

Bosnia and Herzegovina
INVESTMENT CLIMATE STATEMENT
2021

Investment Climate Statement

Executive Summary

Bosnia and Herzegovina (BiH) is open to foreign investment, but to succeed, investors must overcome endemic corruption, complex legal/regulatory frameworks and government structures, non-transparent business procedures, insufficient protection of property rights, and a weak judicial system. Economic reforms to complete the transition from a socialist past to a market-oriented future have proceeded slowly and the country has a low level of foreign direct investment (FDI). According to the BiH Central Bank preliminary data, 2020 FDI in BiH was \$299 million, a 34% decrease from 2019. According to the World Bank's 2020 Ease of Doing Business Report, BiH is among the least attractive business environments in Southeast Europe, with a ranking of 90 out of 190 global economies. The World Bank report ranks BiH particularly low for its lengthy and arduous processes to start a new business and obtain construction permits. Before the COVID-19 pandemic, BiH's economic growth was expected to reach 4 percent in 2021, backed mainly by consumption and to some extent public investment. BiH's economy grew by an estimated 3.0 percent in 2019, with domestic consumption remaining the dominant growth driver. BiH is tied closely to global value chains as it primarily exports goods rather than services. Preliminary estimates of the 2020 economic downturn for BiH vary. For instance, the IMF predicts an economic contraction of 5% in 2020 and growth of 3.5% in 2021. The EBRD predicts a contraction of 4.5% in 2020 and a recovery of 5% in 2021.

U.S. investment in BiH is low due to the small market size, relatively low-income levels, distance from the United States, challenging business climate, and the lack of investment opportunities. Most U.S. companies in BiH are represented by small sales offices that are concentrated on selling U.S. goods and services, with minimal longer-term investments. U.S. companies with offices in BiH include major multinational companies and market leaders in their respective sectors, such as Coca-Cola, Microsoft, Cisco, Oracle, Pfizer, McDonalds, Marriott, Caterpillar, Johnson & Johnson, FedEx, UPS, Philip Morris, KPMG, PwC, and others. Nonetheless, BiH offers business opportunities to well-prepared and persistent exporters and investors. Companies that overcome the challenges of establishing a presence in BiH often make a return on their investment over time. A major U.S. investment fund was able to enter the market with a regional investment in 2014 and exit its majority position in 2019 with a good return. There is an active international community and many reform efforts to improve the business climate as BiH pursues eventual European Union membership. The country is open to foreign investment and offers a liberal trade regime and its simplified tax structure is one of the lowest in the region (17 percent VAT and 10 percent flat income tax).

BiH is actively pursuing World Trade Organization membership and hopes to join in the near future. It is also richly endowed with natural resources, providing potential opportunities in energy (hydro, wind, solar, along with traditional thermal), agriculture, timber, and tourism. The best business opportunities for U.S. exporters to BiH include energy generation and transmission equipment, telecommunication and IT equipment and services, transport infrastructure and equipment, engineering and construction services, medical equipment, and raw materials and chemicals for industrial processing. In 2020, U.S. exports to BiH totaled \$235 million, a 40 percent decrease from 2019, and held a 2.3 percent share of total BiH imports. BiH exports to the United States in 2019 totaled \$39.7 million. U.S. exports to BiH are primarily in the areas of raw materials for industrial processing, food and agricultural products, machinery and transport equipment, and mineral fuels.

Measure	Year	Index/Rank	Website
TICorruption Perceptions Index	2020	111 of 180	www.transparency.org/research/cpi/overview
World Bank's Doing Business Report "Ease of Doing Business"	2020	90 of 190	www.doingbusiness.org/rankings
Global Innovation Index	2020	74 of 131	https://www.globalinnovationindex.org/home

U.S. FDI in BiH	2019	\$9 million	https://apps.bea.gov/international/factsheet/factsh
World Bank GNI per capita	2019	\$6,170	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Policies Towards Foreign Direct Investment

Bosnia and Herzegovina struggles to attract foreign investment. Complex labor and pension laws, the lack of a single economic space, and inadequate judicial and regulatory protections deter investment. Under the BiH constitution, established through the Dayton Accords that ended the 1990s war, Bosnia and Herzegovina (henceforth “the state”) is divided into two “entities,” the Federation of BiH (the Federation) and Republika Srpska (RS). A third, smaller area, the Brčko District, operates under a separate administration. The Federation is further divided into ten cantons, each with its own government and responsibilities. There are also 143 municipalities in BiH: 63 in the RS and 80 in the Federation. As a result, BiH has a multi-tiered legal and regulatory framework that can be duplicative and contradictory and is not conducive to attracting foreign investors.

Employers bear a heavy burden toward governments. They must contribute 69 percent on top of wages in the Federation and 52 percent in the RS to the health and pension systems. The labor and pension laws are also deterrents to investment, though both are being reformed to decrease burdens on employers. While corporate income taxes in the two entities and Brčko District are now harmonized at 10 percent, entity business registration requirements are not harmonized. The RS has its own registration requirements, which apply to the entire entity. Each of the Federation’s ten cantons has different business regulations and administrative procedures affecting companies. Simplifying and streamlining this framework is essential to improving the investment climate. The EU Reform Agenda targets changes that should improve the investment climate by clarifying and simplifying regulation and procedures while decreasing fees faced by businesses at the entity, canton, and municipal levels.

