

# BOSNIA AND HERZEGOVINA

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## NATIONAL POLICY

Taking into account the geo-strategic position of Bosnia and Herzegovina (hereafter B&H), as a country situated in South-East Europe, its institutions attach great importance to the prevention of and fight against all types of terrorism.

B&H has proven to be an active member of the antiterrorist coalition, the aim of which is to fight international terrorism.

It has contributed to the endeavours to create a stable and safe environment in Iraq: a contingent of B&H Army soldiers has already been deployed, as an integral part of the United Nations (UN) Peacekeeping Mission, in the area of Iraq to perform tasks pertaining to mine clearance and the destruction of discovered and confiscated mine-explosive ordnance.

In the wider context of the fight against terrorism, B&H is investing significant efforts in the prevention of and fight against organised crime and illegal migration, which is substantiated not only by its signing of a series of statements and declarations of both international and regional character, but also by the active involvement of B&H law enforcement agencies.

Unfortunately, B&H has on several occasions been portrayed as a terrorist country in various media. However, it has proven its commitment to fighting all types of terrorist activity through its institutional development and legislative reform, as well as by actively fighting against terrorism both at national and international level. In this regard, its co-operation with the United States (US) and European Union (EU) Member States in fighting terrorism should be highlighted in particular.

B&H will, within its capabilities, continue to participate in activities implemented by the international coalition in fighting terrorism. It is also prepared to join EU activities aimed at fighting terrorism, including the harmonisation of legislation and the signature and ratification of conventions and

protocols which deal with this matter, as well as the adoption of concrete action plans.

In its legitimate fight against terrorism, B&H will persist in ensuring that individual and collective human rights and freedoms are respected. Accordingly, B&H is in favour of the rapid finalisation of the negotiations on a comprehensive United Nations Convention on International Terrorism.

B&H will further persist in fighting terrorism: it will in particular pay attention to the coordination of the national institutions in charge of the fight against terrorism and to the development of international co-operation instruments on the fight against terrorism, especially with the US, EU member states and countries from the region. It will also become more actively involved in existing international police organisations.

## STRATEGY FOR COMBATING TERRORISM

The Strategy for Combating Terrorism (period 2006-2009) is adopted by Council of Ministries of B&H on July 2006. This is the basic national document for fighting terrorism and strengthening the anti-terrorist capacity of B&H.

Strategy foresees wide measures (*inter alia*):

- amending of Criminal Code and Criminal Procedure Code, towards implementation of international instruments and standards;
- strengthening institutional capacity, especially capacity of Ministry of Security (including its law enforcement agencies);
- enhancing international cooperation with UN, NATO, EU and countries in region.

**Criminal Code**

In reforming its criminal legislation (2003), B&H paid special attention to the criminalisation of criminal offences related to terrorism. Accordingly, the following criminal acts are criminalised in the new Criminal Code of Bosnia and Herzegovina (CCB&H)<sup>1</sup>: terrorism (Article 201)<sup>2</sup> and the financing of terrorist

<sup>1</sup> Criminal Code of B&H "Official Gazette of B&H" number 3/03.

<sup>2</sup> Article 201 of the CCBiH on the Terrorism states:

(1) Whoever perpetrates a terrorist act with the aim of seriously intimidating population or unduly compelling the Bosnia and Herzegovina authorities, government of another state or international organisation to perform or abstain from performing any act, or with the aim of seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of Bosnia and Herzegovina, of another state or international organisation, shall be punished by imprisonment for a term not less than three years.

(2) If the death of one or more people results from perpetration of the criminal offence referred to in paragraph 1 of the Article, the perpetrator, shall be punished by imprisonment for a term not less than five years.

(3) If in the course of the perpetration of the criminal offence referred to in paragraph 1 of the Article, the perpetrator intentionally deprived another person of his/her life, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

(4) A *terrorist act*, in terms of the Article, means one of the following intentional acts which, given its nature or its context, may cause serious damage to a state or international organisation:

- a) Attack upon person's life, which may cause death;
- b) Attack upon the physical integrity of a person;
- c) Unlawful confinement of, keeping confined or in some other manner depriving another of the freedom of movement, or restricting it in some way, with the aim to force him/her or some other person to do or to omit or to bear something (kidnapping) or taking of hostages;
- d) Causing serious damage to the facility of Bosnia and Herzegovina, facility of government of another state or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;
- e) Kidnapping an aircraft, ship or another means of public or goods transport;
- f) Manufacture, possession, acquisition, transport, supply, use or training for the use of weapons, explosives, nuclear, biological or chemical weapons or radioactive material, as well as research and development of biological and chemical weapons or radioactive material;

activities (Article 202)<sup>3</sup>. In addition, the Entity Criminal Codes,<sup>4</sup> and the Criminal Code of Brčko District,<sup>5</sup> criminalise the above-mentioned criminal offences almost identically (the only difference is in the subject of the legal protection: state, entity or district).

