



NATIONS IN TRANSIT 2023

Bosnia and Herzegovina

TRANSITIONAL OR HYBRID REGIME

37
/100

Democracy Percentage	36.90 /100
Democracy Score	3.21 /7

LAST YEAR'S DEMOCRACY PERCENTAGE & STATUS

38 /100

Transitional or Hybrid Regime

The ratings are based on a scale of 1 to 7, with 7 representing the highest level of democratic progress and 1 the lowest.

The Democracy Score is an average of ratings for the categories tracked in a given year. The Democracy Percentage, introduced in 2020, is a translation of the Democracy Score to the 0-100 scale, where 0 equals least democratic and 100 equals most democratic. See the methodology.



TOP

Author

Score changes in 2023

- **Judicial Framework and Independence rating declined from 3.00 to 2.75** due to the demotion of prosecutors for disciplinary reasons, judicial officials being put under US sanctions, high-level officials postponing their cases on suspicious grounds, and an ongoing backlog of cases, all of which restrain the judiciary's ability to act independently and guarantee equality before the law.
- **Corruption rating declined from 3.00 to 2.75** due to systematic corruption continuing to go unchecked, as exemplified by several high-level corruption cases this year, including the arrest of the state Minister for Human Rights and Refugees and the filing of a case against the Bosnian Serb Presidency member by a local NGO, which went ignored.

As a result, **Bosnia and Herzegovina's Democracy Score declined from 3.29 to 3.21.**

Executive Summary

The consociational model in Bosnia-Herzegovina (BiH) has not produced liberal democracy in the country despite significant involvement by the international community. The rule of three autarchic, ethnonationalist leaders has led to a communitarian model of democracy through populist mobilization. These processes have effectively established three parallel, ethnic societies in one state. Overall, a process of autocratization by mismanagement at the subnational level has continued to take place in BiH.

Yet the country's consociation prevents full autocracy at the state level. This informal mode of rule is prevalent in the three parallel societies. Institutions are weak, while theocratic influences are strong. Democratic features are nonetheless present, and the hybridity of the model was reflected in the general elections in October 2022. These were conducted under theoretically democratic conditions although with deep-rooted informal ruling party networks and influence, if not full control over local electoral boards.

The European Council granted candidate status to BiH in December ¹ despite its failure to implement most of the 14 key priorities set out in the European Commission's opinion. ² The boycott of state institutions by political parties from the Republika Srpska (RS) had continued until the spring of 2022, and the policy dialogue with the European Union (EU) was unblocked only in June, while the state budget was adopted in July after an 18-month delay. ³ A caretaker government found itself serving another four years in the Federation of Bosnia and Herzegovina (FBiH) since the Croatian Democratic Union (HDZ) blocked the new government's formation. These divisions in the country were also reflected in the stalled process of joining NATO, which is opposed by the RS.

Attempts by EU and US envoys to bring the parties to an agreement on required constitutional and election law changes failed during the year. Thus, the state constitution and other legislation, especially the election law, remained in breach of the European Convention on Human Rights (ECHR) and unaligned with rulings from the European Court of Human Rights (ECtHR) since December 2009. ⁴ High Representative Christian Schmidt—chosen by the international community and given powers to impose decisions in the name of protecting the 1995 Dayton Accords—enacted controversial amendments to the FBiH constitution and election law in the evening after polls were closed but before votes had been counted in the October 2022 general elections.

The political parties accepted the changes but with different reactions. Party of Democratic Action (SDA) leader Bakir Izetbegović claimed the changes “strengthened the position of HDZ.” The Alliance of Independent Social Democrats (SNSD) spokesperson repeated the party's position that “Schmidt is not High Representative and has no rights to impose any decision.” Croatian EU parliamentarian and former Bosnian diplomat Željana Zovko supported the decision, which she saw as “an introduction into the real work that should begin now.” A more cautious reaction came from EU representatives, who stressed that “it was exclusively the High Representative's decision.” The US and UK administrations expressed strong support.

