

## **Recommendations**

### **1<sup>st</sup> meeting of the EU-Bosnia and Herzegovina (BiH) Stabilisation and Association Committee**

**Brussels, 17 December 2015**

#### **General**

1. The Committee adopted in accordance with Article 10 of its Rules of procedure the Decision N°1/2015 creating subcommittees and special groups. Through this decision it established seven subcommittees and Special group on Public Administration reform (PAR) and specified their structure and terms of reference.

#### **Pre-accession and Reform Agenda**

2. The EU welcomed the adoption of the 2015-2018 Reform Agenda and related Action Plan on major socio-economic reforms by all levels of government. It noted that the Council of Ministers has accomplished 17 out of 33 measures at State level in cooperation with the entities,
3. The EU noted the intention of BiH to intensify its efforts to implement the steps and requirements referred to in the Council conclusions of 2014 and 2015 which need to be made in order to submit a membership application. Meaningful progress in implementing the reform agenda will be necessary for a membership application to be considered by the EU..
4. The EU recalled that an effective coordination mechanism is indispensable for the alignment, implementation and enforcement of EU laws and for an efficient interaction with the EU. It encouraged BiH to step up cooperation between the State-level, Entity-level and Brčko District parliaments.
5. The EU expressed its high expectations that BiH delivers fast on the adaptation of the Stabilisation and Association Agreement (SAA) following Croatia's accession to the EU in accordance with the established principle of traditional trade as accepted by the Stabilisation and Association Council of 11 December 2015 as a basis for a mutually agreeable solution. Negotiations between BiH and the European Commission should resume urgently.
6. The EU expressed its serious concerns about the preparations for holding an entity-level referendum on state-level judiciary in the Republika Srpska which would challenge the cohesion, sovereignty and territorial integrity of BiH. It would also risk undermining the efforts to improve the socio-economic situation of all BiH citizens and making further progress in EU integration. The outstanding shortcomings of BiH judiciary should be addressed in the Structured Dialogue on Justice.

#### **Public administration reform**

7. The EU regretted that BiH is still lacking a solid country-wide, politically supported and financially sustainable strategic framework on public administration reform as well as a related public financial management reform programme.
8. The EU called the competent authorities to step up efforts in the overall reform process as this is a key priority under the reform agenda but also in the framework of the European integration process.

9. The EU strongly regretted that politicisation of the civil service remains an issue that has not been effectively addressed by the relevant institutions and expressed deep concerns over recent developments in the area of civil service legislation and in particular in the Federation. The EU urged BiH to build a professional civil service system that is based on the European public administration principles of efficiency, accountability and transparency.

### **Rule of Law**

10. The EU welcomed the adoption of the Judicial Sector Reform Strategy and the envisaged ministerial meetings and implementing measures envisaged for early 2016, and encouraged BiH to make full use of EU technical assistance.
11. The EU noted that BiH's cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) continued to be assessed as satisfactory in most areas. The EU reiterated that the overall implementation of the National War Crimes Strategy remains a priority, with the aim to timely processing of all cases including those related to sexual and gender based violence in line with the National Action Plan for implementation of UNSCR 1325, in order to guarantee justice for all war crime victims and their families.
12. The EU welcomed the adoption by BiH of a new anti-corruption strategy and action plan covering the years 2015-2019 and called on BiH to ensure the allocation of sufficient funds from the budget for its implementation.
13. The EU encouraged BiH to develop a coherent national security policy, to sign and implement an operational agreement with Europol, to conclude a cooperation agreement with Eurojust and to step up coordination and cooperation between all institutions throughout the country in the fight against organised crime.
14. The EU stressed the importance of building up a credible track record of effective investigations, prosecutions and final convictions in cases of corruption and of organised crime, including at high-level.

### **Human Rights and the protection of minorities**

15. The EU underlined the importance of ensuring full respect of human rights and in particular the implementation of effective anti-discrimination policies. The EU encouraged BiH to step up efforts in revising the anti-discrimination law and bring it in line with the European standards and to develop a country-wide anti-discrimination strategy. The EU asked BiH to submit the Draft law on amendments to the Anti-Discrimination Law.
16. The EU welcomed the adoption by BiH of action plans for the implementation of the ECtHR rulings on the Sejdić/Finci and the Zornic cases.
17. The EU called on BiH to bring to an end the "two schools under one roof" practice which is conducive to ethnic segregation of pupils in school. It asked BiH to provide more detailed information on the implementation of conclusions of the Ministerial Conference on Education.
18. The EU welcomed the appointment of the Ombudspersons and urged the adoption of the changes to the Ombudsman law in line with the Paris principles and to provide the Ombudsman with the necessary financial and human resources. BiH was asked to submit the Draft law on amendments to the Law on Ombudsman.

