cent increase), of which the foreign debt payment is KM 486.3 million.

162. In December, the National Assembly of the Republika Srpska adopted the second rebalance of the 2020 Republika Srpska budget. The original budget foresaw a budget surplus of KM 20 million based on the estimated 3.5 per cent GDP growth in 2020 but, owing to the COVID-19 pandemic, the rebalanced budget instead foresaw a deficit of KM 394 million. The budget deficit was covered from the IMF Rapid Financing Instrument and from additional borrowing from the local capital market, amounting to KM 244 million and KM 157 million, respectively. Owing to the pandemic, borrowing by the Republika Srpska more than doubled in 2020, increasing from KM 315 million to KM 716 million.

163. The 2021 Republika Srpska budget was adopted by the National Assembly of the Republika Srpska on 17 December. It amounts to KM 3.8 billion, a 4 per cent increase over the rebalanced 2020 budget. More than half of the budget funds are planned for pension payments and civil servant salaries. The main budget beneficiaries are the Ministry of Education, the Ministry of Labour and Veterans and the Ministry of Interior. To cover budgetary needs, the 2021 budget foresees KM 834 million from long-term borrowing and KM 224 million from short-term borrowing.

164. The long-term borrowing sources are local and foreign capital markets, as well as international financial institutions, while short-term borrowing is planned through the issuance of treasury bills on the local capital market. In the same session, the National Assembly of the Republika Srpska adopted the 2021–2023 Economic Reform Programme, projecting annual economic growth between 2.6 and 3.2 per cent. The programme also projects borrowing of KM 3.1 billion. Both the budget and the reform programme are focused on mitigating the negative consequences of the COVID-19 pandemic in the Republika Srpska.

165. Fiscal challenges at the entity level arise mainly from the continued absence of agreement on the IMF Extended Fund Facility programme, the underperformance of domestic revenue and/or a lack of interest in government securities. Any deterioration of fiscal stability at the entity level, manifested primarily in suspended or delayed budget payments, poses serious risks to overall political stability, as it inevitably opens the door to inter- and intra-entity disputes and challenges to the State institutions and competences, especially those transferred by the entities to the State.

B. International obligations

166. Following its eighteenth session, on 17 December, the Ministerial Council of the Energy Community – an international organization comprising the European Union and the neighbouring countries from South-East Europe – suspended several rights enjoyed by Bosnia and Herzegovina under the Energy Community Treaty, specifically the participation of Bosnia and Herzegovina in decision-making on matters of budget and enforcement. The Council decision is due to the persistent failure of Bosnia and Herzegovina to comply with the requirements of the Second Energy Package in the gas sector, the Sulphur in Fuels Directive and the Third Energy Package in the electricity and gas sectors. The suspension is for two years, unless Bosnia and Herzegovina rectifies the breaches. Bosnia and Herzegovina has been under Energy Community sanctions since 2015, when it was first sanctioned for its non-compliance with Energy Treaty requirements in the natural gas sector. This breach remains unresolved and stems from a long-standing entity dispute over regulating aspects of the gas sector at the State level, which continues to prevent the requisite adoption of State-level legislation.

167. The mandates of members of the management and the management board of the Bosnia and Herzegovina Electricity Transmission Company expired three years ago. The management board consists four members from the Federation (two Croat and two Bosniak members) and three members from the Republika Srpska, all of whom are subject to confirmation by the Council of Ministers. In December, the Federation Government nominated two Croat and two Bosniak members to the Bosnia and Herzegovina Electricity Transmission Company's management board, but the Council of Ministers decided on 29 December not to proceed with a partial appointment and invited the Republika Srpska to also nominate its three members, so that all members of the Company's management board could be confirmed at the same time. Further delays in those appointments could also complicate decision-making on issues of relevance for the Company and electricity transmission in general. They

could also provide a pretext for renewed challenges to the Company, which was established by the Bosnia and Herzegovina Law Establishing the Electricity Transmission Company adopted in 2004 by the Bosnia and Herzegovina Parliamentary Assembly, following a June 2003 agreement of the entities on the establishment of a transmission company and independent system operator, and concluded on the basis of article III (5) (b) of the Bosnia and Herzegovina Constitution.