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The electoral decision certainly showed flaws within Bosnian democracy. Political parties are unwilling to compromise, and seize on solutions that suit only their own leadership. The presence of the High Representative in BiH, and his power to impose decisions on his own, reflects a potentially unchecked and unbalanced dynamic with

no place in a democratic country. It does, however, theoretically speed up governance processes and prevents future blockades from the leading nationalist parties. The entire situation reflects the duality of Bosnian governance: full external sovereignty in foreign affairs, but domestic sovereignty is restricted by the powers of the international community (expressed through the High Representative) and the leading powers' ambassadors to the BiH.

Political figures show little sign of accountability to citizens. Following the elections on October 2, several elected leaders switched parties in a matter of days, effectively betraying their voters. ⁶ This is a long-standing practice in Bosnian politics, usually for politicians' personal gain.

The independence and impartiality of the judiciary remained problematic in 2022. The chief prosecutor of the RS was demoted for disciplinary offenses. The state Parliamentary Assembly rejected amendments to the law on the High Judicial and Prosecutorial Council (HJPC) that would have created a rigorous and credible system for verifying financial statements of judicial officeholders. The newly elected state prosecutor was named from only a single candidate after others were disqualified or gave up seeking the position. ⁷

Poor functioning of the judiciary, and no political commitment to reform the justice system, undermine the fight against corruption and organized crime in BiH. The state parliament rejected a law on conflict of interest. The state Minister for Human Rights and Refugees was arrested in December as part of an investigation into organized crime and corruption. Despite this and similar cases, the country's overall record of preventing and fighting corruption remains insignificant. In Europe, only Russia and Ukraine have worse corruption perception indexes. ⁸

Legislation securing and protecting fundamental rights is generally provided, but practices differ from entity to entity. In 2022, an action plan for the social inclusion of the Roma was adopted in April, and for LGBT+ people in July. National minority rights for 17 recognized groups are legally provided, although discrimination often continues, especially towards Roma people and migrants. The main issue domestically is the equality and rights of "constituent peoples" when they are in the minority in a local community.

For several years now, BiH has been the only country not to nominate candidates to the Council of Europe (CoE) expert agencies monitoring minority rights, democracy,

rule of law, and human rights. The mandate of a BiH judge at the ECtHR expired in 2021, and replacement candidates have not been nominated for two years, although the related election commission submitted its report to the state presidency.

Several cases of femicide brought women and activists out into Bosnian streets, although the turnout for these demonstrations was small, reflecting a general inertia in the society despite reported levels of domestic violence. The protesters asked for femicide to be defined as a criminal offense and to harmonize criminal laws with the CoE's Istanbul Convention on combatting violence against women. ⁹

The civic sector and independent media are present in society, but governing bodies and the international community have learned the tactics of ignoring civil society actors and media or restricting resources. Independent media is saturated with administrative controls and pressures, and the advertising policies of major public companies avoid campaigns in independent media, thus increasing their financial pressures. Questionable practices and editorial decisions plague public service broadcasters, while a former director of BH Radio accused the whole of BHRT of acting against Serb journalists. ¹⁰

Despite support from the West to “counter Russian malign influence” and disinformation, ¹¹ BiH has not developed a countrywide strategy to tackle these issues, nor has it aligned its foreign policy with the EU position on Russia's invasion of Ukraine.

The United Nations Population Fund (UNFPA) estimated BiH's population losses at 1.5 percent annually, making it the highest depopulating country in the world. ¹² There are estimates that some 500 villages have zero inhabitants, while less than 10 people live in 1,500 villages. ¹³ Emigration figures over the past decade show that 485,000 Bosnians left the country between the last census in 2013 and 2021. ¹⁴ The state and entity governments have taken no action to reverse this trend, which actually suits the ruling parties, whose voters are rewarded with positions, jobs, and contracts and remain in the country—thus further strengthening the electoral basis of the ruling nationalist parties.

