

(2) If the obligation referred to in paragraph 1 of this Article exceeds the amount of 20.000 KM, the perpetrator

shall be punished by imprisonment for a term between one and ten years.

(3) If the obligation referred to in paragraph 1 of this Article exceeds the amount of 80.000 KM, the perpetrator

shall be punished by imprisonment for a term not less than three years.

XIX CHAPTER NINETEEN

CRIMINAL OFFENCES OF CORRUPTION AND CRIMINAL OFFENCES AGAINST OFFICIAL DUTY OR OTHER RESPONSIBLE DUTY

Accepting Gifts and Other Forms of Benefits Article 217

(1) An official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person, who demands or accepts a gift or any other benefit or who accepts a promise of a gift or a benefit in order to perform within the scope of his official powers an act, which ought not to be performed by him, or for the omission of an act, which ought to be performed by him,

shall be punished by imprisonment for a term between one and ten years.

(2) An official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person, who demands or accepts a gift or any other benefit or who accepts a promise of a gift or a benefit in order to perform within the scope of his official powers an act, which ought to be performed by him, or for the omission of an act, which ought not to be performed by him,

shall be punished by imprisonment for a term between six months and five years.

(3) The punishment referred to in paragraph 1 of this Article shall be imposed on an official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person, who demands or accepts a gift or any other benefit following the performance or omission of an official act referred to in paragraphs 1 and 2 of this Article and in relation to it.

(4) The gifts or any other benefits shall be forfeited.

Giving Gifts and Other Forms of Benefits Article 218

(1) Whoever gives or promises a gift or any other benefit to an official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person, in order that he performs within the scope of his official powers of an act, which ought not to be performed by him, or abstains from performing of an act which ought to be performed by him, or whoever mediates in such bribing of the official or responsible person,

shall be punished by imprisonment for a term between six months and five years.

(2) Whoever gives or promises a gift or any other benefit to an official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person, in order that he performs within the scope of his official powers an act, which ought to be performed by him, or abstains from performing of an act, which ought not to be performed by him,

shall be punished by a fine or imprisonment for a term not exceeding three years.

(3) The perpetrator of the criminal offence referred to in paragraph 1 and 2 of this Article who had given a bribe on request of the official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person, but reported the deed before it being discovered or before knowing that the deed has been discovered,

may be released from punishment.

(4) The gifts or any other benefits shall be forfeited, while in case referred to in paragraph 3 of this Article, they can be returned to the giver.

Illegal Interceding Article 219

(1) Whoever accepts a reward or any other benefit for interceding that an official act be or not be performed, taking advantage of his official or influential position in the institutions of Bosnia and Herzegovina,

shall be punished by a fine or imprisonment for a term not exceeding three years.

(2) Whoever by taking advantage of his official or influential position in the institutions of Bosnia and Herzegovina, intercedes that an official act be performed, which ought not to be performed, or that an official act be not performed, which ought to be performed,

shall be punished by imprisonment for a term between six months and five years.

(3) If a reward or any other benefit has been received in return for the criminal offence referred to in paragraph 2 of this Article, the perpetrator

shall be punished by imprisonment for a term between one and ten years.

Abuse of Office or Official Authority Article 220

(1) An official or responsible person in the Bosnia and Herzegovina institutions who, by taking advantage of his office or official authority, exceeds the limits of his official authority or fails to execute his official duty, and thereby acquires a benefit to himself or to another person, or causes damage to another person or seriously violates the rights of another,

shall be punished by imprisonment for a term between six months and five years.

(2) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 10.000 KM, the perpetrator

shall be punished by imprisonment for a term between one and ten years.

(3) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 50.000 KM the perpetrator

shall be punished by imprisonment for a term of not less than three years.

**Embezzlement in Office
Article 221**

(1) Whoever, with an aim of acquiring unlawful property gain for himself or another, appropriates money, securities or other movable entrusted to him by virtue of his office in the institutions of Bosnia and Herzegovina, or of generally his position within the institutions of Bosnia and Herzegovina,

shall be punished by imprisonment for a term between six months and five years.

(2) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 10.000 KM, the perpetrator

shall be punished by imprisonment for a term between one and ten years.

(3) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 50.000 KM, the perpetrator

shall be punished by imprisonment for a term not less than three years.

**Fraud in Office
Article 222**

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who, with an aim of acquiring an unlawful property gain for himself or another, by submitting false accounts or in some other way deceives an authorised person into making an illegal disbursement,

shall be punished by imprisonment for a term between six months and five years.

(2) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 10.000 KM, the perpetrator

shall be punished by imprisonment for a term between one and ten years.

(3) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 50.000 KM, the perpetrator

shall be punished by imprisonment for a term not less than three years.

**Using Property of the Office
Article 223**

Whoever makes an unauthorised use of money, securities or other movable entrusted to him by virtue of his office in the institutions of Bosnia and Herzegovina, or service in the institutions of

Bosnia and Herzegovina generally or without authorisation confers these things to another person for unauthorised use,

shall be punished by imprisonment for a term between six months and five years.

Lack of Commitment in Office
Article 224

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who, being aware of what he or she is doing, breaches law or other regulations or general acts, fails to exercise due supervision or in any other way manifestly acts in a clearly unconscientious manner in the discharge of his official duties, and such action of his results in a serious violation of rights of another or a property damage whose value exceeds the amount of 1.000 KM,

shall be punished by a fine or imprisonment for a term not exceeding three years.

(2) If a serious violation of another man's right or damage to property exceeding the amount of 10.000 KM has occurred as a result of the criminal offence referred to in paragraph 1 of this Article, the perpetrator

shall be punished by imprisonment for a term between six months and five years.

Disclosure of Official Secret
Article 225

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who, without authorisation communicates, conveys or in any other way makes accessible to another person information which constitutes an official secret, or who obtains such information with an aim of conveying it to an unauthorised person,

shall be punished by imprisonment for a term between six months and five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, with an aim to make an unauthorised use of such information, avails himself unlawfully of the information kept as an official secret of the institutions of Bosnia and Herzegovina or who discloses such information without a permit.

(3) If the criminal offence referred to in paragraph 1 of this Article has been perpetrated out of greed or in respect of a particularly confidential information or for the purpose of disclosing or using the information outside of Bosnia and Herzegovina, the perpetrator

shall be punished by imprisonment for a term between one and ten years.

(4) An official or responsible person in the institutions of Bosnia and Herzegovina, who perpetrates the criminal offence referred to in paragraph 1 of this Article by negligence,

shall be punished by a fine or imprisonment for a term not exceeding three years.

(5) There shall be no criminal offence referred to in paragraph 2 of this Article, if somebody makes public or mediates in making public an official secret of the institutions of Bosnia and Herzegovina the contents of which are in contravention with the constitutional order of Bosnia

and Herzegovina, with an aim of disclosing to the public the irregularities attached to organising, performance and management of the office, provided that the making public has no substantial prejudicial consequences for Bosnia and Herzegovina.

(6) Provisions referred to in paragraphs 1 through 4 of this Article shall also be applied to a person who has disclosed an official secret after his function as an official or responsible person in the institutions of Bosnia and Herzegovina has ceased.

Forging of Official Document Article 226

(1) An official or responsible person in the institutions of Bosnia and Herzegovina who enters false data in an official or business document, book or file, or who fails to enter important data, or who by his signature or official seal certifies an official or business document, book or file containing false data, or who by his signature or official seal facilitates the drawing up of such documents, books or files containing false data,

shall be punished by imprisonment for a term between six months and five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on an official or responsible person who, while in the office or business, uses a false official or business document, book or file as if they were authentic, or who destroys, conceals, substantially damages or in some other way renders useless any official or business document, book or file.

Illegal Collection and Disbursement Article 227

An official or responsible person in the institutions of Bosnia and Herzegovina, who collects from another something which the latter is not obligated to pay, or in excess of what he is obligated to pay, or who delivers or pays less than required during a payment or a delivery,

shall be punished by a fine or imprisonment for a term not exceeding three years.

Unlawful Release of a Detainee Article 228

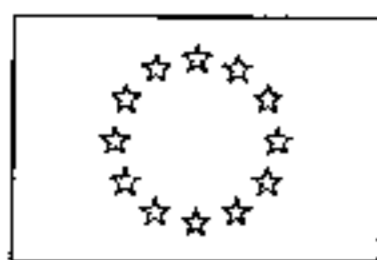
An official person in the institutions of Bosnia and Herzegovina, who unlawfully frees another person detained and entrusted to him, or who aids his escape, or enables illegal connection or correspondence the purpose of which is preparation of escape,

shall be punished by imprisonment for a term between six months and five years.