168. After the unilateral withholding by the Republika Srpska of contributions to the Bosnia and Herzegovina Public Railways Corporation in 2016 and 2017, which deprived the Corporation of funds equivalent to one Republika Srpska annual contribution, the Federation – wishing to compensate for the difference in funds paid to the Corporation by the two entities – decided not to provide funding for the Corporation in its 2020 budget. While the Republika Srpska 2020 budget included an allocation for the Corporation, the entity again withheld payment and only in the first quarter of 2021 transferred the remaining 40 per cent of the budgeted amount. At the same time, an adequate entity transfer by the Republika Srpska to the Corporation for 2021 has not yet been secured, while the Federation Government secured adequate funds for the Corporation only at its 1 April session. This uncertainty of funding poses a risk to the sustainability of the Corporation, which is the only State-level corporation established under annex 9 to the General Framework Agreement for Peace. In addition, it jeopardizes the only mechanism for a harmonized approach to the reconstruction of railway routes, which would benefit the railway companies of both entities, all citizens of Bosnia and Herzegovina and the country's economy.

VIII. Return of refugees and displaced persons

169. The return of refugees and displaced persons to their homes of origin, a right guaranteed under annex 7 to the General Framework Agreement for Peace, requires the authorities at all levels to establish on their territories political and socioeconomic environments conducive to voluntary returns and the integration of returnees into the communities.

170. Returns have been negatively affected by the divisive rhetoric mentioned elsewhere in the present report, as well as the persistent, unresolved issues relevant for returns in general. Thus, despite the return of Bosniak children from Liplje near Zvornik in the Republika Srpska to classes last October, the issue of the official name of the Bosnian language within the Republika Srpska educational remains unresolved.

171. The glorification of war criminals and the promotion of controversial narratives related to historical events remain an open source for provocation. Despite its intrinsic controversy, as well as an ongoing court case against the Ravna Gora Chetnik Movement for inciting hatred during their March 2019 gathering in Višegrad, in February of 2021 the local assembly in the Republika Srpska town of Bijeljina supported the construction of a bust dedicated to the Second World War Chetnik commander Draža Mihailović in a central square of the city.

172. In that regard, throughout Bosnia and Herzegovina there are streets, squares and public buildings, including schools, named after Second World War Nazi collaborators and supporters, as well as signs and plaques honouring convicted war criminals, which are not only intimidating to those in the minority, including returnees, but also a trend of historical revisionism that is not only contrary to fundamental European values but also to basic human decency.

173. Religious property has also been targeted by wanton attacks. On 18 February, the United Nations Educational, Scientific and Cultural Organization (UNESCO)

World Heritage-listed Aladza Mosque in Foča in the Republika Srpska was damaged, possibly by firearms. The incident is under investigation.

IX. Media developments

174. The Public Broadcasting System remains heavily politicized. Years of obstruction in the implementation of the relevant legislation has led to the abandonment of the system of joint collection of radio and television taxes and the de facto establishment of three completely separate and competitive public broadcasters. The appointment of the members of the broadcasters' governing boards is either carried out exclusively by the relevant parliament and serves the parliamentary majority, as is the case with Republika Srpska broadcaster Radio Television of the Republika Srpska, or is obstructed by appointed authorities who oppose the proposed candidates, as is the case with Bosnia and Herzegovina Radio Television and Radio-Television Federation. On 11 February, the Bosnia and Herzegovina Communications Regulatory Agency Council decided to readvertise positions for all four members of the Governing Board of Bosnia and Herzegovina Radio Television, since the Bosnia and Herzegovina Parliamentary Assembly failed to appoint the new governors from the list submitted by the Council on 4 January. There is a lack of activity on the part of the Federation Parliament, with only of four members of the Radio-Television Federation Governing Board still working, and his mandate expired seven years ago.