At-A Glance

In BiH, governance at the national and entity levels is blocked by ethnonationalist parties using checks and balances prescribed in the 1995 Dayton Peace Agreement to

stall the country's functioning and create permanent crises as a means to secure power. Elections are generally free but discriminate against national minorities and citizens belonging to "constituent peoples" residing in the "wrong" entity. Even when supported by international donors, the civic sector lacks involvement in the country's democratic processes due to the ruling parties' control over public service broadcasters and many media, and a general lack of judicial independence. The state Parliamentary Assembly first rejected the Law on Prevention of Conflict of Interest that was in line with international anticorruption standards, then exempted some politicians in the second draft, proving that anticorruption reform remains out of reach. Despite the first women elected to the state presidency and serving as state prime minister, gender discrimination, domestic violence, and femicide remain major issues that society largely ignores.

National Democratic Governance 1.00-7.00 pts

Considers the democratic character of the governmental system; and the independence, effectiveness, and accountability of the legislative and executive branches.

1.75
/7.00

- The complexity of the political-territorial organization and governance of Bosnia-Herzegovina (BiH) continues to be reflected in the country's political debates. Since the Dayton Peace Agreement of 1995, the administration of BiH has been divided into two entities: the Republika Srpska (RS), with an ethnic majority of Bosnian Serbs, and the Bosniak-Bosnian Croat-majority Federation of Bosnia and Herzegovina (FBiH). The FBiH is further divided into 10 cantons, while the Brčko District is directly tied to the state-level government. Consequently, the country's governance is divided among 14 distinct state, entity, and cantonal level governments. Under these conditions, the decision-making process is extremely complex and difficult, with a huge administrative apparatus that presents not only a financial burden but numerous possible obstructions.
- In 2022, political parties in power at the state and entity levels used their dominant positions and holding power in the political system to block the functioning of key institutions by refusing to assume their posts yet nevertheless attempting to force their views. **15** The Alliance of Independent Social Democrats (SNSD), led by the Bosnian state presidency member Milorad Dodik and supported by other political parties from the RS entity, continued to

boycott institutions at the state level with only the occasional participation of their representatives in various parliamentary and presidential sessions. ¹⁶ Some forms of blockade continued even after the formal boycott was lifted in February 2022, such as ignoring the urgent parliamentary session convened in March. Members of the Croatian Democratic Union (HDZ)–led Hrvatski narodni sabor (HNS, Croatian National Assembly) joined delegates from SNSD in the boycott on this occasion.

- Dodik continued to question the existence and functioning of the BiH state. ¹⁷ He and other RS representatives embraced divisive rhetoric and rendered national laws inapplicable, thus undermining the constitutional framework, which included unilaterally retaking state competences in the fields of defense, indirect taxes, and the judiciary. ¹⁸ Due to the boycott or inactivity of RS representatives in state institutions, the legislative output at the state level was virtually nonexistent and prevented the adoption of a state budget for a second year. ¹⁹
- The HDZ continued blocking the new government's election in the FBiH, stalling processes at the entity level. ²⁰ As a result, the FBiH was consigned to a caretaker government for another four years. ²¹
- In April, US and UK officials announced lists of sanctions, including against Dodik and his successor, Željka Cvijanović, for attempts to undermine the legitimacy and functionality of the State of Bosnia and Herzegovina. ²² The FBiH prime minister, Fadil Novalić, was added to the list of sanctioned politicians by the US government. ²³
- Members of the state presidency, responsible for conducting foreign policy, opposed each other. The foreign minister acted independently from the state presidency and in accord with the views of her Party of Democratic Action (SDA), thus rendering Bosnian foreign policy essentially nonexistent. The proposed membership and cooperation with NATO drew objections from Dodik. ²⁴ While declaring support for European integration processes, the governing parties failed to fulfill most of the conditions set by the EU. Policy towards Russia, especially following the outbreak of war in Ukraine, ²⁵ and the role of the Office of the High Representative (OHR) similarly divided the members of the state presidency. ²⁶
- An HDZ politician, Marinko Čavara, who had blocked the nomination of judges and the government in the FBiH for four years as the Federation's president, and was therefore put on the US government's blacklist, was elected in December

2022 as deputy leader of the House of Representatives, the lower chamber of the state Parliamentary Assembly.