Unlawful Appropriation of Objects while Searching or Carrying out an Enforcement Order Article 229

An official person in the institutions of Bosnia and Herzegovina, who during the search of premises or persons, or while carrying out an enforcement order, takes a movable object with an aim of obtaining illegal material benefit for himself or another,

shall be punished by imprisonment for a term between one and ten years.



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.11.2003
COM(2003) 692 final

REPORT FROM THE COMMISSION TO THE COUNCIL

**on the preparedness of Bosnia and Herzegovina to negotiate a Stabilisation
and Association Agreement with the European Union**

TABLE OF CONTENTS

A.	INTRODUCTION	5
1.	Objective of the Report.....	5
2.	Background: Relations between the European Union and Bosnia and Herzegovina.....	5
B.	KEY ISSUES IN PREPARING FOR NEGOTIATIONS ON A STABILISATION AND ASSOCIATION AGREEMENT	6
1.	POLITICAL CRITERIA	6
1.1	Democracy and the Rule of Law	6
1.1.1	Presidency	6
1.1.2.	Legislature	7
1.1.3	Executive	8
1.1.4	Public administration.....	9
1.1.5	Relations with the international community.....	10
1.2	Human Rights	12
1.2.1	Civil, political, social and economic rights	12
1.2.2	Minority rights and refugees.....	13
1.3.	General Evaluation	14
2.	ECONOMIC CRITERIA	14
2.1	Economic Situation and Fiscal Sustainability	14
2.2	Price and Trade Liberalisation.....	15
2.3	Privatisation Process	16
2.4	Financial Sector Reform.....	16
2.5	General Evaluation	16
3.	ABILITY TO ASSUME THE OBLIGATIONS RESULTING FROM A SAA	17
3.1	Political Dialogue	17
3.2	Regional Co-operation.....	18
3.3	Free Movement of Goods	19
3.3.1	Trade in industrial goods	20
3.3.2	Trade in agricultural goods.....	20

3.4	Movement of Workers, Establishment, Services, Capital	21
3.4.1	Movement of workers.....	21
3.4.2	Establishment.....	21
3.4.3	Trade in services	22
3.4.4	Current payments and movement of capital	22
3.5	Approximation, Implementation and Enforcement of Legislation.....	23
3.5.1	Competition	23
3.5.2	Intellectual, industrial and commercial property	24
3.5.3	Public procurement	24
3.5.4	Standardisation and conformity assessment	24
3.5.5	Consumer protection.....	25
3.6	Justice and Home Affairs.....	25
3.6.1	Reinforcement of institutions and rule of law	25
3.6.1.1	Police	25
3.6.1.2	Judiciary.....	26
3.6.1.3	Prison system	27
3.6.2	Visa, border control, asylum and migration	27
3.6.3	Combating money laundering.....	28
3.6.4	Preventing and combating crime, combating illegal trafficking and illicit drugs	28
3.7	Co-operation Policies.....	30
3.7.1	Economic, monetary and statistical co-operation.....	30
3.7.2	Investment promotion and protection, industrial co-operation, small and medium-sized enterprises, tourism	31
3.7.3	Agriculture and agro-industrial sector	31
3.7.4	Customs and taxation.....	32
3.7.4.1	Customs	32
3.7.4.2	Taxation	33
3.7.5.	Employment, social policy, education and training, research and technological development (RTD).....	33
3.7.5.1	Employment and social policy.....	33
3.7.5.2	Education and training, RTD.....	34

3.7.6	Culture, audio-visual, telecommunications and postal services, information society	35
3.7.6.1	Culture and audio-visual	35
3.7.6.2	Telecommunications, information society, postal services	35
3.7.7	Transport	36
3.7.8	Energy	37
3.7.9	Environment	37
3.8	Financial Co-operation	38
3.9	General Evaluation	38
C.	CONCLUSION	39
	LIST OF ABBREVIATIONS	44

interior ministries and police and with customs administrations to improve border management. It has addressed and, reportedly, significantly reduced human trafficking and illegal migration through BiH. The comparative effectiveness and efficiency of the SBS distinguishes BiH favourably from some of its regional partners.

Asylum is a new challenge for BiH; until recently, the focus was almost exclusively on refugee returns and their reintegration into BiH society. The country is by succession a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Asylum issues are now governed by the new Law on the Movement and Stay of Aliens and Asylum. The unit dealing with asylum issues within the BiH Ministry of Security foreseen by the law is not yet operational. BiH therefore does not yet have a functioning asylum system. It is the United Nations Refugee Agency (UNHCR) which conducts refugee status determination. UNHCR hopes to hand over this responsibility to BiH by the end of 2004.

Under a SAA contracting parties would agree to co-operate to prevent illegal immigration. To that end BiH would have to agree to re-admit any of its nationals illegally present on the territory of an EU Member State and conclude an agreement as regards third country nationals and stateless persons. EU Member States would accept similar obligations. **Readmission negotiations** have been completed with Italy and opened with Sweden, Denmark, Slovenia, Rumania and Serbia and Montenegro.

3.6.3 *Combating money laundering*

BiH would need to establish a framework for co-operation aimed at preventing the use of its financial systems for laundering the proceeds of criminal activities. Co-operation in this area would include administrative and technical assistance aimed at establishing appropriate standards to counter money laundering equivalent to those adopted by the Community and other international bodies in this field, in particular the Financial Action Task Force (FATF).

Money laundering is a serious problem, but one which BiH is only beginning to address. BiH figures suggest that €1.5 billion may be laundered annually through fictitious companies and dedicated bank accounts. The BiH Criminal Code identifies money laundering as a crime (but only recently has F BiH begun to treat it as more than an administrative offence). Currently, a number of bodies deal with money laundering concerns: SBS, the Entity Banking Agencies, the revenue police, the F BiH Tax Authority and the RS money laundering division of the Finance Ministry - but the work of these bodies needs to be better co-ordinated.

In both Entities and Brcko District, laws now oblige bank and financial institution employees to report suspicious transactions; every transaction over KM30,000 (around €15,000) must be reported to the revenue police who check its legitimacy. A former favourite method of money laundering was through the establishment of **fictitious companies**. New registration procedures have made this more difficult, and the recent identification in the Official Gazette of unused accounts has also had a discouraging effect on launderers. While these are welcome developments, other businesses providing a money or value transfer service (e.g. gambling and casinos, foreign currency exchange, insurance, real estate, etc.) should arguably also be subject to licensing, registration and monitoring. These issues are addressed by an Action Plan against money laundering which all relevant agencies now need to implement.

3.6.4 *Preventing and combating crime, combating illegal trafficking and illicit drugs*

BiH should develop a framework for co-operation aimed at fighting and preventing criminal and illegal activities, notably organised crime. BiH should devote particular attention to issues

such as trafficking in human beings, illegal economic activities (i.a. corruption, illegal transactions, illicit arms trafficking and terrorism. BiH would also need to be able to cope with the health and social consequences of different forms of drug abuse, preventing the diversion of chemical precursors and introducing and / or reinforcing structures for combating illicit drug trafficking

BiH has begun to address crime in general and corruption in particular. Parliament passed a Law on Conflict of Interest within the institutions of government; the Civil Service Law details actions that could pose conflicts of interest and within the new Ministry of Security work has begun on drafting an anti-corruption strategy. The State Prosecutor's Office has begun work on a number of **high-level criminal cases**, bringing several to successful conviction. Also, the Special Panels in the State Court are about to begin work, including a trial of the biggest case in human trafficking BiH has yet seen.

The fight against crime will, however, be long because of a symbiotic relationship between crime, business and politics. **Corruption** has both seriously affected BiH's economic performance and brought its politics into disrepute. Recent examples include Hercegovacka Banka in FBiH which reportedly embezzled millions, and the electricity generating companies (Elektroprivreda) where audits revealed, particularly in RS, misappropriation, conflicts of interest and mismanagement on a grand scale.

Organised crime is a major problem. Smuggling of high-tariff goods such as cigarettes, alcohol, petroleum products is widespread. BiH figures put losses due to customs fraud and smuggling at €150 - €300 million per year, roughly equivalent to the annual state budget. Drug traffickers have exploited BiH's (now less) porous borders, divided legal jurisdictions and weak customs controls. They have used BiH mainly as a country of transit to western Europe. Drug smuggling persists. The smuggling of migrants through BiH has diminished thanks to the work of the SBS. However, sophisticated **people trafficking** networks, dealing also in women for sexual exploitation, continue to push victims both to and through the country. In this connection, the 2003 US "Trafficking Persons Report" bracketed BiH among the worst offenders. Nevertheless, BiH subsequently avoided sanctions because, the US noted, it had taken "quick action to address problems". Symptomatically, however, as follow-up to the November 2002 London conference on organised crime, BiH presented two separate and apparently uncoordinated records of achievement by two different State ministries. The Ministry of Security co-ordinated the drafting of an action plan to deal with organised crime; the latter was adopted in October 2003.

