

British Embassy  
Sarajevo



Sarajevo 02 June 2023

Dear All,

We, the undersigned, welcome that on 12 May 2023 the Council of Ministers of Bosnia and Herzegovina (CoM BiH) took long overdue action on the Draft Law on Amendments to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Draft Law). We would like to express our concern, however, because we assess the last-minute, regressive changes to the Draft Law as negatively impacting the scope of the disclosure requirement and as likely impeding the practical implementation of the system of verification of asset declarations introduced by the Draft Law

The fourteen priorities of the European Commission's Opinion on BiH's EU membership application include the adoption of a long overdue new Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Law on the HJPC BiH) in line with European standards. Absent progress on the drafting and adoption of said new law, following the 2019 *Experts' Report on Rule of Law issues in BiH*, which reiterated this call for a new law, fast track amendments were introduced to provide temporary relief and resolve some of the most urgent integrity-related issues in the current Law on the HJPC BiH. Unfortunately, despite their critical nature and relatively narrow scope, these amendments have been similarly stalled, noting the passage of more than two years since the Venice Commission and the European Commission positively assessed the Draft Law.

The version of the Draft Law that includes these last-minute changes differs in meaningful and substantive ways from the one positively assessed by the Venice Commission and the European Commission. These changes will negatively impact efforts to increase transparency in the judicial system and the procedures for declaring and verifying assets. Despite this, the CoM BiH adopted the Draft Law with the problematic changes and will soon submit it into parliamentary procedure. These changes fail to account for the repeated recommendations and guidance provided by both the undersigned and the Venice Commission in striking the essential balance between the protection of personal data and the need for increased transparency around asset declarations.

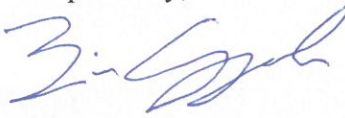
President of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina  
Rather than promoting transparency and integrity, the proposed changes have the potential to dilute these standards while negating both the purpose and process of the integrity mechanisms themselves. In addition, on 24 May 2023, the High Judicial and Prosecutorial Council of BiH examined these changes and similarly concluded that they do not increase the integrity of judiciary.

In the light of the above, and to avoid further undermining already historically low trust in public institutions, including the judiciary, we call on the BiH Parliamentary Assembly to revert to the text of the Draft Law previously assessed as in compliance with European and international standards, namely by dismissing the changes to Articles 10a, 86a and 86c introduced on 12 May 2023. Moreover, we call on the BiH Parliamentary Assembly to refrain from further changes that will weaken the asset verification or other integrity measures established by this law.

Any changes to these amendments and to the Law on the HJPC BiH must be made in good faith, with the intent of strengthening the integrity, transparency, and accountability of the justice sector. Changes contrary to this intent call into question the commitment of their proponents to these fundamental values, to the rule of law, and to BiH's stable and prosperous future. The European Council's December 2022 decision to grant BiH candidate status has increased the expectations on the country's political leaders to deliver on critical reforms such as this. Efforts to obfuscate this responsibility will impact negatively BiH's progress toward its stated goal of European integration.

For your information, please find attached in the Annex the initial text of the above-mentioned articles without the last-minute changes.

