

# **BOSNIA AND HERZEGOVINA, FOREIGN POLICY AND FOREIGN INVESTMENTS**

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***Abstract:** Improving of business climate and attracting foreign investments is one of the declared priorities of economic policy for Bosnia and Herzegovina and its EU accession goal. For all businesses subjects in the country and especially for those overseas, it is important that the operating environment is regulated. The less administrative barriers with appropriate legislation, adequate workforce available and affordable sources of funding are essential conditions for a favorable business climate. Bearing in mind BH did not remain immune to global financial and economic crisis so the need to improve the business climate is growing. The crisis in the country is manifested in many ways - economic slowdown has affected the exports and imports, reduced foreign investments, rising unemployment and reduced public spending. This paper will give a summary of the legal regulation of foreign investment opportunities in Bosnia and Herzegovina as well as the results for 2010. A review is given to the question of conducting the foreign policy of Bosnia and Herzegovina, directions and priorities of management and political-legal concept of small investments in BH.*

***Keywords:** foreign policy, foreign direct investment, Bosnia and Herzegovina*

## **INTRODUCTION**

Bearing in mind that one of the primary goals of each country is an adequate and active participation in the international market, export growth, and steady progress in this regard, Bosnia and Herzegovina is trying to move this very path. However, poor economic development, lack of financial resources in the country, lack of motivation for most people to opt private business, or any innovation, difficult and complicated political situation in the country, may affect the development of any foreign policy relations with the other countries, its promotion for foreign investment, strengthening of export, etc.

In this paper, we will present the key basis on which the foreign policy of Bosnia and Herzegovina with which most of the BH population is not familiar, does not know how it works, and does not know the possible benefits that could be used.

## 1. BOSNIA AND HERZEGOVINA AND CONDUCTING OF FOREIGN POLICY

Bosnia and Herzegovina, although the least compact from legislative, national, religious, cultural and political point of view (asymmetric confederation, with two entities that define themselves as a constitutional state, the three nations and three religions, several cantons, etc.) is has a unique document foreign policy strategy. Leaving aside this time in what way and how it was passed, what was entered, and what is left out, however, there is still capacity was sufficient to comply at least at the level of the loose confederation of defining common priorities in foreign policy. Of course, it was not possible to achieve by Constitution of entities: the Federation of Bosnia and Herzegovina and the Serbian Republic, but is done through a separate document of the Presidency of Bosnia and Herzegovina from March 2003, titled "General directions and priorities of conducting foreign policy of Bosnia and Herzegovina".

The document of the Presidency of Bosnia and Herzegovina has three key chapters. The first, entitled "Principles of the foreign policy of Bosnia and Herzegovina", are listed the starting points for action at the international level (quoting)<sup>1</sup>:

- Foreign policy will lead the Presidency of Bosnia and Herzegovina;
- Promotion, representation of interests on behalf of Bosnia and Herzegovina in international relations based on the provisions of the Constitution of Bosnia and Herzegovina, laws, decisions and opinions of the Presidency, the Parliament of Bosnia and Herzegovina Council of Ministers and the Ministry of Foreign Affairs of Bosnia and Herzegovina (entities are not mentioned);
- International cooperation and contractual relations will be based on the principles encompassed in the UN Charter, Helsinki Final Act and other OSCE documents, and generally accepted principles of international law;
- Foreign policy will be based on openness and equality, mutual respect for sovereignty and territorial integrity, the principle of peaceful cooperation, taking into account mutual interests;
- International disputes should be resolved by peaceful means and through dialogue;
- It will support the continuing fight against terrorism.

In the second chapter of the document, entitled "Foreign Policy Priorities", the Presidency has defined priorities for the involvement of state authorities:

- Preservation and protection of the independence, territorial integrity, and sovereignty,
- Full and consistent implementation of the General Peace Agreement,
- Accession to Euro-Atlantic integration processes,
- Participation in multilateral activities, and
- Promotion, national defense as a partner in international economic relations and activities

In the third chapter, entitled Basic directions and activities of foreign policy, specific tasks related to actions at the bilateral level and at the multilateral level are outlined, and (for protection of BH citizens interests). Despite the Presidency of Bosnia and Herzegovina adopted a flexible policy document and unpretentious, in practice it was not possible to overcome the constitutional fact that the Federation of Bosnia and Herzegovina and the

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<sup>1</sup> [www.predsjednistvobih.ba](http://www.predsjednistvobih.ba)

Republic of Serbian state in particular, with special interests. There was not a management discrepancy, but the original demands of the citizens of these entities to maintain the special features and save, because their violent attempt of abolishing was the reason for the outbreak of civil war in the republic.