19. The EU called the BiH competent authorities to effectively address cases of hate speech and hate crimes targeting in particular members of the LGBTI community and human rights defenders.
20. The EU welcomed the adoption of the strategy for the implementation of the Council of Europe convention on preventing and combating violence against women and domestic violence, and called for an increased political participation of women.
21. The EU regretted the deterioration and back-sliding in the area of freedom of expression and urged the country to ensure effective follow-up on cases of threats to journalists. The EU expressed concerns over the RS Law on Public peace and Order.
22. The EU urged BiH to address the issue of the selection of the steering boards of the entity broadcasters and secure their political independence. The EU expressed deep concerns over the financial stability of the public services broadcasters.

### **Roma**

23. The EU welcomed progress in the area of housing and civil registration for the Roma community and urged the BiH authorities to step up efforts in the areas of health, employment and education. The EU underlined the importance to ensure effective social inclusion of the Roma community and urged the implementation of adequate policy measures in line with the social inclusion seminar's operational conclusions of June 2015. The EU asked BiH to submit statistical data on the inclusion of Roma children in education and to inform on plans to enhance the efficiency and capacities of the competent monitoring bodies. BiH should also increase its budgetary support for the Roma community.

### **Economic criteria**

24. The EU congratulated Bosnia and Herzegovina on the improved consensus on economic policy priorities, as demonstrated by the adoption of the Reform Agenda and the Joint Action Plan with further progress in taking concrete steps towards implementation, and by the Fiscal Council adoption of the Global Framework for Fiscal Policies and Balances 2016-2018.
25. The EU underlined that it is essential to keep the momentum for implementation in the coming months and years. It noted in this context that the EU Foreign Affairs Council (FAC) had stated that meaningful progress on the implementation of the adopted reform agenda will be necessary for a membership application to be considered by the EU.
26. The EU observed that in the Joint Conclusions of the Economic and Financial Dialogue between the EU and Western Balkans and Turkey of 12 May 2015, the assessment of the 2015 Bosnia and Herzegovina ERP noted that this ERP consisted of two separate and uncoordinated entity papers rather than a coherent, comprehensive and coordinated synthesis of measures within a country-wide sectoral policy framework.
27. The EU noted that the preparations for the upcoming 2016 ERP – which is due end-January 2016 - seem to some extent take on board the Council country-specific recommendation of improved coordination across all government levels and that in the preparation Bosnia and Herzegovina makes better use of the technical support offered by the OECD.
28. The EU also positively noted that the Reform Agenda measures are in line with the Council Joint conclusions for Bosnia and Herzegovina. Hence, adoption and implementation of the Reform Agenda and Joint Action Plan are welcomed as helpful and

directly relevant for the preparation of the 2016 ERP, both because of content as well as the improved coordination between entities.

29. The EU reminded the BiH authorities that the EU is closely following ongoing discussions between the BiH authorities and the International Financial Institutions concerning possible international financial support for structural reforms also in the context of the Reform Agenda. For BiH to agree with the World Bank and the IMF on medium-term support programmes would not only alleviate financing constraints for urgently needed structural reforms, it would also provide continued access of important knowhow and expertise of those international institutions, including in the areas relevant for the Reform Agenda.

### **Census**

30. The EU deeply regretted the lack of progress on the Census and urged for no further delays in the implementation of the remaining operational steps leading to the dissemination of the final results. The EU underlined that the lack of tangible results may jeopardise the entire census operation and may lead the International Monitoring Operation to re-consider its involvement in the overall exercise.
31. The EU welcomed the appointment of a Census co-ordinator and of the Director of the Statistical Agency and urged further efforts by the BiH Council of Ministers in reaching consensus among the statistical institutes.

### **Public Financial Management**

32. The EU called BiH to develop a country-wide public financial management reform programme which is clearly linked to the overall public administration reform framework.
33. The EU urged BiH to adopt and implement public internal financial control strategies and action plans at State level and in the RS and underlined the need to complete the adoption of relevant legislation in the area of financial management control at Entities level.
34. The EU stressed the importance to ensure full co-ordination among the Supreme Audit Institutions.