- The trend of leaving the country continued among the BiH population. An estimated half million citizens have emigrated since the last census in 2013, and the current population is optimistically estimated at below 3 million. ²⁷ This critical situation is a focus for the civic sector and the media, but political parties in power only pay lip service, offering no strategies for dealing with the population crisis. ²⁸ In 2022, the unemployment rate fell to 30.7 percent due largely to this mass exodus. ²⁹
- In July, the BiH Council of Ministers adopted the first-ever strategy to improve the rights and freedoms of LGBT+ people. ³⁰ The action plan for the social inclusion of the Roma was adopted in April. ³¹ Yet political rights remain restricted despite the case law of the ECtHR and its decisions since December 2009. ³²

Electoral Process 1.00-7.00 pts

Examines national executive and legislative elections, the electoral framework, the functioning of multiparty systems, and popular participation in the political process.

4.50
/7.00

- State-level elections for the BiH parliament and presidency, alongside elections for the two sub-state entities (RS and FBiH), were held on October 2, 2022. In addition, the electorate in the FBiH chose representatives in the 10 cantons within the entity. Rules of the election law that discriminate against citizens who live as de facto or de jure minorities in their sub-state entities remained unchanged. ³³ This complex process of elections occurs every two years, alternating between general and local elections. ³⁴
- Again, a lack of political participation was evident in the October general elections, with only 50-percent voter turnout. ³⁵ While the electoral process was generally peaceful and orderly, numerous allegations of fraud at polling stations cast doubt on the whole project of citizens' exercising their democratic will. ³⁶ The Central Electoral Commission has submitted 95 reports to the prosecutor's office since the 2022 general elections were announced. ³⁷
- BiH's election law did not accommodate the prior rulings by the ECtHR that the law is discriminatory against "persons not affiliated with the constituent peoples." ³⁸

- Throughout 2022, EU and US representatives made several attempts to force an agreement to change the election law to accommodate demands of the numerically inferior Croats, represented by their leading nationalist political parties. ³⁹ The HDZ's primary objection was that numerically superior ethnic Bosniaks provide a significant segment of the electoral base of the Croat state presidency member, non-nationalist Željko Komšić. The party's objections were further supported by examples of politicians with traditional Bosniak names who self-declared as Croats and were allocated seats as Croats in the FBiH House of Peoples—thus, in HDZ's view, taking spots from Croat representatives and minimizing Croat votes. ⁴⁰
- Bosniak nationalist parties reacted strongly, some non-nationalists joined, and sporadic civic protests, albeit pushed by political parties, dissuaded international representatives from initiating any changes. However, immediately after the polling stations were closed, the High Representative imposed amendments to the election law that nevertheless remained discriminatory towards de facto and de jure minorities. ⁴¹ Consequently, citizens cast votes according to one set of rules, but the electoral results were applied according to different rules. ⁴² These changes, however, did not address the long-standing rulings of the ECtHR.
- The elections results have been challenged by several participants, including the opposition parties in the RS entity, whose candidate, Jelena Trivić, announced victory in the race for RS President, ⁴³ only to be proven wrong. She subsequently claimed a stolen victory due to later-documented voting irregularities. ⁴⁴
- Civil society electoral observers found 374 irregularities during the campaign and general elections, some of them minor and relying on hearsay evidence. However, it was found that those in power had used public resources, pressured media and civil society, and traded positions on the committees at polling stations. ⁴⁵ Allegations of fraud were directed at polling station committees since, without the use of ballot scanning and electronic voter identification, there was ample space to manipulate results. ⁴⁶
- The Central Electoral Commission made confusing statements following the general elections, one member contradicting the other and the commission's president wrongly announcing some results. ⁴⁷ The commission submitted 44 reports to the prosecutor's office "due to the grounded suspicion that a criminal offense had been committed." ⁴⁸ Commission members were also split

on how to resolve complaints regarding indirect elections for the various Houses of Peoples at the entity and state levels.