Generally, BiH’s legal framework does not discriminate against foreign investors. However, given the high level of corruption, foreign investors can be at a significant disadvantage in relation to entrenched local companies, especially those with formal or informal backing by BiH’s various levels of government.

The Foreign Investment Promotion Agency (FIPA) is a state-level organization mandated by the Council of Ministers to facilitate and support FDI (www.fipa.gov.ba). FIPA provides data, analysis, and advice on the business and investment climate to foreign investors. All FIPA services are free of charge.

BiH does not maintain an ongoing, formal dialogue with foreign investors. Sporadically, high-ranking government officials give media statements inviting foreign investments in the energy, transportation, and agriculture industries; however, the announcements are rarely supported by tangible, commercially viable investment opportunities.

Limits on Foreign Control and Right to Private Ownership and Establishment

According to the Law on the Policy of FDI, foreign investors are entitled to invest in any sector of the economy in the same form and under the same conditions as those defined for local residents. Exceptions include the defense industry and some areas of publishing and media where foreign ownership is restricted to 49 percent; and electric power transmission, which is closed to foreign investment. In practice, additional sectors are dominated by government monopolies (such as airport operation) or characterized by oligopolistic market structures (such as telecommunications and electricity generation), making it difficult for foreign investors to engage. There have been no significant privatizations of government-owned enterprises in the past few years.

Other Investment Policy Reviews

In the past three years, the BiH government has not conducted an investment policy review through the Organization for Economic Cooperation and Development (OECD); the World Trade Organization (WTO); or the United Nations Conference on Trade and Development (UNCTAD).

Business Facilitation

Establishing a business in BiH can be an extremely burdensome and time-consuming process for investors. The World Bank estimates there are an average of 13 procedures (actual number depends on the type of business), taking a total of 81 days, to register a new business in the capital city of Sarajevo. Registration in BiH can sometimes be expedited if companies retain a local lawyer to follow up at each step of the process. The RS established a one-stop shop for business registration in the entity. On paper, this dramatically reduced the time required to register a business in the RS, bringing the government-reported time to register a company down to an average of 7 to 14 days. Some businesses, however, report that in practice it can take significantly longer.

The entity, cantonal, and municipal levels of government each establish their own laws and regulations on business operations, creating redundant and inconsistent procedures that enable corruption. It is often difficult to understand all the laws and rules that might apply to certain business activities, given overlapping jurisdictions and the lack of a central information source. It is therefore critical that foreign investors obtain local assistance and advice. Investors in the Federation may register their business as a branch in the RS and vice versa.

The most common U.S. business presence found in BiH are representative offices. A representative office is not considered to be a legal entity and its activities are limited to market research, contract or investment preparations, technical cooperation, and similar business facilitation activities. The BiH Law on Foreign Trade Policy governs the establishment of a representative office. To open a representative office, a company must register with the Registry of Representative Offices, maintained by the BiH Ministry of Foreign Trade and Economic Affairs (MoFTER) and the appropriate entity's ministry of trade.

Additional English-language information on the business registration process can be found at:

BiH Ministry of Foreign Trade & Economic Relations (MoFTER):

Ph: +387-33-220-093

www.mvteo.gov.ba

BiH Foreign Investment Promotion Agency (FIPA):

Ph: + 387 33 278 080

www.fipa.gov.ba

Republika Srpska Company Registration Website:

<http://www.investsrpska.net>

Outward Investment

The government does not restrict domestic investors from investing abroad. There are no programs to promote or incentivize outward investment.

2. Bilateral Investment and Taxation Treaties

BiH has signed or ratified 42 investment agreements with the following countries: Albania, Austria, Belgium, Belarus, China, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Netherlands, Hungary, India, Iran, Italy, Jordan, Kuwait, Lithuania, Luxembourg, Macedonia, Malaysia, Moldova, Montenegro, Netherlands, Pakistan, Portugal, Qatar, Romania, Serbia, Libya, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, UAE, Ukraine, and the United Kingdom.

BiH has neither a bilateral investment treaty nor a bilateral income tax treaty with the United States.

BiH was designated as a beneficiary country under the United States Generalized System of Preferences (GSP) program through December 31, 2020. Between 2013 and 2020, BiH exported to the U.S. over \$50 million worth of goods eligible for the GSP program. The Generalized System of Preferences (GSP) program expired on December 31, 2020. As a result, imports entering the United States from 122 eligible countries that were previously eligible for duty-free treatment under GSP are now subject to regular, Normal Trade Relations (MFN) rates of duty. Bosnia and Herzegovina is a beneficiary country under this special program and we expect it to retain this status in the future.

The Interim Agreement on Trade and Trade-related matters (IA) between the European Union (EU) and Bosnia and Herzegovina is in force. According to the IA, all goods of BiH origin that fulfill EU technical standards and conditions can be imported to all EU countries without any quantitative restrictions and without paying customs or other similar duties. Only sugar, wine, fish, and baby beef are subject to specific quotas, beyond which duties are to be paid by Bosnia and Herzegovina for export to the EU. Since 2009, import tariffs have been eliminated for more than 11,000 products that BiH imports from the EU.