### **Justice, freedom and security**

35. The EU welcomed the recent adoption of a new strategy and framework action plan on integrated border management for 2015-2018, but at the same time urged BiH to take immediate action under the post-visa liberalisation monitoring mechanism to address asylum abuses, notably by continuing public information campaigns and implementing policies to improve social and economic inclusion of the most vulnerable groups, including Roma.
36. The EU welcomed the adoption of the 2015-2020 strategy for prevention and fight against terrorism and recalled the importance of reinforced cooperation with the whole Western Balkan region on this issue, in particular the fight against trafficking of firearms as well as prevention and combat of radicalisation.
37. The EU encouraged BiH to take a positive decision on the offer made by the Commission to participate in its Justice Programme as well as in its Rights, Equality and Citizenship Programme.
38. The EU welcomed the mutual interest expressed at the meeting for having a Cooperation Agreement between BiH and Eurojust. The EU informed BiH that issues related to the implementation of data protection legislation in BiH had prevented Eurojust to open the

negotiation of such a Cooperation Agreement to date. The EU added that Eurojust would revert to the BiH MoJ in early 2016 to examine how this process could move forward.

### **Trade, Industry, customs and taxation**

39. The EU reiterated its strong interest in a soon accession of BiH to the WTO that will anchor economic reform and trade liberalisation carried out in the context of the EU Stabilisation and Association Process.
40. The EU noted the progress made in the area of standardisation but pointed out that a number of conflicting ex-Yugoslav mandatory standards have not been withdrawn yet. The EU also emphasized that better coordination and cooperation among the relevant institutions needs to be ensured and stated that BiH should adopt a country-wide strategy for quality infrastructure.
41. The EU called for a countrywide SME policy framework and better coordination of existing and future initiatives at State and entity level. The EU asked to develop a single economic space that would prevent current market distortions (eg. double registration for a company that wants to operate in both entities).
42. The EU enquired about the state of play of the national internal procedures to agree on the draft text of the COSME Agreement before signature.
43. The EU urged Bosnia and Herzegovina to speed up the implementation of the new Customs Policy and VAT Laws and to increase cooperation among the countries tax administrations, including through joint tax audits. The EU requested a copy of the FBiH revised draft Law on Amendments to the Law on Internal Trade which is planned for adoption in the first half of 2016. BiH informed the Commission that it expected to receive twinning assistance for drafting the implementing provisions for the Customs Policy and VAT Laws.
44. The EU also reiterated its concern that BiH's definition of independent small breweries, particularly the 400,000 hl threshold, should be brought into line with the *acquis*.

### **Internal market and competition**

45. The Commission welcomed the legislative alignment to the 2004 EU Public Procurement Directives but reminded BiH that alignment to the new Directives from 2014 is still largely missing. BiH should ensure that for projects financed by the European Investment Bank, complainants in public procurement procedures have access to effective remedies under national legislation.
46. The EU welcomed the steps taken by the State Aids Council for the alignment of BiH legislation with the EU *acquis*. It urged BiH to make the necessary arrangements for the availability of the financial resources necessary for the functioning of the State aid Council and its secretariat on a stable and permanent basis.
47. The EU asked BiH to further align its Competition law with the EU *acquis* and to adopt procedures for a better functioning of the Competition Council and an effective Competition enforcement. The EU also questioned ethnically based veto rights in the decision making of the Competition Council.

### **Innovation, information society and social policy**

48. The EU welcomed the adoption of an amended Labour Law in the Federation of BiH and took note of the adoption of a new draft Labour Law by the RS government which needs still to be consulted with the social partners before its adoption by RS Parliament.
49. The EU urged BiH to facilitate access to the labour market, especially for the youth and women, by creating an enabling environment for investment and development of the private sector. The EU asked BiH to develop autonomous social dialogue, modernise labour and health and safety laws and harmonise them between the Entities. Finally, the EU urged BiH to address high unemployment, notably youth unemployment, and provide effective support to job seekers, and underlined the need to integrate gender equality in all areas of labour market reform in order to promote women's employment and economic opportunities.
50. The EU asked BiH to implement public health reforms and provide for cooperation of health authorities between the Entities in the area of policy planning.
51. The EU urged BiH to strengthen coordination and harmonisation of the legal framework on education, and underlined the need to ensure an inclusive education system without ethnic-based separation and discrimination. The EU also underlined the need to strengthen the capacity of State-level education agencies to develop EU standards, including for quality assurance in education and better matching of the education to the labour market demand. Finally, the EU welcomed the adoption of the Action Plan on the adoption and implementation of the National Qualifications Framework 2014-2020.
52. The EU welcomed the participation of BiH in "Horizon 2020" and urged the country to both step up efforts to strengthen its research and innovation capacity at national level and to increase its participation on research and innovation actions on societal challenges, on participation of SMEs as well as on scientific excellence in general.
53. The EU asked BiH about the state of play regarding the adoption of a strategy on information society and the alignment of the e-communication legislation with the EU legal Framework, and urged BiH to introduce the European emergency number 112.
54. The EU also called on Bosnia and Herzegovina to adopt a plan to ensure the financial stability and political independence of the public broadcasting operator in the country and encouraged it to invest considerable efforts in order to develop electronic communications. The EU regretted that the country missed the international deadline for digital switchover and called on the authorities to implement it as a matter of urgency.
55. The EU stressed that the appointment of the Director General of the independent Communication Regulatory Agency (CRA) needs to be done in accordance with the law and without political interferences.