It is important to point out that foreign policy interests and priorities of these entities-states are not only identical, but differ considerably, which causes that they and their international cooperation develop in different directions. What were priorities to some, to other was less important and vice versa. The attempts of forced unification of these interests and attempts to connect to a variety of procedures, proved to be counterproductive and dangerous to the preservation of what was regulated and brought by the Dayton agreement. However, it is important to point out some circumstances that are relevant for the development of foreign political relations of Bosnia and Herzegovina:<sup>2</sup>

- BH has a very favorable geographical location - at the crossroads between West and East, the Mediterranean and the Continent, and of the European business center is two-hour flight away;
- Enterprises in BH have a rich tradition of successful participation in international projects around the world (some of the companies in BH before the war belonged to the world's leading companies in their areas);
- BH has a highly skilled workforce with good knowledge of foreign languages;
- BH has a stable currency linked to Euro;
- Annual inflation in BH does not exceed 3%;
- 95% of products from BH are exempted from all taxes on importation into the EU;
- BH enjoys trade preferences when exporting their goods in a number of other countries;
- Foreign investors have the same rights equal to the local ones;
- The rights of foreign investors in BH are specially protected;
- Bosnia and Herzegovina has a modern telecommunications network

### **1.1 General directions and priorities for conducting of foreign policy of Bosnia and Herzegovina**

If we consider the fact that the whole world is affected by today's global marketplace, therefore, and Bosnia and Herzegovina must be included in them and adapt to such circumstances. One of the attempts of Bosnia and joining integration and globalization trends is joining the EU. The fact is that one of the primary goals of the transition countries in Europe is to access this integration, and that the entire policy of the country turned to this end, BH is no different from the countries of this type. Starting from this goal, the Presidency of Bosnia and Herzegovina defines the principles, directions, and priorities of BH foreign policy in the future. For each realization of the objectives in the field of foreign policy requires adequate resources and potentials. Every country has some comparative advantages in the implementation of foreign policy objectives. Wide analysis of internal factors in the country provides an answer the question that we can provide the potential realization of certain objectives in foreign policy. Is that a factor of multi-ethnicity of BH foreign policy? Is it a handicap of this state or, possibly, a potential advantage in the process of implementation of our foreign policy interests and objectives? Is it possible to confirm on the example of Bosnia and Herzegovina experiences of Switzerland, Belgium and many

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<sup>2</sup> [www.predsjednistvobih.ba](http://www.predsjednistvobih.ba)

other countries that multi-ethnicity and multi-culture in achieving efficiently use to achieve various foreign policy goals?

Bosnia and Herzegovina, everything that is available to use as an advantage, looks like it using to trip over its potential benefits and advantages. It is hard that positive things from Switzerland or other European countries could be applied in Bosnia and Herzegovina. The problem lies in the attitudes of individuals inside the country, unsettled relations among politicians, but the personal interests of individuals and still-present hatred, and bad relations between the constituent peoples in BH. Therefore, already bad situation is constantly worsening. On the other hand, we can must emphasize the wealth of history and culture, fantastic achievements of the BH, artists who represent the soft power of BH, which is looking at the experiences of other countries, very usable in the process of achieving foreign policy objectives. Many writers, film directors, artists, and scholars and athletes in recent years contributed more international recognition of BH, than the entire diplomacy of this county. The state must recognize these values, develop, and promote them as a resource of foreign policy. The question is - how?

## **2. POLITICAL AND LEGAL CONCEPT OF INVESTING IN BOSNIA AND HERZEGOVINA**

Bosnia and Herzegovina adopted a law regulating foreign investments in the country. This law regulates the rights, obligations, and privileges of foreign investors, forms of foreign investment approval process and registration of foreign investments and determines the authorities responsible for approval and registration of foreign investment in the Federation of Bosnia and Herzegovina. To issues not covered by this law, the provisions of the Law on Foreign Direct Investment in Bosnia and Herzegovina, published in the Official Gazette, no. 17/98 are applied.

### **2.1 The rights, obligations, and privileges of foreign investors**

A foreign investor has the right to invest profits from such investments in any sector of economic and non-economic activities of the Federation and in the same form and under the same conditions as defined for domestic investors (residents of Bosnia and Herzegovina) under the applicable laws of the Federation of Bosnia and Herzegovina and Bosnia and Herzegovina.<sup>3</sup>

Foreign equity of a company engaged in the production and sale of arms, ammunition and explosives for military use and military equipment to public information (sectors that are subjects to restrictions) shall not exceed 49% of the equity of the given business organization.

A foreign investor may establish a company in the Federation under the same conditions that apply to domestic investors in accordance with the Company Law<sup>4</sup> if not otherwise stated.