In December 2016, BiH and the EU signed the Protocol on Trade to the Stabilization and Association Agreement (SAA), which adapted the previously signed SAA to reflect Croatia's 2013 accession to the EU. The adapted SAA provided for unlimited, duty-free access for BiH fruits and vegetables under the Autonomous Trade Measures for Western Balkan countries, and opened higher quotas for fish, wine, sugar, and baby beef exports from BiH to the EU market. On the other side, BiH established duty-free quotas for sugar, cigarettes, beef, pork, milk, poultry products, and potatoes imported from the EU. BiH is a "potential candidate" for EU membership.

3. Legal Regime

Transparency of the Regulatory System

The government has adequate laws to foster competition; however, due to corruption, laws are often not implemented transparently or efficiently. The multitude of state, entity, cantonal (in the Federation only), and municipal administrations – each with the power to establish laws and regulations affecting business – creates a heavily bureaucratic, non-transparent system. Ministries and/or regulatory agencies are not typically obligated to publish the text of proposed regulations before they are enacted. Some local and international companies have expressed frustration with generally limited opportunities to provide input and influence/improve draft legislation that impacts the business community.

Foreign investors have criticized government and public procurement tenders for a lack of openness and transparency. Dispute resolution is also challenging as the judicial system moves slowly, often does not adhere to existing deadlines, and provides no recourse if the company in question re-registers under a different name.

In an effort to promote the growth of business in its entity, the Republika Srpska government passed a series of amendments in 2013 to create an RS one-stop-shop for business registration. This institution centralizes the process of registering a business, ostensibly making it easier, faster, and cheaper for new business owners to register their companies in the RS. The Federation's announced plans to establish a one-stop-shop have long been delayed.

Businesses are subject to inspections from a number of entity and cantonal/municipal agencies, including the financial police, labor inspectorate, market inspectorate, sanitary inspectorate, health inspectorate, fire-fighting inspectorate, environmental inspectorate, institution for the protection of cultural monuments, tourism and food inspectorate, construction inspectorate, communal inspectorate, and veterinary inspectorate.

Some investors have complained about non-transparent fees levied during inspections, changing rules and regulations, and ineffective appeals process to protest these fines.

International Regulatory Considerations

BiH is not a part of the EU, the WTO, or a signatory to the Trade Facilitation Agreement (TFA).

Legal System and Judicial Independence

BiH has an overloaded court system, and it often takes several years for a case to be brought to trial. Moreover, commercial cases with subject matter that judges do not have experience adjudicating, such as intellectual property rights, are often left unresolved for lengthy periods of time. Most judges have little to no in-depth knowledge of adjudicating international commercial disputes and require training on applicable international treaties and laws. Regulations or enforcement actions can be appealed, and appeals are adjudicated in the national court system.

The U.S. government has provided training to judges, trustees, attorneys, and other stakeholders at the state and entity levels to assist in the development of bankruptcy and intellectual property rights laws. Those laws are now in effect at both the entity and state levels but have not been fully implemented.

Laws and Regulations on Foreign Direct Investment

The state-level Law on the Policy of Foreign Direct Investment accords foreign investors the same rights as domestic investors and guarantees foreign investors national treatment, protection against nationalization/expropriation, and the right to dispose of profits and transfer funds. In practice, most business sectors in Bosnia and Herzegovina are fully open to foreign equity ownership. Notable exceptions to this general rule are select strategic sectors, such as defense; electric power transmission, which is closed to foreign investment; and some areas of publishing and media, where foreign ownership is restricted to 49 percent (see below). However, one of the sub-national governments (Federation of BiH, Republika Srpska) may decide that companies normally subject to this limitation are not subject to restrictions.

According to legal amendments adopted in March 2015, foreign investors can now own more than 49 percent of capital business entities dealing with media activities, such as publishing newspapers, magazines and other journals, publishing of periodical publications, production and distribution of television programs, privately owned broadcasting of radio and TV programs, and other forms of daily or periodic publications. The new law maintains the restriction that foreign investors cannot own more than 49 percent of public television and radio services. The March 2015 amendments also set conditions to enhance legal security and clarity for foreign direct investment flows. The Foreign Investment Promotion Agency maintains a list of laws relevant to investors on its website:

http://www.fipa.gov.ba/publikacije_materijali/zakoni/default.aspx?id=317&langTag=en-US

The complex legal environment in BiH underlines the utility of local legal representation for foreign investors. Bosnian attorneys' experience base is still limited with respect to legal questions and the issues that arise in a market-oriented economy. However, local lawyers are quickly gaining experience in working with international organizations and companies operating in BiH. Companies' in-house legal counsel should be prepared to oversee their in-country counsel, with explicit explanations and directions regarding objectives. The U.S. Embassy maintains a list of local lawyers willing to represent U.S. citizens and companies in BiH. The list can be accessed at <https://ba.usembassy.gov/u-s-citizen-services/attorneys/>

Competition and Anti-Trust Laws

BiH has a Competition Council, designed to be an independent public institution to enforce anti-trust laws, prevent monopolies, and enhance private sector competition. The Council reviews and approves foreign investments in cases of mergers and acquisitions of local companies by foreign companies. The Competition

Council consists of six members appointed for six-year terms of office with the possibility of one reappointment. The BiH Council of Ministers appoints three Competition Council members, the Federation Government appoints two members, and the RS Government appoints one member. From the six-member Competition Council, the BiH Council of Ministers affirms a president of the Council for a one-year term without the possibility of reappointment.