Besides the above-mentioned articles, the following articles of the Criminal Code of B&H also apply in the case of individual acts of terrorism: Article 191 - Taking of hostages, Article 192 - Endangering internationally protected persons, Article 193 - Illicit trafficking in arms and military equipment, Article 194 - Illicit procurement and disposal of nuclear material, Article 196 - Piracy, Article 197 - Hijacking an aircraft or a ship, Article 198 - Endangering the safety of air traffic and maritime navigation, Article 199 - Destruction and removal of signal devices utilised for safety of the air traffic, Article 200 - Misuse of telecommunication signals, Article 212 - Illicit trade, Article 213 - Illicit manufacturing<sup>6</sup>.

The following articles of the Criminal Code of B&H should also be emphasised: Article 26 - Attempt,

- g) Releasing dangerous substances, or causing fire, explosion or floods the effect of which is to endanger human life;
- h) Interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;
- i) Threatening to perpetrate any of the acts referred to in items a) to h) of the paragraph.

<sup>3</sup> Article 202 of the CCBiH on the Funding of Terrorist Activities states: Whoever by any means, directly or indirectly, provides or collects funds with the aim that they should be used or knowing that they are to be used, in full or in part, in order to perpetrate:

- a) A criminal offence referred to in the Article 191 (*Taking of Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation*), 199 (*Destruction and Removal of Signal Devices Utilised for Safety of the Air Traffic*), 200 (*Misuse of Telecommunication Signals*) and 201 (*Terrorism*) of the Code;
- b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such an act, by its nature or context, is to intimidate the population, or to compel the authorities of Bosnia and Herzegovina or any other government or an international organisation to perform or to abstain from performing any act, shall be punished by imprisonment for a term between one and ten years.

<sup>4</sup> Criminal Code of the Federation B&H and Criminal Code of Republika Srpska Available at:

[www.coe.int/T/E/Legal\\_Affairs/Legal\\_co-operation/Fight\\_against\\_terrorism/4\\_Theme\\_Files/Country\\_Profile](http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Fight_against_terrorism/4_Theme_Files/Country_Profile_B&H_-_Legislation)

<sup>5</sup> Criminal Code of Brčko District B&H.

<sup>6</sup> CC B&H Available at: [www.coe.int/T/E/Legal\\_Affairs/Legal\\_co-operation/Fight\\_against\\_terrorism/4\\_Theme\\_Files/Country\\_Profiles](http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Fight_against_terrorism/4_Theme_Files/Country_Profiles_B&H_-_Legislation) B&H – Legislation

Article 29 - Accomplices, Article 30 - Incitement, Article 31 - Accessory, Article 247 - Conspiracy to perpetrate a criminal offence, Article 248 - Associating for the purpose of perpetrating criminal offences, Article 32 - Limitations in responsibility and punishability of collaborators, Article 35 - Intent and Article 36 - Negligence<sup>7</sup>.

Therefore, the general provisions of the Criminal Code of B&H provide for the criminalisation of not only organised terrorist activities, but also incitement, accessory, accomplices and similar types of activities mentioned above, which can also be applied to other criminal offences.

Bosnia and Herzegovina ratified the Council of Europe Convention on the Prevention of Terrorism (ETS 196) on January 11, 2008. The ratification process of the UN Convention for the Suppression of Acts of Nuclear Terrorism is ongoing. Aiming for more efficient implementation of these instruments, new amendments to the Criminal Code were suggested.

Also, in line with the above mentioned and other relevant international instruments the number of "*lex specialis laws*" has been amended or is in the amending procedure" (see page 5-7).

Bearing in mind that getting closer to NATO and EU is the most important national goal, the main focus is the harmonisation of national legislation with EU and NATO instruments and standards.

### **The area of court jurisdiction**

The criminal legislation of B&H shall be applied to any person who perpetrates a criminal offence in the territory of B&H, regardless of the perpetrator's citizenship (territorial principle). Pursuant to the provisions of international law, the territorial principle has been supplemented with another two principles: flag state principle for ships and the principle of aircraft registration.<sup>8</sup>

The criminal legislation of B&H shall be applied to any person who perpetrates a criminal offence outside B&H which is directed against the integrity of B&H,<sup>9</sup> a criminal offence which B&H is bound to punish according to the provisions of international law and international treaties or intergovernmental agreements, as well as a criminal offence against an official or person with responsibility within the

institutions of Bosnia and Herzegovina, related to his/her duty.<sup>10</sup>

The criminal legislation of B&H shall be applied to a non-citizen of B&H who, outside its territory, perpetrates any criminal offence against B&H or one of its citizens. It shall be applied to a non-citizen of B&H who, outside its territory, perpetrates a criminal offence against a foreign state or non-citizen of B&H for which, under the law in force in the place of perpetration of the criminal offence, a term of imprisonment of five years or a more severe punishment may be imposed.<sup>11</sup>

In the cases referred to in the last paragraph, the criminal legislation of B&H shall be applied only if the perpetrator of the criminal offence is found within the territory of B&H, or has been extradited to it, or if the perpetrator is found within the territory of B&H and is not extradited to another state.

