

Organization for Security and Co-operation in Europe
Human Dimension Implementation Meeting
Warsaw, 28 September 2011

Rule of law

Joint statement by the Helsinki Committee for Human Rights in Bosnia and Herzegovina, the Helsinki Committee for Human Rights in Republika Srpska, BiH, and the Norwegian Helsinki Committee

We welcome this opportunity to address serious concerns with respect to the rule of law in Bosnia and Herzegovina.

Political pressure in various forms, including public statements against courts, prosecution offices and the High Judicial and Prosecutorial Council is severely undermining the judicial system in the country, up to a point where it has become very difficult if not impossible, to prosecute major crime be that past war crimes or more recent crimes involving influential figures.

We call for implementation of the Justice Sector Reform Strategy. It is vital that the strategic goals of the reform are kept, as there are no alternatives to an independent, responsible, efficient, professional and coordinated judiciary to ensure the rule of law.

To further the principle of equality of citizens before the law, we call on the Federation Parliament to adopt the Draft Law on Amendments to the Law on Execution of Criminal Sanctions; for the existing state level coordination body to effectively promote harmonization of regulations in the enforcement of criminal sanctions throughout the country; as well as introduction of uniform standards on independent monitoring of prisons as a primary additional guarantee for the prevention of ill treatment of prisoners (in accordance with Rule 93 of the European prison rules).

In order to improve access to justice a law on free legal aid will be critical in addition to measures to reduce the backlog of cases through measures like amending the legal and administrative framework of land administration. Discrimination, in various forms, is the most common type of human rights violation in Bosnia and Herzegovina. To improve access to efficient remedies, the Law on Prohibition of Discrimination should be amended to designate the Ombudsman for Human Rights as a complaint body for alleged violations of that law, as a supplement to judicial and administrative proceedings. Additionally, education of judges and prosecutors should focus on the practical application of the Law against Discrimination, given the fact that violations of this law are so widespread.

In Bosnia and Herzegovina, there are nearly 140.000 final court decision that are still awaiting execution, which again calls into question the commitment of many instances of government towards the rule of law.

Such commitment was demonstrated in principle by the passing of the War Crimes Processing Strategy by the Council of Ministers in 2008. However we have noted with dismay that the implementation of the many concrete and operational steps identified in the Strategy are severely delayed, and that pressures against the justice systems has made the prosecution of war crimes cases more difficult.

All these things seen together make up a very gloomy picture and provide a stark warning that the rule of law, and the institutions most pivotal for upholding it are under threat. We therefore call on competent Bosnia and Herzegovinian authorities to act accordingly and for international organizations, including OSCE and member states to strongly support Bosnian judicial institutions with respect to our recommendations and concerns.