Expropriation and Compensation

BiH investment law forbids expropriation of investments, except in the public interest. According to Article 16, "Foreign investment shall not be subject to any act of nationalization, expropriation, requisition, or measures that have similar effects, except where the public interest may require otherwise." In such cases of public interest, expropriation of investments would be executed in accordance with applicable laws and regulations, be free from discrimination, and include payment of appropriate compensation. Neither the entity governments nor the state government have expropriated any foreign investments to date.

Dispute Settlement

ICSID Convention and New York Convention

Bosnia and Herzegovina is a signatory of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"). Bosnia and Herzegovina is a signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID), also known as the Washington Convention.

Investor-State Dispute Settlement

Over the last decade, there have been two cases of legal disputes involving U.S. investors and the local government. While efforts are being made to improve BiH's commercial court system, its current capacity and practical inefficiencies limit timely resolution of commercial disputes.

International Commercial Arbitration and Foreign Courts

BiH has been a member of the International Center for the Settlement of Investment Disputes since 1997. BiH does not have a Bilateral Investment Treaty (BIT) or Free Trade Agreement (FTA) with the United States. It accepts international arbitration to settle private investment disputes if the parties outline this option in a contract.

The only domestic arbitration body in BiH, the Arbitration Court of the BiH Foreign Trade Chamber, is an inexperienced institution. It needs updated and modernized laws and regulations to comply with international norms and standards. The Arbitration Court would benefit from licensed and trained arbitrators. Domestic arbitration legislation is encompassed within the Civil Procedure Code and is not currently modeled on internationally accepted regulations. As for the legislation, arbitration is generally poorly addressed. There are few provisions in the entities' laws that regulate litigation procedures, which are the legal basis for parties in dispute to entrust the dispute to arbitration. There is no legislation that is modelled on internationally accepted regulations, such as the model law of the United Nations Commission on International Trade Law (UNCITRAL).

Bankruptcy Regulations

Both the Federation and Republika Srpska entities have Laws on Bankruptcy. However, bankruptcy proceedings are not resolved in a timely manner, and there is insufficient emphasis placed on companies' rehabilitation and/or reorganization. The entities' laws define the rights of creditors, equity shareholders, and holders of other financial contracts. Foreign contract holders enjoy the same rights as local contract holders. Bankruptcy is not criminalized. The U.S. government provided recent training to judges on international bankruptcy principles.

4. Industrial Policies

Investment Incentives

There are some incentives for foreign direct investment, including exemptions from payment of customs duties and customs fees. Bosnia and Herzegovina is divided into three jurisdictions for direct tax purposes: the Federation, the RS, and the Brčko District.

In the Federation, RS, and Brčko District, the corporate income tax allows offsetting of losses against profits over a five-year period. The corporate tax rate is 10 percent across the state. Foreign investors can open bank accounts in all jurisdictions and transfer their profits abroad without any restrictions. The rights and benefits of foreign investors granted, and obligations imposed by the Law on the Policy of Foreign Direct Investment cannot be terminated or overruled by subsequent laws and regulations. Should a subsequent law or regulation be more favorable to foreign investors, the investor has the right to choose the most beneficial regulations.

In addition to the BiH-wide incentives listed above, the two entities and the Brčko District have specific incentives. In the Brčko District, investments in fixed assets are subject to tax relief.

In the Federation:

A taxpayer who invests KM 20 million (approximately \$12 million) over a period of five years is exempted from paying corporate income tax for the period of five years beginning from the first investment year. A taxpayer who does not make the prescribed investment in the period of five years loses the right of tax exemption. In that case, unpaid corporate income tax is determined in accordance with the provisions of the Law on Corporate Income Tax augmented with a penalty interest payable for untimely paid public revenues.

Qualifying investments include fixed assets such as real estate, plants, and equipment for carrying out production activity. A taxpayer loses the right to tax exemption if the corporation makes a dividend payment during first three years of investment. A taxpayer whose workforce is more than 50 percent disabled persons and persons with special needs in any given year is exempted from paying corporate income tax. The exemption applies to the applicable year in which disabled persons and persons with special needs met the required threshold. Employees must have been with the company for longer than one year to be considered.

In Republika Srpska:

In its Amendments to the Law on Profit Tax, the RS reduced taxes on investments in equipment intended for company production and investment in plants and immovable property used for manufacturing and processing.

For employers with at least 30 workers during a calendar year, there is a tax base reduction in personal income tax and mandatory employer contribution of the employer. Employees must be officially listed with the RS Employment Office.

The 2012 RS Decree on Conditions and Implementation of the Investment and Employment Support Program (Official Gazette of RS No. 70/12) also established incentives meant to encourage and support direct investments, employment growth, and transfer of new knowledge and technologies. To qualify for the incentives, participants must have existing investment projects in the RS manufacturing sector, a minimum investment value of KM 2 million (\$1.2 million), and new employment for at least 20 workers. The total funding awarded is proportional to the investment value, the number of newly employed, and the development level of the investment location.