Civil Society 1.00-7.00 pts

Assesses the organizational capacity and financial sustainability of the civic sector; the legal and political environment in which it operates; the functioning of trade unions; interest group participation in the policy process; and the threat posed by antidemocratic extremist groups.

4.25
/7.00

- The Ministry of Justice registry noted 25,646 active civic associations and foundations as of December 2022. **49** However, civil society has limited influence on powerholders in BiH. The number of organizations is all-inclusive, mixing sports associations with scientific organizations, human rights groups, taxi drivers associations, and others with minimal presence in public life and media, and inadequate financial resources.
- The governing political parties continued to manipulate the civic sector by supporting those organizations they initially set up. Government-organized nongovernmental organizations (GONGOs) and quasi-autonomous NGOs (QUANGOs) dilute the public scene and activities of the civic sector. For example, the leading Croat populist party, HDZ, created Hrvatski narodni sabor (HNS, Croatian People's Assembly) that included other Croat political parties and was registered as a citizen association. HDZ leader Dragan Čović often acts as a leader of this NGO but makes clear political demands that coincide with the views of his political party.
- During the year, political apathy in the wider society was disturbed only when nationalist parties saw the possible use of citizens to strengthen their position in negotiations with international envoys over changes to the election law. Civic protests in Sarajevo were exploited by Bosniak political parties, while the official organizers were promoted as an "informal group of citizens." **50**
- Trade unions organized miner strikes in the FBiH in September, while some miners in the RS took similar actions two months later. **51** Several other sectors in both entities showed similar concerns, including teachers, health workers, and border officials, among others. **52**
- Instead of judicial and government institutions, it is the civic sector that attempts to struggle against corruption and conflicts of interest in the country. Transparency International BiH filed a complaint with the Commission for

Deciding on Conflict of Interest against then state presidency member Milorad Dodik, stating that companies owned by his family do business with the state and receive incentives from the budget. **53**

- The Center for Investigative Reporting (CIN), Transparency International BiH, and the Center for the Environment sued the RS Ministry of Transport “for violating the law and hiding a document, which is a public good, and in all three cases, the Court found that the decline was unlawful, indicating that it is the information of which the public needs to be informed.” **54** However, the ministry reacted with impunity and ignored the court rulings.
- Discrimination, exclusion, violence, invisibility, and isolation are problems the LGBT+ community faces in Bosnia-Herzegovina. As the last country in the Balkans to observe Pride, BiH held its third such event in Sarajevo in June, which went off peacefully but with heavy police protection. **55** A counterprotest attracted a few extremists citing religious and nationalist reasons for opposing the LGBT+ celebration.
- Dozens of mainly women demonstrated in several Bosnian cities demanding protection and recognition of femicide in Bosnian criminal legislation. A woman’s violent death in Bihać initiated the protests. This event came on top of several reported violent acts against women in the country and estimates that 60 women throughout BiH were killed by their husbands since 2015. **56**
- The unfortunate insignificance of women’s groups in the society is reflected in domestic and foreign policy. The ignorance of state leaders was shown in December when Foreign Minister Bisera Turković hosted her Iranian counterpart and held a press conference showing support for the regime in Tehran while most of the world condemned Iran for violence against women. **57**

Independent Media 1.00-7.00 pts

Examines the current state of press freedom, including libel laws, harassment of journalists, and editorial independence; the operation of a financially viable and independent private press; and the functioning of the public media.

3.25
/7.00

- The media market in BiH remained oversaturated in 2022. Many outlets are dependent on noncommercial sources of funding, thus creating possibilities for authorities to exercise undue influence at various levels. Beyond the pressures exerted by editors and political actors, journalists were also exposed to frequent

violence, including occasional physical attacks. Furthermore, perennial crises in the function and administration of the country's public broadcasters continued to go unresolved.