### **Transport, energy, environment and regional development**

56. The EU welcomed the engagement of Bosnia and Herzegovina as regards the Connectivity agenda, including the adoption of a transport policy framework 2015-2030. It stressed the need to commence without delay work on a countrywide transport strategy as well as on the so-called "soft measures" in order to present well-prepared projects and measures in this area to the WB6 summit in Paris in summer 2016 and to benefit from future IPA financing under the WBIF and the national programme. It called on the RS to end its boycott of the National Investment Committee.
57. The EU urged BiH to take urgent steps to define a countrywide strategy in the area of energy which is also part of the connectivity agenda.

58. The EU reiterated its request regarding the gas market, that BiH needs to align at State level with the 2<sup>nd</sup> and 3<sup>rd</sup> EU Energy Package without delay and avoid the consequences of the serious and persistent breach, related to measures under Article 92 of the Energy Community Treaty imposed by the Secretariat and the possible follow-up by the European Union in line with Article 6 of the Treaty, as stipulated in the Decision D/2015/10MC-EnC<sup>1</sup> of the Energy Community Ministerial Council in October 2015. The EU expects from BiH to be kept informed on the drafting procedure and related legal texts.
59. The EU urged BiH to align its electricity legislation at State and entities level to the 3<sup>rd</sup> Energy Package requirements. In this context BiH is encouraged to make efforts and effectuate the support of the Energy Community Secretariat to complete the transposition of the 3<sup>rd</sup> Energy Package and adopt aligned legislation in the shortest possible time. The EU asked BiH to submit the relevant draft laws.
60. The EU expressed its expectation that the effective liberalization of the electricity supply will give more notable results after the unbundling and deregulation required by the new legislation is fully implemented.
61. The EU expects BiH to complete the obligations within the Energy Community related to transposition of the Energy Efficiency Directive and completion and adoption of the National Action Plans for Energy Efficiency and for Renewable Energy by end of June 2016, and positively conclude related open Infringement Procedures.
62. The EU urged BiH to set up a harmonised legal framework and a country-wide strategy for the environment that will address in particular waste management, water quality and nature protection sectors and to strengthen its administrative capacity and monitoring systems. It also underlined that investments in hydropower projects need to ensure that Environmental Impact Assessment, water legislation and nature protection obligations are respected.
63. The EU recommended that following the adoption of the UNFCCC Climate Agreement in Paris a few days ago, Bosnia and Herzegovina should now begin with the implementation of its national contribution. It has also to set up a harmonised legal framework and a countrywide strategy addressing climate action.
64. The EU reiterated its request that BiH should strengthen its efforts on alignment with the EU acquis in all areas of transport, and to address in particular road safety issues and opening access to railway infrastructure for its domestic operators.

### **Agriculture and fisheries**

65. The EU stressed the importance to adopt a national multi-annual rural development strategy, action plan and multi-annual budgets and to establish the national structures for pre-accession assistance to the agricultural sector through the Instrument for Pre-Accession Assistance for Rural development (IPARD).
66. The EU welcomed the progress in the area of veterinary, phyto-sanitary and food safety matters allowing BiH to export dairy products and potatoes to the EU. It encouraged it to continue with the modernisation and strengthening of its capacities in these areas, in

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<sup>1</sup> [https://www.energy-community.org/portal/page/portal/ENC\\_HOME/DOCS/3854273/MC-2015\\_Dec\\_2015-10-MC-EnC\\_Decision\\_on\\_Bosnia\\_and\\_Herzegovina\\_Case\\_Gas\\_Law.pdf](https://www.energy-community.org/portal/page/portal/ENC_HOME/DOCS/3854273/MC-2015_Dec_2015-10-MC-EnC_Decision_on_Bosnia_and_Herzegovina_Case_Gas_Law.pdf)

particular in inspection services and laboratories, and to prepare for the FVO follow-up mission in 2016.

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