### **Forfeiture of objects acquired by a criminal offence**

As a security measure, forfeiture of objects<sup>12</sup> is established by the Criminal Code of B&H and concerns any object in connection with a criminal offence which was either used or destined for use in the perpetration of a criminal offence. This security measure also applies when there is a danger that those objects will be used again for the perpetration of a criminal offence or when necessary to protect the public safety or for moral reasons. Objects may be forfeited even if not owned by the perpetrator when public safety considerations or moral reasons so require, but such forfeiture does not affect the rights of third parties to obtain damages from the perpetrator.

### **Procedural rules**

The Criminal Procedure Code of B&H (CCPB&H)<sup>13</sup> does not provide for special ways of prosecuting criminal acts related to terrorism - there is no difference in the prosecution of criminal terrorist activity and other criminal activities. Thus, all procedural actions shall be implemented in accordance with the Criminal Procedure Code of B&H, with respect for the human rights and freedoms arising from numerous international documents, particularly the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) which was ratified by Bosnia and

<sup>7</sup> Ibidem 6

<sup>8</sup> Article 11, Chapter II - General Provisions, Criminal Code of B&H.

<sup>9</sup> Chapter XVI, Criminal Code of B&H.

<sup>10</sup> Paragraph 1, items a), c) and d), Article 12, Chapter II - General Provisions, Criminal Code of B&H.

<sup>11</sup> Paragraph 2, Article 12, Chapter II - General Provisions, Criminal Code of B&H.

<sup>12</sup> Article 74, Chapter IX - Security Measures, Criminal Code of B&H.

<sup>13</sup> Criminal Procedure Code of B&H, "Official Gazette of B&H" number 3/03.

Herzegovina and entirely integrated in its Constitution.

### Investigative methods

Special investigative measures<sup>14</sup> defined by the Criminal Procedure Code of B&H may be applied in an investigation; they may include certain temporary restrictions of fundamental rights and freedoms in the process of obtaining the data and evidence necessary to carry out a criminal proceeding. These are: surveillance and technical recording of telecommunications, access to computer systems and computerised data processing, surveillance and technical recording of premises, covert following and technical recording of individuals and objects, use of undercover investigators and informants, simulated purchase of objects and simulated bribery, supervised transport and delivery of objects of criminal offence.<sup>15 16</sup>

Competence to initiate the above-mentioned measures is assigned to the prosecutor, but only the court may approve them (judge for previous proceeding). At the same time, the court controls the legality of the procedure for the application of these measures (the principle of court supervision).

The introduction of special investigative measures in the Criminal Procedure Code of B&H was motivated by:

- the aspiration of Bosnia and Herzegovina to enhance the fight against the most complex types of crimes, including terrorism;
- the commitment of the state to fight growing crimes which endanger not only public safety but also the whole democratic system;
- an obligation arising from numerous international documents; and
- the general opinion that the specificities of modern organised crime and terrorism call for the introduction of special measures and action in detecting and proving the commission of such criminal offences.

Pursuant to the paragraph which defines that human rights and freedoms may be restricted only if protecting legitimate social interests and values (Article 8, Paragraph 2 of the ECHR), the above-

mentioned measures and actions abide by the following principles which are generally accepted: any action or measure must be regulated by law; special investigative measures shall be applied only if the aim cannot be achieved in any other way; they may only be applied in serious and complex cases; and their duration shall be limited.

### Jurisdiction of the courts in B&H

The **Court of B&H**<sup>17</sup> is responsible for the criminal offences defined by the Criminal Code of B&H and other laws of B&H. Furthermore, the Court of B&H is responsible for criminal offences defined by the legislation of the Entities and the Brčko District of B&H (BDB&H) in cases where a criminal offence: a) endangers the sovereignty, territorial integrity, political independence, national security or international subjectivity of B&H or b) may have serious repercussions and detrimental consequences for B&H or may cause a serious economic loss or have other detrimental consequences outside the area of the given Entity or the Brčko District of B&H.

The Court of B&H is also responsible for deciding on issues pertaining to the implementation of international and inter-entity criminal regulations, including relations with Interpol and other international police bodies, such as transfer of a convict or apprehension and extradition of a person requested by any body in the territory of B&H, or by any other state or international court or tribunal.

The Court of B&H decides on appeals against first instance decisions.

The competence of the **Courts in the Entities** – Federation of Bosnia and Herzegovina (FB&H) and Republika Srpska (RS) – on issues of terrorism is defined by the criminal legislation of the Entities (Criminal Code of FB&H and Criminal Code of RS).

The courts in **FB&H** are: the **Supreme Court of FB&H**<sup>18</sup>, the **cantonal courts** and the **municipal courts**.

The courts in **RS** are: the **Supreme Court of RS**<sup>19</sup>, the **district courts** (for the area of two or more basic courts) and the **basic courts** (for the area of one or more municipalities).