In early 2015, the RS government passed the Law on Property Tax, which imposes a flat rate for property taxes in all municipalities; the Law on Income Tax, which exempts dividends and profit shares from taxation; the Law on Corporate Income Tax, which broadens the scope of deductible expenses and harmonizes taxes for foreign investors; and the Law on Contributions, which decreases tax contributions employers pay on salaries by 1.4 percent.

Foreign Trade Zones/Free Ports/Trade Facilitation

The BiH Law on Free Trade Zones allows the establishment of free trade zones (FTZs) as part of the customs territory of BiH. Currently there are four free trade zones in BiH: Vogošća, Visoko, Herzegovina-Mostar, and Holc Lukavac. One or more domestic or foreign legal entities registered in BiH may create a FTZ.

FTZ users do not pay taxes and contributions, with the exception of those related to salaries and wages. Investors are free to invest capital in the FTZ, transfer their profits, and retransfer capital. Customs and tariffs are not paid on imports into FTZs. FTZ is considered economically justified if the submitted feasibility study and other evidence can prove that the value of goods exported from a free zone will exceed at least 50 percent of the total value of goods imported to the free zone within the period of 12 months.

Performance and Data Localization Requirements

BiH government does not have a “forced localization” policy in which foreign investors must use domestic content or sourcing in goods, human capital, or technology. Also, there are no requirements for foreign IT providers to turn over source code and/or provide access to surveillance. There are no mechanisms in place used to enforce rules on maintaining a certain amount of data storage within the country.

5. Protection of Property Rights

Real Property

The 2020 World Bank Doing Business Report ranked BiH at number 96 out of 190 in the ease of registering property, which takes 7 procedures and an average of 35 days. Registration of real property titles is generally acknowledged as a significant barrier to the real property and mortgage market development. The present system consists of separate geodetic administrations for the Federation and the RS, which are responsible for real property cadasters. Real property cadasters describe and certify the legal object, e.g. land, house, etc. Separately, the land registry establishes legal ownership and rights for the specific object and is maintained by the municipal courts. A significant portion of land and real estate property does not have a clear title due to restitution issues. Foreigners must register a local company to purchase property; the company then makes the purchase and is recorded as the landowner. The exception to this rule is if the foreigner’s country of citizenship has a reciprocal land ownership agreement with BiH. In that case, the foreigner may directly own land.

Intellectual Property Rights

Companies should have a comprehensive intellectual property rights (IPR) strategy in BiH since rights must be registered and enforced according to local law. BiH’s IPR framework consists of seven laws adopted and put into force by the Parliament in 2010. This legislation is compliant with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and EU legislation. BiH is a member of the World Intellectual Property Organization (WIPO) and party to a number of its treaties, including the Berne Convention, the Paris Convention, the Patent Cooperation Treaty, the WIPO Copyright Treaty, and the WIPO Performance and Phonograms Treaty. Registration of patents and trademarks is on a first-in-time, first-in-right basis, so businesses should consider applying for trademark and patent protection prior to introducing their products or services in the BiH market. Companies may wish to seek advice from local attorneys who are experts in IPR law. Although existing legislation provides a basic level of protection, BiH’s civil and criminal enforcement remains weak.

Jurisdiction over IPR investigations is split between customs officials, entity inspectorates, and state and entity law enforcement agencies, none of which have specialized IPR investigation teams. IPR crimes are prosecuted primarily at the state level. Cases in which companies are indicted often involve fairly low-level violators. More significant cases have sometimes languished for years with little action from prosecutors or judges.

Some BiH government entities have been using licensed software for a number of years, such as the state-level government which came into compliance in 2009, a significant step forward in the government's commitment to IPR protection. However, some of the Cantonal governments continue using unlicensed software as some officials still do not understand the implications for IPR infringement.

In BiH's private sector, awareness of IPR, particularly the importance of copyright protection, remains low, though the emergence of a local software development industry is helping to raise awareness. Curbing business software piracy could significantly improve the local economy by creating new jobs and generating tax revenue. The failure to recognize the importance of preventing copyright infringement makes software producers and official distributors less competitive and the establishment of a legitimate market more difficult. Businesses in BiH lose an estimated \$15 million annually from the sale of counterfeit and pirated software, CDs, and DVDs. According to the Business Software Alliance (BSA), the rate of illegal software installed on personal computers in BiH currently remains at 66 percent, which is the regional average.

Collective copyright protection also remains a challenge in BiH. There is currently no established local representative to collect and distribute royalties for visual artists, filmmakers, and literary authors. The Association of Composers and Musical Authors is the only licensed collective management organization for music authors in BiH, and it faces enforcement challenges since both musical artists and consumers remain skeptical and unfamiliar with collective management protection.

The U.S. Government, in conjunction with local partners, has made IPR awareness within the BiH enforcement community a priority through judicial engagement and public awareness programs.

Bosnia and Herzegovina is not included in the U.S. Trade Representative (USTR) Special 301 Report or the Notorious Markets List.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at www.wipo.int/directory/en/

6. Financial Sector

Capital Markets and Portfolio Investment

Capital markets remain underdeveloped in BiH. Both entities have created their own modern stock market infrastructure with separate stock exchanges in Sarajevo (SASE) and Banja Luka (BLSE), both of which started trading in 2002. The small size of the markets, lack of privatization, weak shareholder protection, and public mistrust of previous privatization programs has impeded the development of the capital market.