Within BiH, **terrorism** has mostly been targeted at returnees or politically undesired minorities in particular regions. Probably, attacks on individuals or families are the result of localised grievances rather than co-ordinated actions. Also, the number of localised attacks has been declining. In terms of "international terrorism", there is evidence that some "charities" operating in BiH have had connections with terrorist organisations, but when identified they have been closed down. To date no attacks on international interests in BiH have been registered. Following the events of 11 September 2001 an anti-terrorism co-ordination team was established. It worked efficiently, but was not immediately re-established under the current Council of Ministers. BiH, like others, is challenged to see that the rights of terrorist suspects are respected.

In all areas related to justice and rule of law BiH is challenged to **improve inter-agency and inter-Entity co-ordination and co-operation**. Within BiH there is still no common information system either for the police or the judicial and prosecutorial systems. Since SIPA is not yet operational there is no formal agency at State level to process criminal information;

intelligence sharing depends on the good will of the agencies involved. In issues of justice and home affairs, as in others, improved co-ordination within BiH is needed to act effectively and to make co-operation in a SAA context meaningful.

3.7 Co-operation Policies

A future SAA would mean the establishment of close co-operation in a wide range of areas. Co-operation would be designed to provide EU policy guidance and assistance and to promote economic and social development within BiH. It would not be limited to bilateral EU - BiH co-operation, but would also take place within a regional framework. Thus, special attention would be devoted to measures which foster co-operation between BiH and its neighbours and promote regional stability.

3.7.1 *Economic, monetary and statistical co-operation*

BiH should foster reform and economic integration into European structures by improving the formulation and application of market-based economic policies. It should improve its capacity to provide information on macroeconomic performance and forecasts, to formulate economic policy and to develop the instruments necessary for its application. It should also take appropriate account in its policy development of the EU's economic and monetary union. BiH should develop a statistical system, capable of providing the timely, reliable, objective and accurate data needed to plan and monitor transition and reform.

In the context of its over-arching policy objective of integrating into EU structures, BiH needs to formulate a **coherent medium- to long-term economic strategy**. Here, it has already taken some steps by identifying policy priorities. In co-operation with the World Bank, a Co-ordination Board for Economic Development and EU Integration, made up of the BiH Council of Ministers and Entity representatives, has overseen the formulation of a Poverty Reduction Strategy Paper (PRSP) which is based on wide consultation. This effort has, however, underlined BiH's need to develop further sound analytical capacities both within and outside government; BiH needs an improved ability to analyse and predict the implications of policy decisions both within and across sectors. This is arguably an area where BiH government could co-operate fruitfully both with its own academic community and with EU experts in the context of a SAA.

A number of difficulties will however constrain effective co-operation. First, the prevalence of the **grey economy** is a distorting factor. Admittedly, the grey economy has functioned as social safety net for the otherwise unprotected in a dysfunctional economy. Further, it demonstrates hidden economic vitality and growth potential. Nevertheless, the grey sector (estimated by some at about 40% of total BiH economic activity) renders effective policy formulation difficult and distorts regional and international economic co-operation by undermining a level playing field.

Secondly, the chronic and persistent **weakness of BiH statistics** cannot be ignored. In October 2002 the High Representative imposed a Law on Statistics, assigning greater authority to the State statistical office (BHAS) and obliging Entity statistical institutes to align their methodology, standards and practice with those of BHAS. The latter should produce State-level statistical indicators. However, progress has been worryingly slow. Currently poor (or non-existent) State-level statistics make both coherent policy-making within BiH and the proper conduct of trade relations impossible. Full implementation of this law would be essential for a SAA.

3.7.2 *Investment promotion and protection, industrial co-operation, small and medium-sized enterprises, tourism*

BiH should aim to create a favourable climate for private investment, both domestic and foreign, in order to promote economic and industrial revitalisation. In the fields of industrial co-operation, SMEs and tourism, BiH should develop policies aimed at promoting the modernisation and restructuring of industry, the reinforcement of the SME sector and the development of tourism.

Given its low levels of domestic investment and declining foreign assistance, BiH acutely needs **foreign direct investment** (FDI). Admittedly, legal impediments to FDI are few. However, to improve further the business environment and support industrial co-operation, disincentives and structural impediments need to be removed: lack of commitment to privatisation, complicated company registration procedures, high enterprise debt, labour rigidities, an unclear fiscal framework, poor corporate governance, the high cost of utility services, etc. Important progress was made with the OHR-led "Bulldozer Initiative" which dismantled barriers to enterprise through a bottom-up approach. The initiative, which is continuing under a BiH lead, should evolve into a form of business advocacy.

Obviously, modernisation of the BiH economy must focus not only on FDI and on restructuring large public enterprises, but also on freeing the growth potential of indigenous **small and medium-sized enterprises** (SMEs). BiH has committed itself to implement the European Charter for Small Enterprises. However, BiH still needs a common SME definition and harmonised registration procedures at the lowest possible level. Further, company taxation should arguably be such as to encourage start-ups. Business advocacy needs to be improved, giving SME stakeholders a voice on proposed legislation. The BiH financial sector, though much improved, needs to become more responsive to business needs by developing suitable financial instruments (e.g. guarantee schemes). Finally, the EU needs a central interlocutor with whom to discuss SME policy and possible future integration into relevant Community programmes.

Tourism has growth potential in BiH, but would require investment in advertising and infrastructure development. The definitive elimination of all land mines is essential. Know-how transfer and the study of possible joint operations could be developed under a SAA.

3.7.3 *Agriculture and agro-industrial sector*

BiH should aim to modernise and restructure its agriculture and agro-industrial sector. In particular, co-operation could include: (i) development of private farms and distribution channels, methods of storage and marketing, (ii) modernisation of rural infrastructure (transport, water supply, telecommunications), (iii) improvement of productivity and quality using appropriate methods and products; (iv) training and monitoring in the use of anti-pollution methods in connection with inputs, (v) development and modernisation of processing firms and their marketing methods, promotion of industrial co-operation in agriculture and the exchange of know-how, and (vi) development of co-operation on animal and plant health in the form of assistance for training and the organisation of controls with a view to gradual harmonisation with Community standards.

As indicated in section 3.3.2, **agriculture** contributes about 12% of BiH GDP. It employs around 18% of the total BiH population. Given its liberal trade regime, BiH is a significant importer of agricultural and agro-industrial products. This is because the agricultural sector suffers from an outdated and disconnected structure and is, moreover, constrained by

uncertainties over land ownership. Productivity is very low and little is produced for non-domestic consumption. Capacity utilisation is low; the proportion of unused land is high (reportedly, 50% of arable land in FBiH and around 30% in RS.) Livestock farming is reportedly also in decline. Laboratory cover and certification arrangements are patchy and below international standards. For BiH agriculture to realise its potential, reform is required. For example, a coherent and complete land registry system is a priority in order to eliminate doubts about ownership and thus improve the investment climate.

Unfortunately, the agricultural sector provides a good example of the pernicious effect of BiH's poor statistical base: inadequate and un-coordinated data collection hamper analysis and thus the formulation of policy options. It is, for example, not clear that existing Entity agricultural policies in favour of subsidies designed to achieve self-sufficiency in agriculture and food production are justified in the long term. Under a SAA, BiH would need to maintain a policy dialogue on these issues. Especially, in the light of the EU's 2003 decisions to begin decoupling agricultural subsidies from production, the BiH Entities would need to present policy positions based on a more transparent analysis and a clear economic rationale.

3.7.4 *Customs and taxation*

3.7.4.1 Customs

BiH needs to ensure that it has a customs service able to meet the demands resulting from the liberalised, preferential trade implied by a SAA. In particular, BiH would need a unified customs service with efficient management and investigation methods. It would need to establish relevant cross-border infrastructure, develop interconnections with the transit systems of the Community, ensure proper revenue collection, simplify inspections and formalities in respect of the carriage of goods, and introduce modern customs information systems.

The BiH constitution identifies **customs policy** as a state responsibility (art. III.1.c). In practice, however, administrative authority and revenue collection were with the Entities. BiH thus developed several occasionally competing customs services. With assistance from CAFAO, separate but co-operative Entity customs services were established. Identical tariff rates were established, enforcement capabilities developed, compatible communications and computer systems introduced and detection and collection rates improved. Over time this resulted in improved revenue collection, despite the gradual introduction of free trading agreements.