The cantonal courts in FB&H and the Basic Courts in RS are first instance courts, while the Supreme Court of FB&H and the Supreme Court of RS have second instance jurisdiction (decide on appeals and extraordinary legal remedies). A council of the court's criminal department composed of three judges passes judgment in the first instance, while

<sup>14</sup> Articles 116-122, Chapter IX - Special Investigative Actions, Criminal Procedure Code of B&H.

<sup>15</sup> Article 116, Chapter IX - Special Investigative Actions, Criminal Procedure Code of B&H.

<sup>16</sup> For the successful suppression of modern types of crime, apart from undercover operations and measures, other activities may be implemented, such as: "transfer" of the burden of providing evidence to the suspect, i.e. the convict in the proceedings; forfeiture of property gains acquired by a criminal offence; testimony by witnesses under protection; granting of complete or partial immunity from criminal prosecution to so-called collaborators of justice; or revealing of a banking secret.

<sup>17</sup> [www.sudbih.gov.ba](http://www.sudbih.gov.ba)

<sup>18</sup> [www.vsfbih.ba](http://www.vsfbih.ba)

<sup>19</sup> [www.vrhovnisudrs.com](http://www.vrhovnisudrs.com)

an individual judge passes judgment on criminal offences for which a term of up to five years' imprisonment or a fine is stipulated as the maximum punishment. A council of the court appellate department composed of three judges passes judgment in the second instance.

The **Courts in the Brčko District of B&H** are the **Basic Court**<sup>20</sup> and the **Appellate Court**<sup>21</sup>. These courts handle any criminal offence committed or attempted in the area of the Brčko District of B&H. The Basic Court in the first instance passes judgments, as a council composed of three judges, or an individual judge in the case of criminal offences for which a fine or imprisonment of up to ten years is stipulated as the maximum punishment. The Appellate Court, in the second instance, handles all appeals against decisions and judgments by the Basic Court, and decides on extraordinary legal remedies against lawful court decisions, as a council composed of three judges.

## Other relevant laws

### Protection of witnesses

Another important aspect of the fight against terrorism is the protection of witnesses. The protection of witnesses is conducted in compliance with the **Law on Protection of Witnesses under Threat and Vulnerable Witnesses**,<sup>22</sup> the **Law on Witness Protection Programme**,<sup>23</sup> and other regulations of B&H relating to witness protection.

According to the Law on Witness Protection Programme, a witness may be provided protection with his/her approval, if he/she or any member of his/her family faces a threat endangering his/her life, health or freedom, because of his/her intention to act as a witness. A witness may also be provided with protection if a threat is identified only after the completion of a criminal proceeding, if the threat is caused by the fact that the witness testified during the proceeding. This Law stipulates that witness protection measures shall be implemented by the **Department for Witness Protection** within the State Investigation and Protection Agency (SIPA).

The Law on Witness Protection Programme is in the amending procedure; the amendments have been referred to the Parliament of B&H and its adoption is to be expected by the end of the year 2008.

B&H has not adopted a law on the assistance and compensation of victims of terrorist activities, but psycho-social and similar assistance is provided for in

<sup>20</sup> www.osbd.ba

<sup>21</sup> www.asbd.ba

<sup>22</sup> "Official Gazette of B&H" numbers 3/03, 21/03 and 61/04.

<sup>23</sup> "Official Gazette of B&H" number 29/04.

the Law on Protection of Witnesses under Threat and Vulnerable Witnesses. Thus, Article 6 of this Law stipulates that "during the investigation, the Prosecutor, and after the indictment has been issued, the Court, shall ensure that the body responsible for issues of social care is aware of the involvement of the vulnerable witness in the proceedings and shall enable the assistance provided by this body as well as psychological support to the witness, including the presence of appropriate professionals during examinations or hearings".

## Prevention and suppression of financing of terrorism

Issues pertaining to the prevention and suppression of the financing of terrorism are regulated by the **Law on Preventing Money Laundering**.<sup>24</sup> This Law stipulates that the financing of terrorist activities includes all actions prescribed by criminal legislation.

Investigations related to the financing of terrorism are conducted by the **Financial Intelligence Department (FID)** within the State Investigation and Protection Agency.<sup>25</sup> Pursuant to the Law on Preventing Money Laundering, the FID also has the competence to freeze funds (issue an order to suspend any suspicious transactions) suspected of being used to fund terrorist activities.

Preventive measures to detect and suppress the financing of terrorism are taken in accordance with this Law by: banks (in accordance with the Law on Banks), post offices, investment and pension funds, stock-exchanges and stock-exchange agencies, insurance and re-insurance companies, casinos, gambling houses and organisers of other lotteries, pawnshops, attorneys and notaries public, accountants and auditors, real estate agencies, humanitarian organisations, and other similar institutions. According to the Law, the above-mentioned institutions are obliged to identify clients and transactions and notify the FID about any suspicious transactions, any transactions exceeding 30,000KM<sup>26</sup> and any interconnected transactions in cash exceeding 30,000KM.