Both the RS and Federation issued government securities for the first time during 2011, as part of their plans to raise capital in support of their budget deficits during this period of economic stress. Both entity governments continue to issue government securities in order to fill budget gaps. These securities are also available for secondary market trading on the stock exchanges.

In August 2020, the international rating agency Standard and Poor's (S&P) affirmed the credit rating of Bosnia and Herzegovina as "B" with a stable outlook. The agency stated that the stable outlook reflects the anticipation that the risks coming from the economic impact of the coronavirus pandemic will be balanced over the next 12 months by the potential implementation of structural reforms and S&P's expectations for stronger economic growth beyond 2020. Prior to the COVID-19 pandemic, the Agency forecasts real GDP growth of 2.7 percent over the next four years. The ratings on BiH continue to be supported by the favorable structure of state debt. Even considering the impact of the pandemic, net general government debt should remain about 30% of GDP over the next four years. Almost all external debt (which accounts for more than 70% of gross general government debt) is due to official bilateral or multilateral lenders and is characterized by long maturities and favorable interest rates. The quality of banking regulations was also positively evaluated. Positive reforms, according to analysts' expectations, could include reducing the labor cost burden on business and enhancing governance of the country's state-owned enterprise sector.

Money and Banking System

The banking and financial system has been stable with the most significant investments coming from Austria. As of March 2021, there are 23 commercial banks operating in BiH: 15 with headquarters in the Federation and 8 in Republika Srpska. Twenty-two commercial banks are members of a deposit insurance program, which provides for deposit insurance of KM 50,000 (\$28,000). The banking sector is divided between the two entities, with entity banking agencies responsible for banking supervision. The BiH Central Bank maintains monetary stability through its currency board arrangement and supports and maintains payment and settlement systems. It also coordinates the activities of the entity Banking Agencies, which are in charge of bank licensing and supervision. Reforms of the banking sector, mandated by the IMF and performed in conjunction with the IMF and World Bank, are in progress.

BiH passed a state-level framework law in 2010 mandating the use of international accounting standards, and both entities passed legislation that eliminated differences in standards between the entities and Brčko District. All governments have implemented accounting practices that are fully in line with international norms.

Foreign Exchange and Remittances

Foreign Exchange

The Law on Foreign Direct Investment guarantees the immediate right to transfer and repatriate profits and remittances. Local and foreign companies may hold accounts in one or more banks authorized to initiate or receive payments in foreign currency. The implementing laws in both entities include transfer and repatriation rights. The Central Bank's adoption of a currency board in 1997 guarantees the local currency, the convertible mark or KM (aka BAM), is fully convertible to the euro with a fixed exchange rate of KM 1.95583 = €1.00.

Remittance Policies

BiH has no remittance policy, although remittances are generally high due to a large diaspora. Remittances are estimated to range up to 15 percent of total GDP. Based on the two entities' Laws on Foreign Currency Exchange, all payments in the country must be in national currency.

Sovereign Wealth Funds

BiH does not have a government-affiliated Sovereign Wealth Fund.

7. State-Owned Enterprises

In BiH, subnational governments own the vast majority of government-owned companies: the two entities and ten cantons. Private enterprises can compete with state-owned enterprises (SOEs) under the same terms and conditions with respect to market share, products/services, and incentives. In practice, however, SOEs have the advantage over private enterprises, especially in sectors such as telecommunications and electricity, where government-owned enterprises have traditionally held near-monopolies and are able to influence regulators and courts in their favor. Generally, government-owned companies are controlled by political parties, increasing the possibilities for corruption and inefficient company management. With the exception of SOEs in the telecom, electricity, and defense sectors, many of the remaining public companies are bankrupt or on the verge of insolvency and represent a growing liability to the government.

The country is not party to the Government Procurement Agreement within the framework of the WTO.

Privatization Program

There have been no significant privatizations in the past few years. Privatization offerings are scarce and often require unfavorable terms. Some formerly successful state-owned enterprises have accrued significant debts from unpaid health and pension contributions, and potential investors are required to assume these debts and

maintain the existing workforce. Under the state-level FDI Law, foreign investors may bid on privatization tenders. International financial organizations, such as the European Bank for Reconstruction and Development (EBRD) are seeking to be engaged on privatization and restructuring efforts across the remaining portfolio of state-owned enterprises. Historically, the privatization process in BiH has resulted in economic loss due to corruption. From 1999 to 2015, more than 1,000 companies were fully privatized, while around 100 were partially privatized. Some privatizations led to the loss of value of state property and many of the privatized companies were weakened or ruined in the privatization process. The history of corrupt privatizations has raised concerns that further privatization would only lead to additional unemployment and the enrichment of a few politically connected individuals. Successful privatizations and restructurings that improve service delivery, business productivity, and employment would be very beneficial for the BiH economy, could help the image of privatization, and would build support for a long overdue shift away from a government-led economy.