Despite these achievements, political interference and a lack of management will to enforce the law allowed fraud and customs evasion to persist, undermining the putative BiH single market and BiH's ability to police effectively a preferential trading regime. In response to these weaknesses and to international pressure, an Indirect Tax Policy Commission developed a draft law on an indirect tax system covering customs revenue and VAT. The law, when implemented will mean the collection of indirect taxes at State level through an **Indirect Tax Authority (ITA)**. Agreement was found among State and Entity representatives even on contentious issues such as the location of ITA headquarters (Banja Luka), the ITA regional structure, etc. The law has been approved by the Council of Ministers, but awaits parliamentary adoption. The implication of the legislation is groundbreaking insofar as BiH public finances would no longer depend exclusively on Entity transfers and the BiH Ministry of Finance would have a role in policy formulation. The law would thus constitute a major advance towards EU practice; it would improve fiscal sustainability, help combat fraud,

support the internal BiH market and significantly upgrade BiH's ability to sustain a future SAA with the EU.

3.7.4.2 Taxation

Co-operation with the EU should facilitate reform of the BiH fiscal system and help develop the tax administration in order to ensure effective tax collection. The fight against fiscal fraud in BiH should remain a priority.

Taxation too has been an Entity competence. Like customs duties, taxes have been variably collected and widely avoided. At present, the tax base throughout BiH is narrow, meaning high rates for those who pay (often driving legitimate business into the grey sector). Revenue, however, is weak and based on consumption and imports. There is only limited use of direct or property tax. Further, the division of responsibility for taxation among the Entities led to the setting of different taxes and different rates (corporate tax at 30% in FBiH and 10% in RS; sales tax varying between 20% and 8% depending on location and type of good or service). While tax differences may be justified by competition, the existence of Entity jurisdictions has often led to double reporting requirements and some double tax imposition.

The fiscal system thus has a **number of weaknesses**: it has provided disincentives to investors, facilitated evasion and undermined the single market. It has also meant that there is no overview of the fiscal stance, there is no consolidated government account and only partial accounting. Revenue has been too weak to ensure the smooth functioning of public services or to allow capital investment.

In part, to address these weaknesses, the introduction of **value-added tax (VAT)** has been proposed and adopted as government policy. VAT will be introduced at State level to minimise evasion, maximise revenue and meet EU acquis. The plan is for VAT receipts, like customs revenue, to be paid into one account from which disbursement will go first to the State and subsequently to the Entities. This would reverse the current order of call and should guarantee adequate revenue for the State. The aim is to introduce VAT in 2005. Final approval of the law on the ITA needs to be given quickly by parliament and planning needs to advance to meet the 2005 deadline.

3.7.5. *Employment, social policy, education and training, research and technological development (RTD)*

3.7.5.1 Employment and social policy

Co-operation in this area should aim at supporting BiH in reform of employment policy, labour law and social security. The focus would be on upgrading job-finding and career advice and promoting local development. Back-up measures would be provided to encourage a functioning social dialogue at all levels. Labour law should facilitate industrial restructuring and improve the level of health and safety protection for workers. Regarding social security, BiH would need to adapt its social security systems to the evolving economic situation and new social requirements.

Based on the number of people registered at employment offices, the unemployment rate in BiH is around 40%. However, data from a Living Standards Survey indicate much lower levels of **unemployment** and suggest that it is highest among young people. The reason for this discrepancy in figures probably lies in the large number of people who are active in the "grey", i.e. unregistered sector. Entity level legislation governs working conditions, but the effect of

III.5. STRATEGY FOR COMBATING CRIME AND CORRUPTION

1. Goals

- 1.1. *To strengthen the rule of law;*
- 1.2. *To establish transparency and responsibility in the public sector;*
- 1.3. *To strengthen the trust in government institutions among citizens: ensure equality in access to public services for all citizens;*
- 1.4. *To improve business climate;*
- 1.5. *To eliminate organized crime.*

2. Introduction

Corruption (*lat. corupere – rot, spoil, bribery, buying off, to bribe a person with money or other material goods*), in a broader sense, is a term that encompasses all types of misuse of an official position for self-serving motives, and in a narrower sense denotes bribery. Passive bribery is the bribe accepted by a public official who asks for or receives gifts or favors, or takes the promise of gifts or favors, in exchange for using his/her power to perform or fail to perform some official action.

Corruption, as a general phenomenon in the world, and especially in post-conflict and transition countries, is an exceptionally tangible problem in BiH. The processes of transition, privatization, and the very process of state-building on an entirely new foundation, allowed the quick spread of corruption at all levels and in all areas of social life. Beginning in 1998, the governments at all levels in BiH began organized anti-corruption activities. The World Bank, on request of and in cooperation with the BiH Council of Ministers in cooperation, prepared the Diagnostic Survey of Corruption in BiH, published in 2001, which provided first insights into the causes of corruption in BiH. The Global Framework of the BiH Economic Development Strategy (I-PRSP) stressed that the corruption is among the greatest problems for achieving economic development and growth in the country and ranked anti-corruption combat among highest priorities.¹ Additional activities were taken as part of the Stability Pact programs, within its SPAI², with the purpose of introduction and implementation of European and international anti-corruption instruments.

In August 2002, the BiH Council of Ministers presented to the Peace Implementation Council (PIC) the "Jobs and Justice" document, which contains urgent measures for establishment of a system for fighting corruption and crime.

- promoting transparency and responsibility in the public (government) sector;
- creating an environment conducive to free competition in the private sector;
- strengthening trust in government institutions among citizens, by facilitating their inclusion and participation in establishing policies and institutional reforms;
- implementing all-encompassing legal reform.

3. Situation, causes and problems related to corruption in BiH

The 'Transparency International' NGO, headquartered in London, every year publishes the CPI³ Report, which measures the degree of corruption in most countries in the world. In the most recent report – published on October 7, 2003 – BiH is ranked 70th out of 133 countries where research was conducted. Several transition countries are ranked lower than BiH, for instance Romania, Russia and Turkey, while Macedonia and Serbia and Montenegro were given ranks above 100.

The analysis of corruption in BiH, prepared by a number of organizations⁴, points out that the major causes of this phenomenon are:

¹ I-PRSP, p. 24.

² Stability Pact Anticorruption Initiative

³ Corruption Perception Study. CPI is an index measuring the level of corruption in a country. The best grade is 10, and lowest is 0.

⁴ Diagnostic Surveys of Corruption, World Bank, UNDP, TI and Anti-Corruption in Southeastern Europe: First Steps and Policies, SELDI. www.seldi.net

- a) absence of the rule of law and inadequate judicial system;
- b) presence of organized crime;
- c) corruption in public administration, widespread bribing and conflicts of interests;
- d) warped business environment;
- e) complicated political and administrative system;
- f) poverty;
- g) inadequate influence of the private sector and civic society on the work of governments.

Corruption in government and administration

The Diagnostic Surveys of Corruption in BiH differentiated between two basic forms of corruption – corruption in government and in administration. **Corruption in government** concerns acts of individuals, groups or firms – in either public or private sector – aimed at shaping laws, regulations, ordinances and other elements of government policies to their benefit, which originate through illegal and non-transparent award of benefits to public officials. **Corruption in administration** is intentional departure from regular implementation of existing laws, rules and regulations in order to place either public or non-public actors in a more favorable position, as a result of extending illegal and non-transparent benefits to public officials.

Source: Anticorruption in Transition, Contributions to the Strategy Debate, World Bank, 2000.

3.1. Features of corruption in BiH

3.1.1. Public opinion is that the level of corruption is high, which causes low level of confidence of citizens into governments and public institutions.

The organization "Transparency International" (TI BiH) conducted a series of studies about public perception and causes of corruption in BiH. The principal conclusion was that one in five inhabitants of BiH see corruption as second most important issue facing the society:

Problem	BiH (%)	RS (%)	FBiH (%)
Unemployment	25,8	25,6	25,4
Corruption	20,3	17,0	21,9
Political instability	14,0	12,3	14,9
Poverty, low standard of living	12,6	12,5	12,6
Crime	10,9	12,0	10,4
Economic reconstruction	7,3	11,0	5,5
Poor inter-ethnic relations	3,3	2,3	3,9
Refugee return	2,3	1,8	2,6
Poor health care	1,7	2,3	1,4
Prosecution of war criminals	1,2	0,8	1,4
Other	0,4	1,3	0,0

The findings of the Diagnostic Survey of Corruption in BiH, conducted by the World Bank, also confirm that "the public in BiH believes corruption to be very widespread and that it contributes to the growing gap in economic stratification of the population, deters foreign investment and undermines government stability."⁵

3.1.2. Widespread bribing

It is worrisome that the practice of bribing is increasingly seen as 'morally neutral', as part of the "efficiency of the system", thus directly causing moral erosion of the society.