## Application of international restrictive measures

<sup>24</sup> "Official Gazette of B&H" number 29/04.

<sup>25</sup> Article 5 of the Law on Preventing Money Laundering defines all the tasks pertaining to the detection, investigation and prevention of the funding of terrorist activities in accordance with the Law on the State Investigation and Protection Agency, and other laws on promoting co-operation among the responsible B&H bodies, as well as on promoting co-operation and exchanges of information at the international level with regard to the fight against the funding of terrorism.

<sup>26</sup> 30.000KM≈15.000EUR

The international restrictive measures are applied by the **Law on applying certain temporary measures for the efficient enforcement of the mandate of the International Criminal Court for the former Yugoslavia and other international restrictive measures**<sup>27</sup>.

This Law regulates the application of international measures which are in line with international law, that Bosnia and Herzegovina apply against states, international organisations, territorial units, movements and physical and legal persons, and other subjects encompassed by international restrictive measures.

International restrictive measures includes: arms embargo, complete or partial restrictions of export or import, travel ban, financial restrictions and other measures in line with international law.

The Ministry of Security is in charge of a database on persons who are subject to these restrictive measures.

***The Law on Classified Data Protection of B&H**<sup>28</sup> regulates common bases of a unique system of determining, access, use, safekeeping and protection of classified data from an unauthorized disclosure, destruction and misuse, within the competence of Bosnia and Herzegovina, entities and other levels of state structure of Bosnia and Herzegovina related to public security, defence, foreign affairs or intelligence and security activities, cessation of secrecy of such data, as well as procedure of security vetting and issuance of security permit for the access to classified data.*

### **The Framework Law on the Protection and Rescue of Persons and Property in the Event of Natural or Other Disasters**

Getting closer to the Euro-Atlantic organisations demands the creation of a new legal and institutional framework for the protection and rescue of persons and property and its integration into contemporary EU and NATO concepts.

To this end, on May 15, 2008 the Parliament of B&H adopted the Framework Law on the Protection and Rescue of Persons and Property in the Event of Natural and other Disasters in Bosnia and Herzegovina.<sup>29</sup>

The Law, in a general framework, regulates the protection and rescue of persons and property in the event of natural or other disasters in Bosnia and Herzegovina, as follows:

- a) Implementation of the international obligations and cooperation in the implementation of protection and rescue, i.e. civil-protection;
- b) Competencies of the bodies and institutions of Bosnia and Herzegovina in the field of protection and rescue of people and property in natural and other disasters in Bosnia and Herzegovina;
- c) Coordination of actions of the institutions and bodies of Bosnia and Herzegovina, the Entity Civil Protection Administrations and the relevant body for civil protection of the Brčko District of Bosnia and Herzegovina;
- d) Operations Communication Centre of Bosnia and Herzegovina---112;
- e) Issuance and harmonization of the framework plans and programs of protection and rescue in the event of natural or other disasters;
- f) Public information and public relations;
- g) Funding;

Further, article 18 defines: "For the purpose of constant collection of data on all phenomena and dangers that may lead to a natural or other disaster as well as data on consequences of natural or other disasters for people and property in affected areas, and data processing and dissemination to competent authorities and legal persons, the system of single European emergency call number 112 shall be introduced in Bosnia and Herzegovina, and the Operations Communication Centre of Bosnia and Herzegovina – 112 (hereinafter: Centre – 112) shall be established".

The Framework Law also foresees the establishment of the **Coordination Body**. The Body will coordinate and manage all activities related to the protection and rescue of persons and property in the event of natural or other disasters

Also, **the Plan of civil-military cooperation in the case of a terrorist attack** is adopted by the Council of Ministers at its 51st session held on June 3, 2008. The obligation to adopt the Plan derived from Bosnia and Herzegovina's strategy for fighting terrorism.

The purpose of the Plan is to prevent or minimize terrorist attacks and to mitigate the aftermath of such attacks through civil and military cooperation. The Plan defines response management phases and cooperation in the case of a terrorist attack and clearly stipulates the competences and activities of

<sup>27</sup> Law on applying certain temporary measures for the efficient enforcement of the mandate of International Crime Court for ex Yugoslavia and other international restrictive measures, Official Gazette of B&H, No 25/06

<sup>28</sup> Official Gazette of B&H no. 54/05

<sup>29</sup> Official Gazette of B&H no. 50/08

the concerned institutions at all levels of government (prevention-preparedness for response, response, aftermath mitigation).

The Plan and its Annexes also clearly and precisely define activities of civil bodies and institutions and activities of the Ministry of Defence of Bosnia and Herzegovina – Armed Forces of Bosnia and Herzegovina.

## INSTITUTIONAL FRAMEWORK

The **Prosecutor's Office of B&H**<sup>30</sup> is responsible for the investigation and prosecution of criminal acts pursuant to the Criminal Procedure Code of B&H.

The **Intelligence and Security Agency of B&H**<sup>31</sup> is responsible for collecting and analysing intelligence data related to threats to the security of B&H, both within the country and from abroad, including terrorism and international terrorism.