Under this law, "the founder's right of the foreign persons" includes the right of establishment and management companies under the conditions applicable to domestic

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<sup>3</sup> Foreign Investment Law of BH, Official Gazette of the Federation no.61/01 and 50/03, Law on Foreign Investments RS, Official Gazette RS, no.25/02 i 240/4.

<sup>4</sup> Foreign Investment Law of BH, Official Gazette of the Federation no.61/01 and 50/03, Law on Foreign Investments RS, Official Gazette RS, no.25/02 i 240/4.

investors. Any subsequently imposed restrictions on the founding of foreign persons that are contrary to this law do not make legal consequences. Legal entities owned by foreign investors have the same rights, duties, and responsibilities as legal entities, which are fully owned by domestic legal entities or individuals. Special laws shall regulate the legal status, rights, obligations, and responsibilities of parts of foreign private persons and foreign natural persons performing business activities in the Federation. Foreign investors have the right to transfer abroad, freely and immediately, in freely convertible currency, profit that is a result of their investment in the BH Federation, including but not limiting to<sup>5</sup>

- Income from investments received in the form of profits, dividends, interest, and other forms;
- Funds received by investors after partial or complete liquidation of their investments in the Federation, or sale of the property or proprietary rights, and
- Compensation which Article 8 this law referred to

The law states that foreign investments will not be nationalized, expropriated or subjected to measures with similar effects, except in the public interest and in accordance with applicable laws and regulations. In addition, foreign investors are entitled to adequate, effective, and prompt compensation, to dispose freely for any damage resulting from nationalization, expropriation or other measures having similar effects.

In accordance with the law, foreign investors may exercise the following forms of foreign investment:<sup>6</sup>

- Establishing of a legal entity wholly owned by foreign investors;
- Establishing of a legal entity owned jointly by domestic and foreign investors;
- Investment in the existing legal entity,
- Special forms of investment

## **2.2 The process of approval and foreign investments registration**

Certain investments in BH are subject to approval and certain restrictions imposed by the Ministry. For investments in sectors subject to restrictions, foreign investors are required to apply to competent ministry for approval of the investment. The competent ministry shall make an appropriate decision within 30 days of receipt of the request. In the case when decision on foreign investment isn't made, it shall be deemed approved if the competent ministry is not informed the applicant, in writing, that the decision is delayed to a period of 30 days or more. If there are reasons for postponing the decision on foreign investment, the competent ministry will notify the applicant within the statutory deadline. Final decision on foreign investment will be delivered within 90 days of receipt of the request. In the case when decision is not approved within legal time period, foreign investment shall be deemed approved. Approval of foreign investment shall be valid without time limit.

In the BH, foreign investments registered with the Federal Ministry of Trade, and in the Serbian Republic with the Ministry of International Economic Relations. Foreign investors are required to submit an application for the registration of the contract or other act of investing, as well as any changes pertaining to these regulations within 30 days from the date of signing. Within 5 days of submitting a complete application, the Ministry will issue a decision on registration of foreign investments. In the case when Ministry has not duly

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<sup>5</sup> Foreign Investment Law of BH, Official Gazette of the Federation no.61/01 and 50/03, Law on Foreign Investments RS, Official Gazette RS, no.25/02 i 240/4.

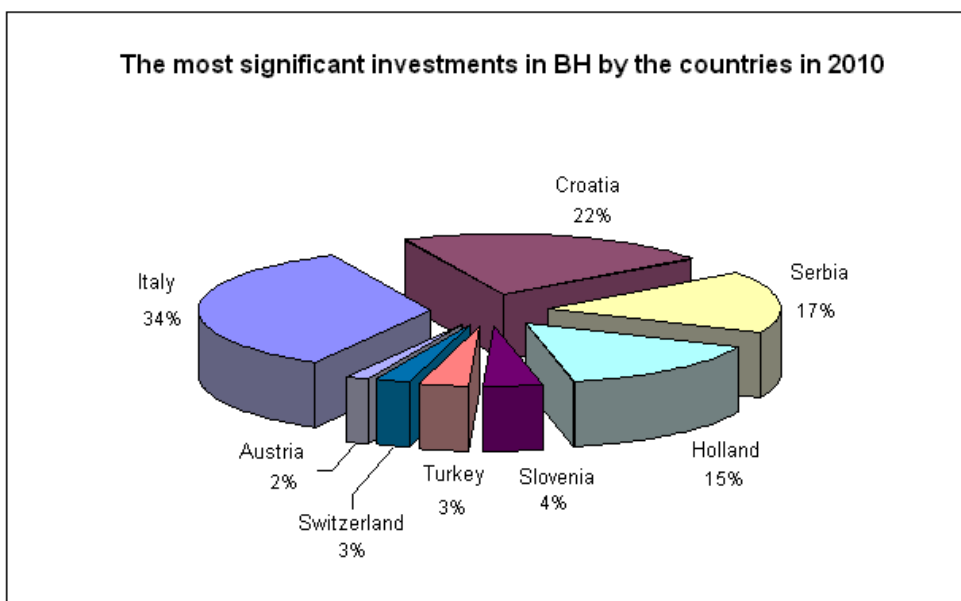
<sup>6</sup> Foreign Investment Law of BH, Official Gazette of the Federation no.61/01 and 50/03, Law on Foreign Investments RS, Official Gazette RS, no.25/02 i 240/4