The surveys by TI BiH showed that 84.7% of the respondents believe that it is necessary to offer money to a clerk to solve a problem. The views are similar concerning gifts: 85% of the respondents believe that offering a gift to a clerk greatly increases the likelihood of resolving a problem, while 82% consider it likely that the same result will be achieved by offering the clerk a reciprocal favor.⁶ A particularly striking finding of the survey among civil servants is that one in three respondents believe that colleagues who

⁵ Diagnostic Surveys of Corruption, BiH, World Bank, 2001.

⁶ 'Study of Perception of Corruption in BiH', Transparency International, Sarajevo, June 2002.

refuse to ask for, or accept, bribes are sometimes ostracized, criticized, victimized or forced out of their institutions.⁷

3.1.3. Customs administration, health care and education are among most corrupt public services

According to TI research, the following table contains ranking of public services by degree of corruption:

Institution ⁸	Number of respondents – clients	Percentage of respondents paying bribes
Health Care	610	26%
Education	600	7%
Police	147	17%
Judiciary	157	5%
Other	571	5%

TI research demonstrated that 89.3% of respondents believed corruption existed in higher education. The findings about perception of corruption are similar for health care, where, in the opinion of 76.5% of respondents believe that there is corruption among health care employees. It is worrying that in reality there is a "typical price list" and that access to some services and physicians depends on the capacity to pay.

Conflict of interest is particularly present in public agencies and institutions. 75% of respondents believe that at least some of their colleagues own private companies. The customs administrations are at the head of the most corrupt list: nearly 90% of the customs administration employees who responded, believed that corruption is widespread in their agencies. Abuse of office also occurs in the customs service, to protect interests of businesspersons linked by political or other connections to employees of the customs administrations.⁹

3.1.4. Corruption in judiciary, prosecution authorities and police: doubtful independence.

Judiciary, prosecution authorities, as well as police, take a particular place in corruption analysis, exactly because their fundamental role of safeguarding and enforcing the law. The recently published fact that, as of September 4, 2003, 3,040 complaints were registered against judges and prosecutors, is alarming.

In this context, it is notable that TI research found that 64.4% of respondents stated that there is corruption in these institutions. In the case of police, only 3.3% of respondents stated that police is not corrupt. According to this study, one in four inhabitants was asked to pay bribes to policemen.

3.1.5. Corruption has direct effect on increase of poverty

A high degree of corruption in public institution, particularly in health care and education, undermines the principle of equality in provision of public services, and thereby causes an increase of general poverty and the gap between the rich and poor.¹⁰ It should be noted that the poor are particularly sensitive to corrupt practices.¹¹

3.1.6. Corruption adversely affects the development of private sector and attractiveness for foreign investment

Potential for investing in BiH and strengthening of private sector is further reduced by findings that '18% of company outlays are bribes, while one-tenth of the managers' time is occupied by various communications with the authorities.¹² Such facts make the country less attractive for investment. By undermining the efficiency of the legal system, corruption increases the degree of uncertainty and causes the rise in investment costs, thereby reducing the interest of foreign investors in BiH.

⁷ Diagnostic Surveys of Corruption, BiH, World Bank, 2001.

⁸ Diagnostic Surveys of Corruption, BiH, World Bank, 2001.

⁹ Diagnostic Surveys of Corruption, BiH, World Bank 2001.

¹⁰ Diagnostic Surveys of Corruption, BiH, World Bank 2001.

¹¹ Right to equal access to justice: International Convention on Civil and Political Rights (ICCPR), Article 14, Convention of the Rights of the Child (CRC), Article 40, Convention on Elimination of All Forms of Discrimination against Women (CEDAW), Article 15.2, Convention on Elimination of Racial Discrimination (CERD), Article 5a.

¹² Diagnostic Surveys of Corruption, BiH, World Bank, 2001.

4. Priority activities

4.1. Establish appropriate bodies within the state and entity justice ministries, in order to improve coordination of anti-corruption activities¹³

An appropriate body within the BiH Justice Ministry should be responsible for international cooperation and investigative activities related to the analysis of causes and manifestations of corruption in BiH. Anti-crime and anti-corruption sub-committees should be established in the parliaments at all levels of government. In this context, it is important to consistently implement the Law on Conflict of Interest and to reinforce the election commissions for its implementation.

4.2. Continue the reform of the judiciary¹⁴

The goal of the court system reform is the establishment of an efficient professional, independent, autonomous, professional, transparent and modern system, which will operate on the same basis throughout the country.

In the FBiH and RS, the structure of the court system has been reformed, with municipal and cantonal, or regional, courts. The implementation of the law on the number and composition of court employees is under way, and establishment of commercial departments at the cantonal/regional courts is imminent, which should considerably reduce the scope for corruption in the business sphere. It is vital to continue and intensify activities to ensure transparent election of judges and consistent insistence on professional and ethical criteria.

Legislative reforms of procedural laws are important for the reform of the judiciary. In the area of criminal law, criminal procedures were introduced at the level of BiH, FBiH, RS and Brcko District in order to:

- exclude judges from criminal proceedings
- expand the powers of the prosecution authorities in investigations
- introduce new investigative techniques
- enhance procedural efficiency, with ensuring protection of human rights.

It is particularly important to implement the new criminal laws, which define new criminal acts, such as money-laundering, breaches of payments system security, bribing etc. It is also important to reform regulations of offences, misdemeanors and economic crime, including introduction of modern techniques of investigation for uncovering and prosecuting corruption, in line with the European standards and principles of protection of human rights. The BiH Parliamentary Assembly enacted a series of state laws which describe these offences, but a body in charge of their prosecution needs to be established.

It is of highest importance to implement the new laws on administrative proceedings, which serve to protect creditors and implement valid court decisions and court execution orders, as well as of the laws on bankruptcy and the laws on entering legal persons in court registers.

The reform of the laws on obligations must be accelerated, to regulate debts and collection of claims, in line with the European Law, as well as the reform of property codes, which would regulate the area of property and other property rights in a single fashion, as well as passage of the state law on money-laundering.

Legislative reforms go in parallel with institutional reform of courts and other judicial institutions. By mid-2004 departments for commercial disputes should be established in 16 first-instance courts around the country (10 in FBiH, 5 in RS and 1 in RS), and the training of judges for working in such specialized commercial departments within first-instance courts should start, to ensure efficient implementation of, first of all, the new laws on legal proceedings and administrative proceedings.

¹³ Report of the European Commission to the Council on Preparedness of BiH to Start the Negotiation on the Stabilization and Association Agreement with the EU, Brussels, 18 November 2003.

¹⁴ OHR, which coordinates important reforms of the legal system and judiciary, has greatly contributed in the combat against corruption. Enactment of the BiH Criminal Code, BiH Law on Criminal Proceedings and the Law on Court Police.

The prosecution offices at all levels have been recently restructured, and the BiH State Prosecution Office has been established. The enacted laws on prosecution authorities considerably altered the role of prosecutors, who assumed responsibility for investigations. The practice of police, customs and financial inspectors conducting investigations were abolished, which reduced the scope for corruption and enhanced efficiency. The reform of the prosecution authorities is one of the most significant activities for strengthening the rule of law and the confidence of the public in the institutions of society.

In consultation with civil society, conducted within the framework of the preparation of the BiH Medium-Term Development Strategy, it was emphasized that more severe penalties for persons offering bribes, or corrupting the public sector in any other way, need to be introduced. The focus was particularly directed towards the professional lawyers, who are, in the opinion of the NGOs, most frequently involved in the process of corrupting civil servants. In this context, the bar associations must devote special attention to strengthening of the code of the legal profession and to monitoring of the law practice.

4.3. Strengthen efficiency of anti-crime and anti-corruption bodies¹⁵

Normative penalization of corruption, through provisions of the criminal laws of BiH, FBiH, RS and Brcko District, and the newly enacted laws on criminal proceedings, is surely an important factor in combating corruption and crime in general. Amendments of the regulations of the powers of prosecution authorities and the new role of justice ministries in the prosecution process provide new and more efficient ways to uncover and combat corruption.