The **Ministry of Security of B&H**<sup>32</sup> as main security institution in B&H, is responsible for: protection of international borders, prevention and tracing of perpetrators of criminal offences of terrorism, drug trafficking, counterfeiting of domestic and foreign currencies and trafficking in persons, and of other criminal offences with an international or inter-Entity element, international co-operation in all areas within the remit of the Ministry, protection of persons and facilities, collection and use of data relevant for security of B&H, organisation and harmonisation of the activities of the Entity Ministries of Internal Affairs and of the District of Brcko of B&H in accomplishing the tasks of security in the interest of B&H, meeting of international obligations and co-operation in carrying out of civil defence, co-ordination of activities of the Entity civil defence services in B&H and harmonising their plans in the event of natural or other disasters afflicting B&H, and adoption of protection and rescue plans and programmes, implementing B&H immigration and asylum policy and regulating procedures concerning the movement and stay of foreigners in B&H.

The **Department for the Fight against Terrorism** as a part of Ministry of Security: monitors the implementation of international conventions; is responsible for international co-operation; drafts new legal regulations on fighting terrorism; supervises the timely and effective implementation of laws and regulations relating to

the suppression of terrorism, the suppression of the activities of groups smuggling weapons for terrorist groups and nuclear, chemical and biological weapons, the financing of terrorism or groups supporting it, in particular of those suspected of being connected with other types of organised crime. In this respect, the Department co-operates with the Agencies within the Ministry of Security, other institutions and relevant international organisations.

Within the Ministry of Security are: the Border Police, the State Investigation and Protection Agency, Service for Foreigners as administrative organizations whose rights, duties and operational autonomies are regulated by separate laws, and the Office for Co-operation with Interpol, as an autonomous service whose rights and duties are regulated by separate regulations.

The **State Investigation and Protection Agency**<sup>33</sup> (**SIPA**) is an agency within Ministry of Security. SIPA has police power and is responsible for fighting terrorism, organized crime and other criminal offences which are under the competence of the Court of B&H.

**Financial Intelligence Department (FID)**, as a part of the **SIPA**, receives, collects, investigates and analyses information and data and forwards them to the B&H Prosecutor's Office in accordance with the Law on Preventing Money Laundering and Financing of Terrorist Activities. It is responsible for international co-operation on issues relating to the fight against the financing of terrorism, and offers expert assistance to the Prosecutor's Office in this area. The FID has been a member of the EGMONT group since 29 June 2005; exchanges of information on money laundering and the financing of terrorism are ongoing amongst the members of the group. With the aim of improving the exchange of data and information relating to the fight against the financing of terrorism, the FID has signed Memorandums of Understanding with several countries in the region.

The **Crime Investigation Department** offers operational assistance to the FID, detects and investigates criminal terrorist activities, identifies and extradites the perpetrators of such criminal offences to the Prosecutor's Office, collects notifications and data on criminal offences, and monitors and analyses the security situation.

The **Witness Protection Department** provides protection to witnesses in accordance with the laws and other regulations of B&H on witness protection.

<sup>30</sup> [www.tuzilastvobih.gov.ba](http://www.tuzilastvobih.gov.ba)

<sup>31</sup> [www.osa-oba.gov.ba](http://www.osa-oba.gov.ba)

<sup>32</sup> [www.msb.gov.ba](http://www.msb.gov.ba)

<sup>33</sup> [www.sipa.gov.ba](http://www.sipa.gov.ba)

The **Unit for Special Support** offers its support to FID and other departments, ensuring additional police tactics, equipment and human resources when stronger security measures are needed. The Unit also performs the most demanding and the most complex technical, operational and tactical police actions.

The **Border Police**<sup>34</sup> is responsible for the surveillance and control of state borders; implements the Law on Movement and Residence of Foreign Persons and Asylum; detects, investigates and suppresses offences prescribed by the Criminal Code of B&H, particularly those directed at the security of B&H and the security of state borders. The **Central Investigation Office and Specialised Units** are entities within the State Border Service.

The **Service for Foreigners**<sup>35</sup> is responsible for: Administrative work regarding the residence and movement of foreigners in Bosnia and Herzegovina as stipulated by the Law on Residence and Movement of Foreigners and Asylum seekers (including tasks such as the cancellation of visas, issuing identification and travel documents to foreigners, revocation of issued identification and travel documents to foreigners, registration or change of residence of foreign citizens, notarization of guarantee letters and affidavit of support). Then: a) approval of temporary or permanent stay in B&H, extension of temporary stay, revocation of temporary or permanent stay, supervision and expulsion of foreigners deciding whether to execute an expulsion order. The Service also controls the implementation of the Law on Residence and Movement of Aliens and Asylum Seekers and deals with statistical and analytical work relating to foreigners.