- Five daily newspapers are published in BiH, **58** as well as three Bosnian editions of dailies published in Serbia or Croatia. **59** There are more than a hundred periodical publications. **60**
- The public service broadcasters—BHRT at the state level; FTV and RTRS in the entities—share the market with 14 public and 23 private licensed broadcasters for terrestrial frequency, while a further 77 broadcasters use other means of transmission. **61** There are 148 licensed radio stations, **62** and thousands of online outlets. **63**
- The media depend on public financing and are susceptible to political pressure. Some independent media outlets survive, such as the Center for Investigative Reporting (CIN), *Žurnal*, Inforadar, and Istraga, providing investigative journalism. **64** The independent online outlet “6yka” in Banja Luka offers other critical perspectives.
- Due to mismanagement and politically motivated decisions, the TV license fee revenue collected in the RS has not been transferred to the state broadcaster for several years, depriving it of the equivalent of €32.2 million.
- The lack of online content filtering undermines the professional standards of many outlets and provides a platform for fake news and insult. Fake bomb threats targeted schools and institutions in the RS and the state capital Sarajevo. **65** The EU military force in BiH, EUFOR, described reports that it had arrested Milorad Dodik for corruption, published by the widely read Serbian newspaper *Srpski Telegraf*, as “nonsense and a completely baseless story.” **66**
- Social networks are used to spread fake news and warmongering. An SNSD member of the Parliamentary Assembly, Dušanka Majkić, tweeted that “Bosnia could suffer the same consequences as attacked Ukraine if it joins NATO,” along with a fake video later debunked by the Bosnian fact-checking portal Raskrinkavanje. **67** Media from the RS have avoided using terms like “aggression,” “invasion,” or even “war” to describe Russia’s attack on Ukraine, with some instead echoing Russian president Vladimir Putin’s terminology, “special military operation.” **68**
- BiH journalists reported 18 cases of death threats, physical attacks, and hate speech during the year, an increase of 137 percent from 2021. There was a 40-percent increase in political and verbal threats to journalists by officials in 2022

alone. None of the cases were investigated by authorities. **69** More than 30 physical and verbal attacks on journalists and the media were registered by the association BH Novinari [BH Journalists] during the year. **70**

- Public companies influence media editorial policies through advertising practices, thus harming media integrity. Strategic lawsuits against public participation (SLAPPs) fuel self-censorship and threaten media outlets' financial survival. **71** Foreign investors use the same tactics. The EU delegation in Sarajevo was urged to condemn SLAPPs filed against local activists by a Belgian company over the environmental impact of their hydropower plant built near the capital. This open letter was signed by 140 organizations from BiH, Europe, and the United States. **72**
- BiH courts and the prosecutor's office often ignore the public's access-to-information requests. According to a Transparency International BiH analysis, authorities have not responded within the prescribed deadline to almost half of the requests. **73**

Local Democratic Governance 1.00-7.00 pts

Considers the decentralization of power; the responsibilities, election, and capacity of local governmental bodies; and the transparency and accountability of local authorities.

3.25
/ 7.00

- The viability of local self-government in BiH continues to be highly dependent on events at the national level. In 2022, municipal heads continued to bend rules to accommodate private investors close to the official's party ranks.
- The RS entity has 54 municipalities and 10 cities, **74** whereas the FBiH entity has 56 municipalities and 22 cities. **75** The practice of incorporating municipalities into cities, purportedly to enjoy more access to funds and enhanced appeal to investors, continued during the year following a brief pause in 2020–21. One new city was created in the RS, whereas six were formed in the FBiH.
- Many local governments have a surplus of public employees, which monopolizes a large percentage of municipal and city budgets on wages.
- The decentralized local government system does not always provide a better quality of services for citizens. A case from Sarajevo showed that authorities at the local borough, city, and cantonal levels often abandoned their oversight of the education system. In this incident, a person convicted for a lewd act towards a minor continued teaching physical education in a Sarajevo primary school

despite the one-year ban against him, and his one-year prison sentence was converted into a financial penalty. **76**