175. Attacks and pressure on journalists continue to pose a threat to unhindered reporting. In the reporting period, the free media helpline of the Bosnia and Herzegovina Union of Journalists, functioning as a local project to provide support and assistance to journalists in their work, registered 23 cases of violations of the rights of journalists and 25 cases of free media violations, ranging from physical attacks, political pressure, different threats and verbal assaults. There is also a growing number of incidents of gender-based violence and attacks against female journalists.

176. The Bosnia and Herzegovina Press Council, a self-regulating body for print and online media, has seen a marked increase in registered cases, in particular complaints against commentaries on web portals. To date in 2021, the Council has registered 135 such cases and 89 complaints against printed stories. The latest concerning trend is orchestrated cyberattacks against online media portals, which are ill-equipped to prevent or fend off such attacks. International organizations in Bosnia and Herzegovina have condemned such attacks and called upon the relevant Bosnia and Herzegovina authorities to strengthen their networks and ability to detect, deter and investigate all attacks on media websites.

177. Although the licenses for analogue broadcasting for public broadcasting services expired in April of last year, the public broadcasters have neither fulfilled the obligation to establish a joint legal entity to enable digitalization nor purchased the equipment necessary for its introduction. The Bosnia and Herzegovina Communications Regulatory Agency extended for an additional five years the licenses for broadcasting public service programmes, stipulating that all transmitters that interfere with the digital radio frequency spectrum both within and across the Bosnia and Herzegovina border will be disabled if there are reports of interference.

178. The licenses of commercial broadcasters for analogue broadcasting expire in December of 2021. Those broadcasters announced their transition to the digital platform Multiplex C, which was initiated and approved by the Communications Regulatory Agency at their request.

179. On 4 February, the Bosnia and Herzegovina Parliamentary Assembly adopted an audit report on the effects of the digitalization of the television signal in Bosnia and Herzegovina, issued by the Audit Office of the Bosnia and Herzegovina institutions, and instructed the competent Bosnia and Herzegovina Ministry of Communications and Transport to implement the auditor's recommendations. Specifically, the competent ministry is expected to determine a plan of activities, with deadlines and steps to be taken to finalize the process of digitalization in Bosnia and Herzegovina.

X. European Union military mission in Bosnia and Herzegovina

180. The European Union military mission in Bosnia and Herzegovina, with its continued executive mandate, is vital to supporting the efforts of Bosnia and Herzegovina to maintain a safe and secure environment, which enables my office and other international organizations to fulfil our respective mandates. The mission's presence in the field, including its liaison and observation teams, undoubtedly contributes to stability and security and provides an early warning system for potential security issues, which is particularly crucial in the current turbulent political climate.

XI. Future of the Office of the High Representative

181. Fundamentally, policy considerations regarding Bosnia and Herzegovina must form the basis for assessing the resource requirements of the Office of the High Representative. As the present report demonstrates, there is still considerable work to be done to move the country forward. My office continues to streamline its operations responsibly. At its peak in 2002, the budget of the Office of the High Representative was €25 million, with around 700 staff, compared with the current €5.3 million budget and only 89 staff.

182. During my tenure as mandate holder, the budget of the Office of the High Representative has decreased by 53 per cent and the staff by over 58 per cent. However, while the organization has faced substantial reductions in staff and funding, its tasks have largely remained the same. As the budget decreases over time, it becomes exponentially more difficult to further reduce costs without cutting essential expertise and capacity. Given the numerous challenges, the Office of the High Representative must retain the effective capacity to mitigate risks to stability and encourage irreversible progress. Staff reductions pose a greater risk for the organization, which relies on its human capital, institutional memory, expertise and long-standing contact networks. The diminishing of financial resources only exacerbates the issue.

XII. Reporting schedule

183. The present report is submitted in keeping with the practice of submitting regular reports for onward transmission to the Security Council, as required by Council resolution [1031 \(1995\)](#). I would be pleased to provide additional information or clarification at any time, should the Secretary-General or any member of the Council require it. The next regular report to the Secretary-General is scheduled for October 2021.