**The Sector for the Protection of Classified Data** within the Ministry of Security of B&H deals with issues arising from the exchange of classified data at the national and international level. In practice, work involving classified data is carried out in such a way that prevents any unauthorized access and, at the same time, respects the procedures and principles of "need to know". Appropriate records are kept for: confidential data, access to confidential data, renouncing of the classified data and other evidences. Persons who have appropriate permission and security clearance may access classified data in the security area.

The Agreement with NATO has been signed and the Sector is certified by the NOS NATO to exchange classified data up to the secret level. The procedure has been undertaken to sign the Agreement on the

exchange of classified data with the NATO member states and other states as well.

B&H has also ratified the Agreement between B&H and the EU on security procedures for the exchange of classified data (Official Gazette no. 2/06). The undergoing EU – Twinning Project will create conditions for the certification of the Sector and for the exchange of classified data with the European Union as well.

Also, several commissions, task and strike forces have been operating on a state level, which are directly or indirectly connected to the B&H system for fighting terrorism. For example: **The Task Force for Fighting Terrorism** that was established by the Council of Ministers of B&H with the role of coordinating all the activities related to the fight against terrorism. The Task Force is led by the Chief Prosecutor of B&H. **The Special Working Group for the Suppression of Money Laundering and Financing Terrorism** is in charge of drafting new legal solutions and coordinates all the activities of relevant institutions in the field of AML and CFT. **The State Commission for the review of decisions on naturalization of foreigners in B&H.** The review procedure includes all persons admitted to citizenship through naturalization who, prior to their admission, were not provided with JMB (ID number) for the period after 6<sup>th</sup> April 1992 and before 1<sup>st</sup> January 2006 (war and post war period). The Commission started working in February, 2006. Based on the Report for the year 2007, the Commission has made 661 decisions which referred to citizenship withdrawal. Concerned persons received B&H citizenship under suspicious circumstances, and some of them were members of extreme military units during the war.

At the Entity level (FB&H and RS) the competence to fight terrorism is allocated to:

- the **Ministry of the Interior of the Federation of B&H**<sup>36</sup>, which comprises the Department for the Fight against Terrorism, the Intelligence Department and the Anti-terrorist Unit;

- the **Ministry of Interior of the RS**<sup>37</sup> with the following departments: Counter Terrorism Department, the Special Investigative Department, the Department for Crime-intelligence Analysis and the Department for Anti-diversion Protection within the Crime Police Administration.

As regards the fight against the financing of terrorism at the Entity level, the following institutions are responsible: the **Banking Agency of the**

<sup>34</sup> [www.granpol.gov.ba](http://www.granpol.gov.ba)

<sup>35</sup> [www.sps.gov.ba](http://www.sps.gov.ba)

<sup>36</sup> [www.fmup.gov.ba](http://www.fmup.gov.ba)

<sup>37</sup> [www.mup.vladars.net](http://www.mup.vladars.net)

**FB&H<sup>38</sup> and the Banking Agency of RS<sup>3940</sup>.** These institutions actively co-operate with the Financial Intelligence Department (FID-SIPA).

## INTERNATIONAL CO-OPERATION

The issues of international legal assistance<sup>41</sup> and extradition<sup>42</sup> are regulated by the Criminal Procedure Code of B&H, and by multilateral and bilateral treaties. "*Lex specialis*" Law on International Assistance in criminal matters is in the draft phase. B&H has ratified the relevant European Conventions (see the table below) and concluded a series of bilateral treaties. The bilateral agreements on police co-operation, which also encompass the fight against terrorism, should be highlighted in particular; these agreements have been concluded both with countries from the region<sup>43</sup> and other countries.<sup>44</sup>

### Measures at international level

#### United Nations

B&H has signed and ratified a series of UN conventions and protocols on the fight against terrorism; it actively co-operates with the Counter-Terrorism Committee of the Security Council, particularly with regard to the implementation plan of Resolution 1373, and with the Monitoring Team of the UN Security Council with regard to the implementation of sanctions against Al-Qauida and the Taliban (R-1267 and R-1617).

A delegation of the UN's Antiterrorist Committee - Executive Directorate (CTEDs) visited B&H in November 2007 in order to review the implementation level of R-1373 (2001). In May 2008 the Visit Report was drafted and commented on by the bodies of B&H in June 2008. Adoption of the final Report is to be expected very soon.

<sup>38</sup> [www.fba.ba](http://www.fba.ba)

<sup>39</sup> [www.abrs.ba](http://www.abrs.ba)

<sup>40</sup> Currently the bank supervision does not exist on state level. The institutions responsible for bank supervision are established on the Entity level (Bank Agency of RS and Bank Agency of FB&H)

<sup>41</sup> Chapter XXX – Procedure to render international legal aid and to enforce international agreements in criminal matters, Criminal Procedure Code of B&H.

<sup>42</sup> Chapter XXXI – Procedure to extradite suspects or accused and convicted persons, Criminal Procedure Code of B&H.