The bodies in charge of investigation and reporting (such as ministries of interior, financial police, customs administration, tax administration, authorized auditors, prosecution authorities, criminal courts etc.), which are responsible for the implementation of most laws and regulations, must be strengthened. It is particularly important to continue efforts to curb political influences and accelerate modernization of the investigative and reporting bodies.

It is further necessary to establish daily and functioning cooperation of all these bodies on combating acts of corruption. In this sense, it is particularly important to continue adding to the normative and legal framework, as in the case of enactment of the Law on Anti-Fraud Administration and the Law on Prevention of Money Laundering, or with continued implementation of the CIPS project.

Abolishment of the role of the investigating magistrate in the Law on Criminal Proceedings at all levels, and by assigning a more active role in the investigation and prosecution process to the justice ministries, processing of crimes will be accelerated, and the preconditions for a higher efficiency of the judiciary as a whole have been created. These reforms should continue, in order to keep reducing the opportunities for bribing and corruption.

To increase effectiveness of the investigative and prosecution bodies, the prerequisites for implementation of the laws on post-trial protection of witnesses exposed to threats and to danger.

Finally, it is indispensable to secure adequate funding for operations of investigative and prosecution bodies.

4.4. Continue reform of the indirect taxation system

The reform of the indirect taxation system has an important role in the combat against corruption. The change of place of collection of the sales tax for high-excite goods from retail to point of imports or production, has already produced positive results, reflected in the increase of public revenues.

As previously mentioned, independent studies showed that, of all public services, the customs administration is the most corrupt. Therefore it is important to implement the reform of the indirect taxation system, which requires establishment of a single customs administration at the state level and which will reduce corruption in this branch of public administration. Introduction of the Value-Added Tax (VAT) will significantly reduce scope for currently widespread fraud and reduce the loss of public revenues, as well as enhance the business climate.

¹⁵ Report of the European Commission to the Council on Preparedness of BiH to Start the Negotiation on the Stabilization and Association Agreement with the EU, Brussels, 18 November 2003.

4.5. Reform of public and state administration

At the level of BiH, RS and Brcko District, civil service agencies have been established, while founding of such an agency in FBiH is in progress. The purpose of establishment of these agencies is to strengthen and depoliticize the civil service. Establishment of respective agencies at the cantonal and municipal level needs to be accelerated. In the coming period, it is important to devise the codes of conduct of civil servants and to improve their qualifications. In practice, there are overlaps in responsibilities between different levels of government, as well as excessive bureaucratization, which creates opportunities for corruption. Activities on preparation of the strategy for reform of public administration are underway. The Action Plan for Reform of Civil Service in BiH is scheduled for adoption by September 2004.

Among other things, these reforms should allow citizens access to information. The right to information is a crucial human right, which allows even the most vulnerable categories of the population to participate more actively in conduct of public affairs.¹⁶

4.6. Strengthen the public finance management and control system

Strengthening the system of management and control of collection and spending of public revenues remains a vital activity in the struggle against corruption. In this context, it is necessary to:

- strengthen auditors' bureaus at all levels, through increasing their budgets and their staff,
- establish electronic links between auditors' offices at all levels, and with tax administrations,
- introduce treasury system in all cantons and municipalities,
- enact a new legal framework for BiH on public procurement,
- enact the BiH Law on Accounting and Auditing
- establish the systems of internal control of collection and spending of public revenues in all bodies of public administration, including ministries,
- ensure transparency in collection and spending of public revenues by publishing budgets at all levels,
- establish systems of internal auditing in all larger institutions and public enterprises and identify an appropriate model for smaller institutions,
- strengthen the role of parliamentary committees, responsible for auditing on all levels of government, in the sense of monitoring of the realization of recommendations and conclusions following the findings of audits and demanding responsibility for errors identified.

4.7. Continue activities in combating human trafficking¹⁷

Bosnia and Herzegovina is, in most international reports, described as one of the countries that faces the problem of human trafficking, both as a transit country or a final destination, and most recent indicators show that female citizens of BiH have also become victims of trafficking.¹⁸

In the previous period, considerable activities were conducted to strengthen the institutional framework for combating this problem. The BiH Council of Ministers adopted the Action Plan on Prevention of Human Trafficking in BiH on 6 December, 2001, and the State Commission, established on 14 March 2002, was tasked with its implementation. The Council of Ministers appointed the State Coordinator for Combating Human Trafficking and Illegal Immigration, whose task is to operationally coordinate activities of domestic and international institutions that deal with this issue. In this context, the Law on Movement and Stay of

¹⁶ Political rights and freedoms: International Convention on Civil and Political Rights (ICCPR), Articles 19, 21, 22 and 25, General Comment No. 10, (XIX Session, 1983), adopted by the Human Rights Committee (HRC), International Convention on Economic, Social and Cultural Rights (ICESCR), Article 8, General Comment No. 25 (57, 1986), adopted by the Human Rights Committee (HRC), Convention on the Rights of Child (CRC), Article 13 and 15, Convention on Elimination of All Forms of Discrimination against Women (CEDAW), Article 7, Convention on Elimination of All Forms (CERD), Article 5c, d, viii and ix.

¹⁷ Report of the European Commission to the Council on Preparedness of BiH to Start the Negotiation on the Stabilization and Association Agreement with the EU, Brussels, 18 November 2003.

¹⁸ For more information see: Report of Human Rights Watch, November 2002, work of the STOP (Special Trafficking Operations Programme) Team of UNMIBH, IOM and Ministry of Human Rights and Refugees

Foreigners and on Asylum was adopted¹⁹, and the control of the visa regime was strengthened, particularly for citizens of countries where victims of human trafficking most often come from.

Many problems, however, persist. The human-trafficking prevention activities are inadequately supported by international organizations, with the exception of the U.S. Embassy. There was no necessary degree of coordination of international and domestic NGOs with the governments in BiH, which had no insight into their work. Funding for planned activities was insufficient for achievement of better results.

Measures to be taken in the next period:

- secure funding for implementation of the BiH Action Plan for Prevention of Human Trafficking,
- in conformity with the Law on Movement and Stay of Foreigners and on Asylum, amend the temporary instructions and transform them into a Rule Book on Protection of Victims of Human Trafficking,
- conduct intensive activities to collect data and electronically link institutions charged with activities on combating human trafficking,
- adopt guidelines on special protection of minors, which should be integrated as part of the Action Plan for Combatting Human Trafficking, and ensure that ministries responsible for social assistance assume a leading role in their protection,
- educate members of the State Border Service (DGS), particularly to ensure effective implementation of the BiH Criminal Code, Law on Criminal Proceedings and Law on Movement and Stay of Foreigners and on Asylum,
- establish, within DGS, an investigation department for combating human trafficking, and ensure responsible government institutions assume a larger share of responsibility for operations of shelters for victims of human trafficking.

4.8. Strengthen transparency in privatization

According to assessments of both domestic and foreign experts, the privatization process in BiH to date has not been transparent, with the consequence that a number of privatization contracts were concluded in which the public property and employees' rights were inadequately protected, nor were the mechanisms for ensuring that the obligations assumed by the purchasers are met.

To overcome this problem, it is necessary to:

- pass legislation to ensure an effective mechanism for dissolution of those contracts in which the buyer (investor) failed to meet the contractual obligations,
- strengthen the role of the FBiH Privatization Agency and RS Privatization Directorate in conducting the privatization process,
- initiate a public information campaign to ensure that the public is better informed about the privatization process.

4.9. Strengthen transparency and modernize the system of funding education

The data on perception of corruption in education indicate presence of corruption in this area. The education reform, which is underway, has for its primary goal harmonization of education at the level of the state, participation in the regional integration processes, modernization of legislation in this area and reintegration of universities in line with European models. Over and above these reforms, it is necessary to strengthen transparency and modernize the system of funding education throughout the country, which will lead to reduced corruption in this area.

4.10. Implement the health-care system reform, particularly in its financing segment

In the studies conducted by TI BiH and the World Bank, it was determined that, together with the customs administration, health care is highest among the branches of civil services by the level of corruption. A central goal of the reform of the health care system is to ensure equality in provision of health care services, which entails reduction of corruption in this area. For this purpose it is necessary to:

- regulate by law execution of supplementary activities in health care

¹⁹ On the basis of Article IV.4.a) of the BiH Constitution, the BiH Parliamentary Assembly, at the session of the House of Representatives, held on 27 June 2003, and at the session of the House of Peoples, on 18 July 2003, adopted the Law on Movement and Stay of Foreigners and on Asylum, Official Gazette 06/10/2003, Year VII – No. 29.

- reform the funding system of the health care funds,
- increase efforts on reduction of the grey labor market, to increase the health care contribution collection rate,
- adopt the law on public procurement in BiH, which will regulate the system of procurement.