registered application for foreign investment, foreign investment shall be considered registered. Data on registered foreign investments in the Federation will be used for the institutions of the Federation of BH and BH. FBH Government or authority made by the Government may release general information on foreign investments.

In this respect the legitimate interests of companies and ensure that their business secrets are kept. FBH Government or authority by the Government may provide specific information to third parties with the permission of the companies concerned.

### **3. FOREIGN DIRECT INVESTMENT IN BOSNIA AND HERZEGOVINA**

According to the Ministry of Foreign Trade and Economic Relations of BH, Foreign Investment in 2010, were KM135.4 million that represents a decrease compared to investments in the same period in 2009, to 71.4%. If we take into account the reduction due status and other changes would amount to about KM188 million, and would then represent a decline of about 60% over the same period last year. It should be noted that certain variations are possible in total registered foreign investment due to the implementation of amendments to the Law on Foreign Direct Investment in Bosnia and Herzegovina (published on 14.07.2010, in Official Gazette no. 48/10) so the total amount of foreign direct investing in BH is somewhat larger. Under the provisions of this law, foreign investors will continue to register only in a court of competent jurisdiction that will inform the competent ministry. This stops the obligations of foreign investors to register their respective investment with the Ministry of Foreign Trade and Economic Relations. Hereby the process of registration of foreign investors with local authorities is greatly simplified and shortened that would certainly contribute increasing foreign direct investments in Bosnia and Herzegovina. Characteristics of foreign direct investments registered in 2010 in Bosnia and Herzegovina is in the low level and is mainly a capital increase, capital increase of previously established associations of companies that make 54% until the establishment of new accounts for about 46%. Comparing these indicators with the situation in the first half when the foreign direct investment in the capital increase amounted to some 71%, a positive change in the structure of investments in favor of new projects in the third and fourth quarter of 2010 is visible. If these data are compared with the situation in 2009, where 66.4% of investments related to the recapitalization of existing ones, it is evident in the structure of foreign direct investment (capital increase in relation to the existing new) but still there are no significant foreign investments in new projects.



Source: Economic Trends, Bosnia and Herzegovina, 2010, available at [www.dep.gov.ba](http://www.dep.gov.ba)

## RESUME

According to the BH constitution, the Presidency is responsible for the area of foreign policy, and the Ministry of Foreign Affairs with its diplomatic network implements the goals established. The basic document is the so-called *policy paper*, which includes general foreign policy priorities, and BH exists in the foreign policy arena by implementing this document.

Although current world crisis negatively affect foreign investments in our country, the situation is exacerbated by inadequate attitude of the entity, inaccurate, and unprofessional way of making decisions in the field of foreign affairs, which affects the passive existence of our country internationally. Therefore, BH is not ready on any initiative and proactive position as they some other smaller states managed to build. If we take into account the current situation in the country, the current volume of foreign investments and position of BH in the world, which is a key determinant of foreign investment in the country, we can conclude it is necessary to immediately start processing the basic document of BH foreign policy, with the aim to provide accurate and specific guidance on particular issues in this paper. This would imply to give specific tasks to Ministry of Foreign Affairs, using its resources and in consultation with other institutions in BH (scientific, cultural, etc.), NGOs, and experts, to provide the optimal response to various challenges of foreign policy.

If we make conclusions on the issue of foreign investments, we find that the sources of finance in transition economies are insufficient to finance investments that would encourage sustainable economic growth. The most obvious reason for this is risk-averse banking sector and underdeveloped capital markets. Foreign direct investments are specific external source of funding that does not consist only of capital but also includes the know-how of foreign

direct investors. Foreign direct investment has proved to be the decisive factor that is able to restructure the economy and to invest more than domestic companies do.

Bosnia and Herzegovina must realize that foreign direct investment is the only way for development and recovery of the economy. It is the only, healthy inflow of capital that will affect job creation, growth of production, increasing gross domestic product and therefore poverty reduction in BH.

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