- A discriminatory practice of “two schools under one roof” that segregated children of Croat and Bosniak ethnicity attending separate schools in the same building has not changed despite efforts by the civic sector. **77** Children in 56 schools in 3 cantons—Central Bosnia, Zenica-Doboj, and Hercegovina-Neretva—were subjected to segregated education. Those of Serb or other non-Croat or non-Bosniak ethnicity had a choice to attend either of the two schools under the same roof providing different educational programs. **78** Discrimination continued in the RS educational system, where Bosniak children in some municipalities were denied instruction in the Latin alphabet and their own Bosnian language. **79**
- Murals of convicted war criminal Ratko Mladić that appeared in the past on walls in municipalities of the RS entity have added the letter “Z” (a pro-Russia symbol) following the Russian invasion of Ukraine. Local authorities have taken no action to remove them, including in the RS capital Banja Luka. **80**
- In 2022, ethnic extremism turned to violent vandalism in Mostar, the FBiH capital, where all monuments at the anti-fascist Partisan Cemetery were desecrated and destroyed. Similar actions have occurred since the 1990s, but local authorities have never responded adequately. **81**
- Mostar City Hall finally decided to change the names of streets named after Nazi leaders from World War II. Sarajevo authorities did not change the name of a school and several streets named after “antisemites, fascist ideologues, Nazi and fascist collaborators.” Some streets in Banja Luka are named after World War II nationalist Nazi collaborators. **82**

Judicial Framework and Independence 1.00-7.00 pts

Assesses constitutional and human rights protections, judicial independence, the status of ethnic minority rights, guarantees of equality before the law, treatment of suspects and prisoners, and compliance with judicial decisions.

2.75
/7.00

- The complex judicial system in BiH reflects the political model of the state and operates at several administrative levels: national, two entities, and the Brčko District, each with their own separate judiciaries. This, coupled with 10 cantonal

court systems in the FBiH, has resulted in an inefficient system where jurisdictions are not clearly delineated.

- The independence and impartiality of the judiciary did not improve in 2022, according to the European Commission. ⁸³ Courts are subject to political pressure. As just one example, the Court of Bosnia-Herzegovina postponed the corruption trial of FBiH Prime Minister Fadil Novalić due to health issues, even though he was attending political party functions during the same period.
- In October, High Representative Christian Schmidt imposed changes to the FBiH constitution enabling the election of four judges to the FBiH Constitutional Court. The process was previously blocked for three years by FBiH President Marinko Čavara's refusal to nominate candidates, leaving the court with only five of the required nine judges. ⁸⁴
- In May, the Chief Prosecutor of the RS, Mahmut Švraka, was demoted and replaced due to negligence of his post, following a similar instance the previous year at the state level. ⁸⁵
- In May, the state Parliamentary Assembly rejected amendments to establish an asset declaration system for judges, prosecutors, and the High Judicial and Prosecutorial Council (HJPC).
- Despite a report released in June by the House of Representatives finding a marked deterioration in judicial integrity and public trust in the courts, a new Justice Sector Reform Strategy for 2021–27 and the related action plan were not adopted.
- In June, the Constitutional Court of BiH annulled a series of December 2021 decisions by RS authorities that aimed to transfer the authorities, competences, and jurisdiction of indirect taxation, defense, and the judiciary from the state level to the RS entity. ⁸⁶ The practice of disrespecting decisions of the Constitutional Court of BiH continued nonetheless. Milorad Dodik, at the time a member of the state presidency, reacted to the Constitutional Court's decision by saying that, regardless of the decision, the RS "will continue to do what it considers is best for it." ⁸⁷
- RS Day was again celebrated by the entity's authorities on January 9 despite rulings by the Constitutional Court of BiH barring the holiday's observance in 2015 and 2019. ⁸⁸ Capital punishment has still not been removed from the RS constitution ⁸⁹ despite the entity government's announcement in the past that it would do so after the Constitutional Court of BiH ordered its removal in 2019.