4.11. Strengthen effectiveness in combating money-laundering

In cooperation with the European Commission, appropriate standards in the fight against money-laundering need to be introduced.²⁰ It is particularly important to:

- implement the BiH Criminal Code, which categorizes money laundering as a crime,
- adopt the legislative framework for prevention of money laundering at the level of BiH and FBiH,
- improve coordination of bodies dealing with money laundering (DGS, entity banking agencies, tax police, tax administration of FBiH and the Department for Combating Money Laundering Activities of the RS Finance Ministry),
- implement the adopted Action Plan for Combating Money Laundering,
- establish the single register of bank accounts with the BiH Central Bank.

5. The role of the media and civil society in combating corruption

In the course of preparation of the BiH Medium-Term Development Strategy (PRSP), public debates about the Action Plan for Combating Corruption were held with participation of NGO representatives. NGOs demonstrated a great interest for cooperation and this dialogue should continue.

The role of the media and civil society in combating corruption is of vital importance. Therefore a greater transparency in the work of governments and public institutions is needed, both in publishing action plans and in consulting with preparation of strategic documents. It is particularly important to ensure transparency in planning and implementation of budgets at all levels.

It is also necessary to establish mechanisms and bodies to allow citizens to point to cases or instances of corruption, as well as mechanisms for processing requests or complaints. It is crucial to provide for further strengthening the offices of state- and entity-level ombudsmen.

In the context of forthcoming reform of income tax, the possibility to allocate a share of this revenue for funding NGO activities will be considered.

²⁰ Report of the European Commission to the Council on Preparedness of BiH to Start the Negotiation on the Stabilization and Association Agreement with the EU, Brussels, 18 November 2003.

No.	Activity	Responsible Institution	Deadline	Comments
40	Adopt the strategy of foreign borrowing	BiH Council of Ministers, BiH Ministry of Finance and Treasury, BiH Parliamentary Assembly	Second half of 2004	To ensure that most foreign borrowing is under concessional terms, particularly in the first part of the medium-term period, that the limited commercial borrowing is employed exclusively in those sectors capable of independent repayment (such as telecommunications and energy sectors), and only in the second half of the medium-term period, that borrowing for budget support is reduced and borrowing for faster private-sector development is increased, that borrowing for technical assistance is avoided, and that technical assistance should be funded by grant funds.
41	Continue negotiations for recovery of claims arising from work business projects performed by BiH companies before the war (in Iraq and Libya)	BiH Ministry of Finance and Treasury, BiH Foreign Ministry, FBIH Ministry of Finance, RS Ministry of Finance	Continuously	To assist BiH companies to in collecting their claims.
42	Start realization of SWAP arrangement	BiH Ministry of Finance and Treasury	Continuously	

ACTION PLAN - PRIVATE SECTOR GROWTH (STRUCTURAL REFORMS)

Action Plan - Business environment enhancement for domestic and foreign investment and support to entrepreneurship

No.	Activity	Responsible Institution	Deadline	Goals/Comments
LAWS AND REGULATIONS				
1	Adopt the bylaws and establish the institutional framework for implementation of the BiH Law on Consumer Protection ⁴	BiH Council of Ministers, FBIH Government, RS Government	First half of 2004	To strengthen the single economic space in BiH, in conformity with the recommendations of the EU Feasibility Study.
2	Adopt the BiH Framework Law on Business Registration	BiH Council of Ministers	First half of 2004	To establish a single business register in conformity with the recommendations of the EU Feasibility Study. ⁵
3	Adopt entity laws on business registration	FBIH Government, RS Government	First half of 2004	To simplify the process of business registration.
4	Adopt the BiH Framework Law on Inspections	BiH Council of Ministers, BiH Ministry of Foreign Trade and Economic Relations	First half of 2004	To harmonize entity laws on inspections and enhance business climate.

⁴ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU, (EC Feasibility Study), Brussels, 18 November 2003, pp 22-23.

⁵ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU, (EC Feasibility Study), Brussels, 18 November 2003..

No.	Activity	Responsible Institution	Deadline	Goals/Comments
5	Adopt entity laws on inspections	FBIH Government, RS Government	First half of 2004	To reform inspectorates.
6	Adopt the RS Law on Notaries	RS Government	First half of 2004	To establish a more adequate creditor protection.
7	Adopt the BiH Framework Law on Registered Pledges for Movable Property	BiH Parliamentary Assembly	First half of 2004	To establish a more adequate creditor protection. Adopted at the BiH Council of Ministers.
8	Adopt entity laws on registered pledges for movable property	FBIH Government, RS Government	First half of 2004	To establish a more adequate creditor protection.
9	Adopt the FBIH Property Law	FBIH Ministry of Justice	First half of 2004	To codify ownership rights that are at present covered by different regulations and ensure greater protection of creditors and investors.
10	Adopt the Property law of RS	RS Ministry of Justice	First half of 2004	To codify ownership rights that are at present covered by different regulations and ensure greater protection of creditors and investors.
11	Adopt the FBIH Law on Obligations	FBIH Ministry of Justice	First half of 2004	To ensure more adequate protection of creditors.
12	Adopt the RS Law on Obligations	RS Justice Ministry	First half of 2004	To ensure more adequate protection of creditors.
13	Adopt the new FBIH Cadaster law	FBIH Ministry of Justice,	First half of 2005	To integrate land registers and cadasters.
14	Adopt the new RS Cadaster Law	RS Ministry of Justice	First half of 2005	To integrate land registers and cadasters.
15	Adopt the BiH Law on Restitution	BiH Ministry of Justice	Second half of 2006	Resolution of disputes connected with the restitution.
16	Adopt the legal framework for out-of-court resolution commercial disputes	BiH Council of Ministers, FBIH Government, RS Government	First half of 2004	To reduce the case burden of the courts.
17	Regulate by law the status of FIPA	BiH Council of Ministers	First half of 2004	FIPA currently is not included in the BiH Law on the Council of Ministers.
18	Harmonize the consumer protection laws with the EU laws	BiH Council of Ministers, FBIHFBIH Government, RS Government	Continuously	To meet the recommendations of the EU Feasibility Study.
19	Adopt the harmonized legal framework for development of small and medium enterprises (SMEs)	BiH Ministry of Foreign Trade and Economic Relations, FBIH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	Second half of 2004	The RS adopted this law, while such law does not exist in FBIH and the Brcko District.
20	Implement the recommendations of the European Small Business Charter	BiH Ministry of Foreign Trade and Economic Relations, FBIH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	Second half of 2005	To stimulate development of SMEs.

No.	Activity	Responsible Institution	Deadline	Goals/Comments
21	Adopt the BiH Law on Market Surveillance	BiH Ministry of Foreign Trade and Economic Relations, FBIH Ministry of Trade, RS Ministry of Trade and Tourism	First half of 2004	To improve the business climate.
22	Adopt the BiH Framework Law on Freedom of Movement of Goods	BiH Ministry of Foreign Trade and Economic Relations, FBIH Ministry of Trade, RS Ministry of Trade and Tourism	First half of 2004	to remove barriers to inter-entity trade.
INSTITUTIONS				
23	Establish the single business register at the BiH level ⁶	BiH Ministry of Finance and Treasury	Second half of 2004	To simplify the business registration procedures.
24	Establish the single pledge register at the BiH level	BiH Ministry of Finance and Treasury	Second half of 2004	To ensure more adequate protection of creditors.
25	Establish the BiH Competition Council and ensure adequate budgetary funding for its work	BiH Ministry of Foreign Trade and Economic Relations	First half of 2004	To protect consumers and strengthen the single economic space.
26	Establish entity bureaus for competition and consumer protection ⁷	FBIH Government, RS Government	First half of 2004	To protect consumers and strengthen the single economic space.
27	Create preconditions for operations of 16 commercial departments established with first-instance courts.	First-instance courts in BiH	First half of 2004.	To accelerate resolution of commercial disputes.
28	Establish an independent appeals body for decisions of tax authorities at all levels	FBIH Ministry of Finance, RS Ministry of Finance	First half of 2004	To resolve complaints on decisions of tax administrations.
29	Establish the FBIH Inspectorate	FBIH Government	Second half of 2004	To reform the inspection services.
30	Establish the RS Inspectorate	RS Government	Second half of 2004	To reform the inspection services.
31	Strengthen the capacity of FIPA	BiH Council of Ministers	Continuously	For more efficient promotion of foreign direct investments in BiH. It is particularly important to start operations of FIPA offices in the entities.
32	Establish the State Commission for Concessions and adequate lower level commissions	BiH Council of Ministers, FBIH Government, RS Government	First half of 2004	To promote foreign investment.
33	Strengthen the institutional framework for implementation of policies in the area of entrepreneurship and SME development, as well as coordination of the work of the State Bureau for Implementation of Recommendations of the European Small Business Charter with competent entity institutions.	BiH Ministry of Foreign Trade and Economic Relations, FBIH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	Continuously	To implement recommendations of the European Small Business Charter.

