



European Network of Councils
for the Judiciary (ENCJ)

Reseau européen des Conseils
de la Justice (RECJ)

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Statement on the situation of judiciary in Bosnia and Herzegovina

The Executive Board of the European Network of Councils of the Judiciary makes this statement in order to support the judges and prosecutors of Bosnia and Herzegovina and High Judicial Prosecutorial Council of Bosnia and Herzegovina (HJPC) in respect of two important issues.

The first concerns legislation adopted in March 2025 by Republika Srpska (RS) on judicial independence.

Early in March 2025, the ENCJ received information on this legislation, establishing a separate Judicial Council and prohibiting the operation in the territory of RS of certain public institutions of Bosnia and Herzegovina. The institutions so prohibited include the HJPC. A new criminal offence was also introduced for failure to comply with these laws. It therefore became a criminal offence for judges, prosecutors and members of the Council functioning in the territory of Republika Srpska and coming from RS to operate as judges and prosecutors of the BiH and members of the HJPC.

On 7 March 2025 the Constitutional Court of Bosnia and Herzegovina temporarily suspended the application of the law establishing a separate Judicial Council. On 2 April 2025 a second decision of the Constitutional Court declared that any implementing acts adopted on the basis of that law were invalid.

On 3 April 2025, a delegation of the ENCJ Executive Board met with the Presidency of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina in Sarajevo. During this meeting, the ENCJ were informed that the practical effect of the RS legislation had been the intimidation of judges, specifically those sitting in the RS. The Executive Board delegation was also informed that judges were threatened with seizure of their assets for noncompliance, including for continuing to exercise their duties as a judge in the courts of BiH and for application of BiH law.

It must be stressed that the penalising of judges for applying the law in accordance with their obligations as office holders would be entirely wrong, and inconsistent with the Rule of Law.

On the basis of the information provided to the Executive Board, and in the absence of any reported improvements, we wish to emphasize that judicial independence is one of the cornerstones of the Rule of Law and a fundamental element of the right to a fair trial and effective judicial protection. This basic fact is recognized by, inter alia, the EU Treaties and the European Convention on Human Rights.

The ENCJ Executive Board therefore unequivocally states that no judge and prosecutor should be in danger of intimidation or threats for carrying out the duties which they have been appointed to discharge.

The second issue concerns draft legislation concerning HJPC.

In June 2024 the ENCJ gave an opinion on the Draft Law of HJPC, indicating several inconsistencies with European standards, as did the Venice Commission and other stakeholders. Subsequently, the HJPC was included in the process of amending the draft law and this second draft received a positive assessment from the Venice Commission. Despite these efforts, the draft legislation submitted by government to Parliament was different from the draft agreed, especially with regard to the role of the HJPC in respect of the financing of the judiciary.

In this context the Executive Board, underlines that:

- (1) It is essential that the executive and legislature respect the independence of the judiciary and only undertake changes to the justice system after meaningful consultation with the judiciary¹. Meaningful consultation includes careful consideration by the executive and legislative branches of government of the views of the judiciary, and real engagement with such views. Submitting to Parliament legislation materially different to that agreed with the HJPC, clearly frustrates this obligation.
- (2) In the ENCJ Opinion of June 2024, competences of the HJPC on budgets for the courts and prosecutors' offices were regarded as limited. It was considered desirable that the HJPC have a mandate for the overall budget, and not just sections of it. The information received indicates that the draft law submitted to the legislature further weakens these competences. For the reasons set out in the ENCJ Opinion of last June the proposed legislation in this regard weakens rather than strengthens the independence of the judiciary.

CONCLUSION

These two issues are separate and distinct concerns for the HJPC, and for the ENCJ. The Executive Board will continue to monitor the situation in respect of both matters.

¹ [Lisbon declaration 2018](#), [Warsaw declaration 2016](#), [CCJE Opinion no. 10 \(2007\)](#), [CCJE Opinion no. 24 \(2021\)](#).