The Federation government is focused on privatizing or restructuring some SOEs based on the Federation Agency for Privatization's 2019 privatization plan. The privatization plan includes the fuel retailer Energopetrol dd. Sarajevo, the engineering company Energoinvest, and the insurer Sarajevo-Osiguranje. The remaining companies listed in the privatization plan have posted losses and suffered significant declines in their value, while others have only a small amount of government ownership. The Federation government rejected media speculation that it plans to privatize the two-majority government-owned telecom companies, BH Telecom (90 percent stake) and HT Mostar (50.1 percent stake). At the same time, it has completed due diligence on the two telecom companies as part of its arrangement with the IMF.

The privatization process in the RS is carried out by the RS Investment Development Bank (IRBRS). Many prospective companies have been already privatized, and out of 163 not yet privatized companies, many are being liquidated or undergoing bankruptcy. In 2016, the RS government announced plans to sell its capital in 22 companies, but the plan has not been implemented yet. The plan envisions the privatizations to take place via the sale of government shares on the stock exchange. Although the RS National Assembly passed a decision that the entity has no plans to privatize the energy sector, the RS government maintains the possibility of joint ventures in the energy sector.

8. Responsible Business Conduct

Foreign and local companies conduct some corporate social responsibility activities and there is a general awareness of standards for responsible business conduct. More could be done in this area to respond to BiH's various social and economic needs. In general, consumers tend to view favorably companies that initiate and carry out charitable activities in the local market. Corporate governance is not part of the broader economic mindset, and shareholder protection is not a priority. The financial system is not yet developed enough to understand and apply principles of corporate governance and shareholder protection. The BiH Consumer Ombudsman leads efforts to ensure that consumers are aware of their rights and takes action against organizations that have been accused of violating consumer rights. The local American Chamber of Commerce (AmCham) has an Ethics and Compliance Committee to raise awareness about responsible business conduct and make it a more routine part of doing business in BiH.

9. Corruption

Corruption remains prevalent in many political and economic institutions in Bosnia and Herzegovina and raises the costs and risks of doing business. BiH's overly complex business registration and licensing process is particularly vulnerable to corruption. The multitude of state, entity, cantonal, and municipal administrations, each with the power to establish laws and regulations affecting business, creates a system that lacks transparency and opens opportunities for corruption via parafiscal fees. Paying bribes to obtain necessary business licenses and construction permits, or simply to expedite the approval process, occurs regularly. Foreign investors have criticized government and public procurement tenders for a lack of openness and transparency.

Transparency International's (TI) 2020 Corruption Perception Index ranked BiH 111 out of 180 countries. According to TI, relevant institutions lack the will to actively fight corruption; law enforcement agencies and

the judiciary are not effective in the prosecution of corruption cases and are visibly exposed to political pressures; and prosecutors complain that citizens generally do not report instances of corruption and do not want to testify in these cases. In 2011, BiH established a state level agency to coordinate efforts to combat corruption; while officially active, the agency has shown limited results.

Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It deters foreign investment, stifles economic growth and development, distorts prices, and undermines the rule of law. U.S. companies must carefully assess the business climate and develop an effective compliance program and measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms should take the time to become familiar with the relevant anticorruption laws of both BiH and the United States in order to properly comply, and where appropriate, seek the advice of legal counsel.

The U.S. government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, and uphold obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies.

U.S. firms should become familiar with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

The U.S. Department of Commerce offers a number of services to aid U.S. businesses. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting due diligence when choosing business partners or agents overseas and provide support for qualified U.S. companies bidding on foreign government contracts. For a list of U.S. Foreign and Commercial Service offices, please visit the Commercial Service website: www.trade.gov/cs

Alleged corruption by foreign governments or competitors can be brought to the attention of appropriate U.S. government officials, including U.S. Embassy personnel or through the Department of Commerce Trade Compliance Center "Report a Trade Barrier" Website at: [https://tcc.export.gov/Report a Barrier/index.asp](https://tcc.export.gov/Report%20a%20Barrier/index.asp)

Contact at government agency or agencies responsible for combating corruption:

BiH Agency for the Prevention of Corruption and Coordination of the Fight against Corruption

Phone: +387 57 322 540

email: kontakt@apik.ba

www.apik.ba

Contact at "watchdog" organization (international, regional, local or nongovernmental organization operating in the country/economy that monitors corruption):

Transparency International BiH

Phone: +387 51 216928

Fax: +387 51 216369

email: info@ti-bih.org

www.ti-bih.org

BiH signed and ratified the UN Anticorruption Convention in October 2006. BiH is also party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

10. Political and Security Environment

The war in Bosnia and Herzegovina ended with the Dayton Peace Accords in November 1995. There have been no attacks targeting foreign investments. However, there are still risks from occasional, localized political and criminal violence. In mid-June 2013 and early 2014, large groups of citizens protested the country's economic stagnation and the government's apparent inability to improve the situation. The vast majority of protests were peaceful with relatively small numbers of participants, but some protests in Sarajevo, Mostar, and Tuzla resulted in attacks on government buildings, destruction of government property, and injuries. There were no reports of foreign investors being directly targeted in the protests.

11. Labor Policies and Practices

BiH has a workforce with low labor costs by Western standards, and university enrollments have been increasing for a number of years. However, several sectors such as construction, information technology, and health care have experienced a significant loss of skills over the past decade due to a lack of education and job training opportunities, as well as emigration. Mandatory contributions on labor are high, discouraging employment of new workers and increasing incentives for unregistered employment.