⁶ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU, (EC Feasibility Study), Brussels, 18 November 2003, p. 44.

⁷ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU, (EC Feasibility Study), Brussels, 18 November 2003, p. 22-23.

No.	Activity	Responsible Institution	Deadline	Goals/Comments
34	Establish SME development centers in local communities	FBiH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	First half of 2005	To enhance the competitiveness (ensure increased productivity) and strengthen technical and technological capacities of SMEs through establishment of business incubators and clusters, creation of industry zones, technological parks and networks, cooperatives etc.
35	Establish human resources development agencies	FBiH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	First half of 2005	To ensure training of personnel with skills in short supply.
36	Establish a guarantee fund for the support to SMEs	FBiH Government, RS Government	First half of 2005	To stimulate SME development.
Measures				
37	Train judges who will work in specialized commercial departments in first-instance courts.	FBiH Justice Ministry, RS Justice Ministry	Second half of 2004	To improve efficiency of resolution of commercial disputes.
38	Further simplify business registration procedures and, following the model for registration of foreign companies, minimize the number of public and other institutions involved in the registration process. ⁸	BiH Council of Ministers, FBiH Government, RS Government	Continuously	To reduce duration of the business registration procedure to 10 to 15 days and to reduce the cost of business registration.
39	Design the active consumer protection policies in conformity with the EU laws	BiH Council of Ministers, FBiH Ministry of Trade, RS Ministry of Trade and Tourism	Continuously	To satisfy the preconditions of the EU Feasibility Study.
40	Form independent and efficient administrative structures which will ensure that basic conditions with regard to health and safety protection are met	BiH Council of Ministers, FBiH Government, RS Government	Continuously	To satisfy the recommendations of the EU Feasibility Study.
41	Introduce a harmonized system of registration of real estate	Courts in BiH	First half of 2005	To satisfy the recommendations of the EU Feasibility Study with regard to increase confidence in the ownership.
42	Ensure more effective protection of intellectual property	BiH Ministry of Foreign Trade and Economic Relations, FBiH Ministry of Trade, RS Ministry of Trade and Tourism	First half of 2004	One of the preconditions for concluding the SAA is a more effective protection of intellectual, industrial and commercial property, including protection from forgery and pirating. BiH will also need to accede to multilateral conventions regulating this field, which has already been signed by EU countries. ⁹
43	Ensure full transparency in the area of government subsidies through annual publication of an inventory of subsidies. ¹⁰	FBiH Government, RS Government	First half of 2005	In the future SAA, BiH will have to abstain from measures that will have an adverse effect on competition. ¹¹

⁸ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU', (EC Feasibility Study), Brussels, 18 November 2003, p. 44

⁹ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU', (EC Feasibility Study), Brussels, 18 November 2003.

¹⁰ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU', (EC Feasibility Study), Brussels, 18 November 2003.

¹¹ Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU', (EC Feasibility Study), Brussels, 18 November 2003.

No.	Activity	Responsible Institution	Deadline	Goals/Comments
44	Further liberalize the labor market, the regime for current transfers and movement of capital	BiH Council of Ministers, FBIH Government, RS Government	First half of 2005	Within the framework of the SAA, BiH will be required to assume the obligation of abolishment of all discriminatory measures in giving primacy to domestic labor force in comparison with the EU labor force, as well as to progressive liberalization of the internal and external movement of capital, particularly with regard to foreign direct investments (FDI).
45	Introduce provisions on joint product approvals into the BiH legal system and remove all requirements for double issuance of licences and approvals ¹²	BiH Ministry of Foreign Trade and Economic Relations, FBIH Government, RS Government	First half of 2004	A recommendation from the EU Feasibility Study to allow BiH businesses to operate on the entire BiH market, regulated by a single set of administrative procedures.
46	Adopt the Code of Conduct for tax officials at all levels	BiH Indirect Tax Authority, FBIH Ministry of Finance, RS Ministry of Finance	First half of 2004	To enhance responsibility in their work.
47	Strengthen the system of urban planning and coordination on all levels	Municipalities	Continuously	To simplify procedures of obtaining building permits and to determine ownership over real estate.
48	Merge the procedures for issuing zoning and building permits.	Municipalities	Second half of 2004	To simplify and lower the cost of obtaining building permits.
49	Promote the image of BiH abroad	BiH Foreign Ministry, FIPA	Continuously	To attract foreign investors.
50	Prepare the Foreign Investment Strategy for BiH	BiH Ministry of Foreign Trade and Economic Relations, FIPA	Second half of 2004	To plan promotion of investing in BiH.
51	Continuously work on increasing the number of countries with which BiH signed agreements on avoidance of double taxation and on investment promotion and protection.	BiH Ministry of Finance and Treasury, BiH Ministry of Foreign Trade and Economic Relations	Continuously	To improve the business climate for foreign investment.
52	Eliminate cash fines from the practices of inspectorates	FBIH Government, RS Government	Second half of 2004	To reduce fraud.
53	Implement the Action Plan for Combating Corruption	BiH Council of Ministers, FBIH Government, RS Government, FBIH Ministry of Internal Affairs, RS Ministry of Internal Affairs	Second half of 2005	To improve the business climate (see the separate section on this topic).
54	Simplify the FDI registration procedure in FBIH and harmonize procedures at the BiH level	BiH Ministry of Foreign Trade and Economic Relations, FBIH Government, RS Government	First half of 2004	To improve the business climate for FDI.

¹² Report of the EC to the Council on Preparedness of BiH to Start Negotiations on the Stability and Association Agreement with the EU', (EC Feasibility Study), Brussels, 18 November 2003, p. 44.

No.	Activity	Responsible Institution	Deadline	Goals/Comments
55	Strengthen corporate governance	FBiH Government, RS Government, Capital Markets Council with the BiH Central Bank	Continuously	To improve the business climate, improve efficiency and competitiveness of domestic companies.
56	Adopt SME development strategy ¹³ in BiH	BiH Ministry of Foreign Trade and Economic Relations, FBiH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	Second half of 2004	To simulate SME development.
57	Within the framework of the education reform, include entrepreneurship training into secondary-school curricula, and stimulate establishment of special programs for training managers in institutions for higher education	FBiH Ministry of Education and Science, RS Ministry of Education and Culture	First half of 2005.	To implement the recommendations of the European Small Business Charter.
58	Support development of specialized consulting institutions capable of assisting SMEs in acquiring new skills and technologies, particularly in the field of international standards and certificates.	FBiH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	Continuously	To implement the recommendations of the European Small Business Charter.
59	Establish a regular coordination of competent entity ministries with the Office of the State Coordination for Promotion of Entrepreneurship and with other ministries and institutions to implement SME development projects.	BiH Ministry of Foreign Trade and Economic Relations, FBiH Ministry of Development, Entrepreneurship and Trades, RS Ministry of Economy, Energy and Development, Government of the Brcko District	First half of 2004	Stimulate development of entrepreneurship.

Action plan - privatization

No.	Activity	Responsible Institution	Deadline	Goal/Comment
LAWS AND REGULATIONS				
1	Adopt the FBiH Law on Evaluation of Execution of Obligations Arising from Privatization Purchase Contracts.	FBiH Ministry of Energy, Mining and Industry, FBiH Parliament	First half of 2004	Necessary to set up a mechanism to assess the degree of execution of obligations from the privatization purchase contract assumed by the purchaser, including mechanisms for annulment of the contract.
2	Adopt the Law on Changes and Amendments of the Law on Privatization in FBiH	Federation Ministry of Energy, Mining and Industry, FBiH Parliament	First half of 2004	Necessary for a more active participation of the Agency in privatization preparations, i. e. for possible restructuring of enterprises before privatization, to increase flexibility in the determining of the sequence of privatization method and to manage state shares in privatized companies.
3	Adopt the FBiH Law on Changes of the Law on the Initial Balance Sheet of Companies and Banks	FBiH Ministry of Finance, FBiH Parliament	First half of 2004	Required for determination of the initial value of the enterprise, and on the basis of estimated value, in order to define the method of transfer of assets and rights from the passive sub-balance of the enterprises to the agencies.

¹³ SME – Small and Medium Enterprises.