<sup>43</sup> Bilateral agreements on police co-operation in the field of the fight against terrorism and organised crime were signed with the following countries in the region: Hungary (21 April 1996), Italy (28 January 2002), Croatia (17 June 2002), Greece (09. February 2006), Slovakia (05. June 2006), Austria (05. May 2006), Slovenia (22. December 2006), Romania (04. June 2006), Montenegro (07. September 2007), Bulgaria (20. September 2007), and Macedonia (21. March 2008)

<sup>44</sup> Bilateral agreements on police co-operation in the field of the fight against terrorism and organised crime were also signed with: Turkey (21 June 2000), the Russian Federation (09. September 2004), the Islamic Republic of Iran (08. March 2005), Egypt (14. December 2006), Baden-Württemberg (Germany) and Spain.

### European Union

On June 16, 2008 Bosnia and Herzegovina signed the Stabilization and Association Agreement with the European Union<sup>45</sup>. The Agreement is currently undergoing the ratification procedure.

Bosnia and Herzegovina is committed to cooperating with the EU to prevent and combat terrorism. Action is being taken in order to harmonize relevant national legislation with EU standards, to enhance institutional capabilities and coordinate operative activities with EU countries.

### NATO/PfP Activities

At the NATO Summit in Riga, held on November 29 2007, Bosnia and Herzegovina was invited to the NATO's Partnership for Peace Program and to the Euro-Atlantic Partnership Council. Furthermore, at the Summit held in April 2008 NATO passed a decision in order to enhance the cooperation level with B&H to **Intensive dialogue**.

The **NATO Coordination Team of the Council of Ministers of B&H** was established in November 2007, with an aim to ensure coordination of all inter-sectoral activities related to the implementation of the commitments of the state of Bosnia and Herzegovina arising from participation in NATO's Partnership for Peace Program and related to admission into full membership of NATO.

In the context of approaching of B&H to NATO Pact, realisation of the following activities takes significant place: enhancing of capacities for the fighting against asymmetrical threats incl. terrorism, establishment of the new system for the protection and rescue of people and property, development of integrated border security system and the system for protection of classified data.

### The Council of Europe

Bosnia and Herzegovina is a member of the Council of Europe and signatory to the conventions pertaining to the fight against terrorism (see the table below). Also, B&H actively participates in the Council of Europe's initiative in the fight against terrorism, the Committee of Experts on Terrorism (CODEXTER), and it has entered the second evaluation cycle of the Group of States against Corruption (GRECO).

<sup>45</sup> More details are available at: [www.dei.gov.ba](http://www.dei.gov.ba)

## Technical Assistance Program

United Nations Office on Drugs and Crime – Terrorism Prevention Branch and Council of Europe will provide B&H authorities with assistance on the implementation of international instruments and international cooperation in the field of combating terrorism.

Preliminary activities started with a joint Workshop in Sarajevo (30.10 - 01.11.2006) during which the Future Programme for Legislative Assistance in Combating Terrorism was adopted.

Programme includes:

- The ratification of relevant regional and international instruments against terrorism;
- The holding of legislative drafting workshops for Bosnia and Herzegovina, as necessary, to discuss with the legal experts any legal provisions that need to be harmonized in accordance with the international and regional anti-terrorism standards;
- The provision of advanced legal training for judges and prosecutors of Bosnia and Herzegovina on international cooperation in combating terrorism;
- The organisation of specialized training courses for judges and prosecutors of Bosnia and Herzegovina on international cooperation in combating terrorism to be held abroad.

According to our objectives, B&H ratified the Council of Europe Convention on the Prevention of Terrorism and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. Also, the UN Convention on Criminal Acts of Nuclear Terrorism is in the process of ratification. Also, two Workshops were held: 1) International Instruments and Standards in the field of Combating Terrorism and 2) Legislative Drafting Workshop, during which the new amendments to the Criminal Code of B&H were drafted (in the part referring to terrorism).

The provision of technical assistance will continue in the year 2009, i. e. in January 2009 a Workshop is planned to be held for judges and prosecutors on international legal co-operation related to terrorism, including the drafting of requests for extradition and mutual legal assistance.

Relevant Council of Europe conventions – Bosnia and Herzegovina	Signed	Ratified
European Convention on the Suppression of Terrorism (ETS 90)	17/03/2003	03/10/2003
Amending Protocol (ETS 190)	04/02/2005	-
European Convention on Extradition (ETS 24)	30/04/2004	25/04/2005
First Additional Protocol (ETS 86)	30/04/2004	25/04/2005
Second Additional Protocol (ETS 98)	30/04/2004	25/04/2005
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	30/04/2004	25/04/2005
First Additional Protocol (ETS 99)	-	-
Second Additional Protocol (ETS 182)	17/05/2006	07/11/2007
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	30/04/2004	25/04/2005
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	30/04/2004	25/04/2005
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	30/03/04*	30/03/04*
Convention on Cybercrime (ETS 185)	09/02/2005	19/05/2006
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	09/02/2005	19/05/2006
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	19/01/2006	11/01/2008
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	19/01/2006	11/01/2008

\* Signature without reservation as to ratification