Each entity has its own pension and health care systems, and the systems are not harmonized. Companies working in both entities have two sets of rules to follow related to employment, wages, and contributions. Employees and employers share the costs of health care, pension, and unemployment insurance in the Federation while in the Republika Srpska employers cover all of these costs, as well as childcare and unemployment contributions. Many employers underreport their labor force to avoid paying taxes and benefits, creating a significant gray market. In December 2020 the number of registered unemployed in BiH amounted to 413,627. The official rate of registered unemployment according to the BiH Statistical Agency was approximately 34.4 percent in January 2021, while the BiH Statistics Agency's Labor Force Survey suggests the total unemployment rate was 17.5 percent in 2020. However, unemployment based on the International Labor Organization (ILO) definition, which factors in unregistered workers in the "gray economy," was approximately 20.5 percent, and estimates the share of informal employment in total employment was 30 percent in 2019. The youth unemployment rate stands at 57.5 percent, placing Bosnia and Herzegovina's youth unemployment rate among the highest in the world, driven by widespread corruption, nepotism and economic stagnation. The majority of unemployed persons are skilled workers.

Both entities passed updated labor laws in 2016. The new labor laws are critical to modernizing the BiH labor code, a system inherited from former Yugoslavia that is rigid, outdated, and unfriendly to businesses. Concrete implementation has yet to be seen but should reduce the cost of employment and ease of hiring and firing for private companies and the public sector. The laws should also decrease or eliminate costly benefits that are out of line with European standards and streamline hiring and firing. Reforming the labor laws in BiH has been a long and challenging process that the governments avoided for years. The passage of the new labor laws represents an important first step toward economic reform that will modernize the BiH labor market and bring it closer to EU standards.

12. U.S. International Development Finance Corporation (DFC) and Other Investment Insurance Programs

Overseas Private Investment Corporation (OPIC), now the U.S. International Development Finance Corporation (DFC), concluded an investment incentive agreement with BiH in 1996. The DFC has limited activities in BiH at the moment, such as a loan guarantee program with USAID, but is open to providing insurance for investors against political risk; coverage of losses due to expropriation of assets, political violence, and currency inconvertibility; and insurance coverage for contracting, exporting, licensing and leasing transactions.

U.S. EXIM Bank provides trade financing solutions – including export credit insurance, working capital guarantees, and guarantees of commercial loans to foreign buyers – to empower exporters of U.S. goods and services. Political risk insurance is also available from the EU Investment Guarantee Trust for BiH, administered by the Multilateral Investment Guarantee Agency, a World Bank affiliate.

13. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Statistical source	Country Statistical source	USG or statistical source	or international statistical source	USG or International BEA; IMF; Eurostat; UNCTAD, Other	Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>		
Host Country Gross Domestic Product (GDP) (\$M USD)	<u>N/A</u>	<u>N/A</u>	<u>2019</u>	<u>\$20.2 billion</u>		www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source	Country Statistical source	USG or statistical source	or international statistical source	USG or international BEA; IMF; Eurostat; UNCTAD, Other	Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI (\$M USD, stock positions)	<u>2020</u>	<u>\$250 million (estimate)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	
FDI in the United States (\$M USD, stock positions)	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	
Total inbound stock of FDI as % GDP (\$M USD, stock positions)	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	

Table 3: Sources of FDI

Direct Investment from/in Counterpart Economy Data

From Top Five Sources/To Top Five Destinations (US Dollars, Millions)

<u>Inward Direct Investment</u>			<u>Outward Direct Investment</u>		
<u>Total Inward</u>	<u>\$8,594</u>	<u>100%</u>	<u>Total Outward</u>	<u>524</u>	<u>100%</u>
<u>Austria</u>	<u>\$1,558</u>	<u>18.1%</u>	<u>Croatia</u>	<u>130</u>	<u>24.8%</u>
<u>Croatia</u>	<u>\$1,393</u>	<u>16.2%</u>	<u>Germany</u>	<u>97</u>	<u>18.5%</u>
<u>Serbia</u>	<u>\$1,143</u>	<u>13.3%</u>	<u>Montenegro</u>	<u>87</u>	<u>16.6%</u>
<u>Slovenia</u>	<u>\$620</u>	<u>7.2%</u>	<u>Serbia</u>	<u>74</u>	<u>14.1%</u>
<u>Netherlands</u>	<u>\$469</u>	<u>5.4%</u>	<u>Romania</u>	<u>37</u>	<u>7.0%</u>

"0" reflects amounts rounded to +/- USD 500,000.

According to the BiH Central Bank preliminary data for 2020, FDI inflow in Bosnia and Herzegovina decreased by 34% comparing to the same period of 2019 and amounted to USD 299 million. The all-time high for FDI was USD 2.1 billion in 2007. Most investments in 2014-2020 came from Croatia, Austria, Russia, Serbia, The Netherlands, UAE, and the United Kingdom.

Table 4: Sources of Portfolio Investment

Data not available.

14. Contact for More Information

United States Embassy Sarajevo
Economic/Commercial Section
Robert C. Frasure 1
71000 Sarajevo
Bosnia and Herzegovina
tel. +387-33-704-000
fax. +387-33-659-722
email: sarajevocommercialservice@state.gov
website: <https://ba.usembassy.gov/business/>