- Justice system institutions and elected officials in BiH continue to ignore requirements for transparency. More than two years after inviting applications, the state presidency did not appoint candidates for a judge to the European Court of Human Rights (ECtHR). Expert committees at the Council of Europe and positions in several international organizations remain without Bosnians only because BiH institutions have not sent lists of candidates. **91**

Corruption 1.00-7.00 pts

Looks at public perceptions of corruption, the business interests of top policymakers, laws on financial disclosure and conflict of interest, and the efficacy of anticorruption initiatives.

2.75
/7.00

- Endemic corruption continued to plague BiH in 2022. Ongoing anticorruption activities were primarily conducted by civil society, NGOs, and the media. At the same time, government institutions refrained from showing any interest or desire to tackle this long-standing and widespread issue. Anticorruption legislation remains largely unharmonized between the various levels of government, so any available anticorruption mechanisms are ineffective, compounded by the lack of political will and judicial independence. **92**
- For the third year, the BiH court case continued against FBiH Prime Minister Fadil Novalić, Minister of Finances Jelka Miličević, head of the Civil Protection Service Fahrudin Solak, and Fikret Hodžić, owner of the raspberry-producing company that was awarded an infamously speculative contract to purchase ventilators during the COVID-19 pandemic. The indicted PM, Fadil Novalić, has remained in office despite calls for his resignation and likely may only be removed from office by a change of government. **93**
- The state Parliamentary Assembly rejected the Law on Prevention of Conflict of Interest in May. **94** The law was in line with international standards and adopted in the lower House of Representatives, but HDZ and SNSD delegates in the upper House of Peoples blocked it. A new version of the proposal entered the state parliament in November. However, the proposed changes exempted state-level elected officials from prohibitions on holding private companies that work with the state, as well as sitting on management boards for associations and foundations financed from public budgets. **95**
- Lower levels of government had a faster procedure: the FBiH government approved the draft law in August. The reaction of the US Embassy was telling:

“The United States welcomes the FBiH government’s approval of the Prevention of Conflict of Interest and Whistleblower Protection Laws, but frankly, the FBiH government should have approved these laws much earlier.” ⁹⁶ A new anticorruption and conflict of interest law was adopted in Sarajevo Canton and will enter into force on January 1, 2023. It will prevent politicians from being elected to political posts while continuing as public company directors. ⁹⁷

- In addition to several public officials, the most prominent person accused of forging her university degree was Sebiha Izetbegović, director of University Hospital Sarajevo, whose husband, Bakir Izetbegović, leads the SDA, the strongest political party in BiH. Izetbegović has been investigated by the university and the cantonal prosecutors for over a year, with no final verdict. Meanwhile, she was elected to the Assembly of Sarajevo Canton as media continued to report on the investigation, with little information made public. ⁹⁸

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Footnotes

- ¹ “EU Candidate Status for Bosnia and Herzegovina: a message to the people and a tasking for politicians,” EEAS Press Team, 19 December 2022, <https://www.eeas.europa.eu/eeas/eu-candidate-status-bosnia-and-herzegov...>
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- 4 CASE OF SEJDIĆ AND FINCI v. BOSNIA AND HERZEGOVINA (Applications nos. 27996/06 and 34836/06), ECtHR, 22 December 2022, <https://hudoc.echr.coe.int/fre?i=001-96491>; CASE OF ZORNIĆ v. BOSNIA AND HERZEGOVINA (Application no. 3681/06), ECtHR, 15 July 2014, <https://hudoc.echr.coe.int/fre?i=001-145566>; CASE OF PILAV v. BOSNIA AND HERZEGOVINA (Application no. 41939/07), ECtHR, 9 June 2016, <https://hudoc.echr.coe.int/fre?i=001-163437>; CASE OF ŠLAKU v. BOSNIA AND HERZEGOVINA (Application no. 56666/12), ECtHR, 26 May 2016, <https://hudoc.echr.coe.int/fre?i=001-163056>; CASE OF PUDARIĆ v. BOSNIA AND HERZEGOVINA (Application no. 55799/18), ECtHR, 8 December 2020, <https://hudoc.echr.coe.int/fre?i=001-206357>
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