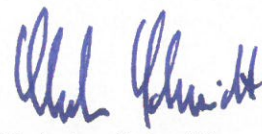
Respectfully,



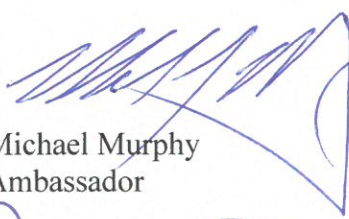
Brian Aggeler  
Ambassador



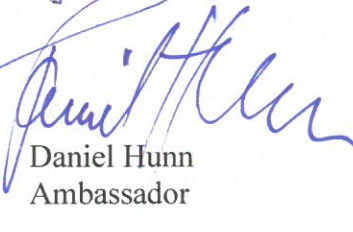
Johann Sattler  
Ambassador



Christian Schmidt  
High Representative



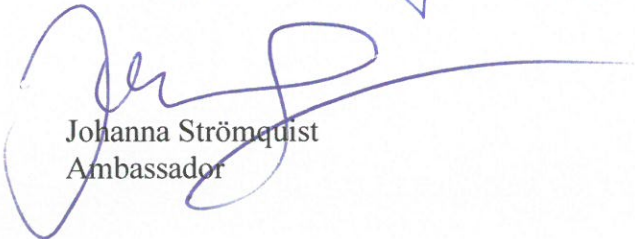
Michael Murphy  
Ambassador



Daniel Hunn  
Ambassador



Julian Reilly  
Ambassador



Johanna Strömquist  
Ambassador

To: Parliamentary Assembly of Bosnia and Herzegovina  
Joint Collegium  
Heads of Party Caucuses, House of Representatives  
Heads of Peoples Caucuses, House of Peoples

Cc:  
Chair of the Council of Ministers of Bosnia and Herzegovina  
Minister of Justice of Bosnia and Herzegovina  
Minister of Justice of the Federation of Bosnia and Herzegovina  
Minister of Justice of Republika Srpska  
President of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina

**Annex:**  
**Text of the amendments to the HJPC Law as assessed in compliance with European standards (local version)**

„Član 10a.  
(Sukob interesa)

(1) Sukob interesa člana Vijeća postoji:

a) kada se član Vijeća ili njegov krvni srodnik u pravoj liniji, po bočnoj liniji do trećeg stepena srodstva, srodnik po tazbini do drugog stepena i dijete bračnog druga, bračni odnosno vanbračni partner, usvojitelj i usvojena djeca, prijavi na upražnjenu poziciju u pravosuđu, uključujući i Ustavni sud Federacije Bosne i Hercegovine i Ustavni sud Republike Srpske ili upražnjenu poziciju glavnog disciplinskog tužioca i zamjenika u Uredu disciplinskog tužioca ili direktora i zamjenika u Sekretarijatu Vijeća;

b) u drugoj situaciji u kojoj član Vijeća ima prisne prijateljske, poslovne ili bilo kakve druge veze ili privatni interes koji utiče ili može uticati na zakonitost, transparentnost, objektivnost i nepristrasnost u vršenju funkcije, odnosno u kojoj privatni interes šteti ili može štetiti javnom interesu ili povjerenju građana.

(2) Ako se na upražnjenu poziciju iz stava (1) tačka a) ovog člana prijavi član Vijeća, prestaje mu mandat u Vijeću, a ako se na upražnjenu poziciju prijavi njegov srodnik ili lice iz stava (1) tačka a) ovog člana, član Vijeća je dužan da odmah po saznanju to prijavi Vijeću i zatraži svoje izuzeće u komisiji za obavljanje razgovora i postupku predlaganja i imenovanja kandidata.

(3) Slučajevi u kojima se podrazumijeva postojanje sukoba interesa iz stava (1) tačka b) ovog člana detaljnije se regulišu pravilnikom Vijeća."

„Član 86a.  
(Transparentnost)

(5) Na internetskoj stranici Vijeća objavit će se imena i prezimena srodnika sudije odnosno tužioca iz člana 86. stava (5) ovog zakona.

“Član 86c.  
(Provođenje dodatne provjere)

(5) Kada pristup podacima iz stava (4) ovog člana nije moguće ostvariti direktnim pretraživanjem elektronskih evidencija ili kada je potrebno prikupiti informacije od fizičkih lica, Odjel iz člana 86f. ovog zakona upućuje pisani zahtjev za dostavljanje podataka. Nadležne institucije i ostala pravna i fizička lica će dostaviti tražene podatke u roku koji je naznačen u zahtjevu.

(7) Na zahtjev Odjela iz člana 86f. ovog zakona, institucije čiji je rad regulisan zakonom o bankama će potvrditi da li stanje računa koje je navedeno za određeni datum odgovara stvarnom stanju računa na taj datum, te da li lica obuhvaćena izjavom imaju neprijavljenih računa ili drugih finansijskih proizvoda kod ove institucije.