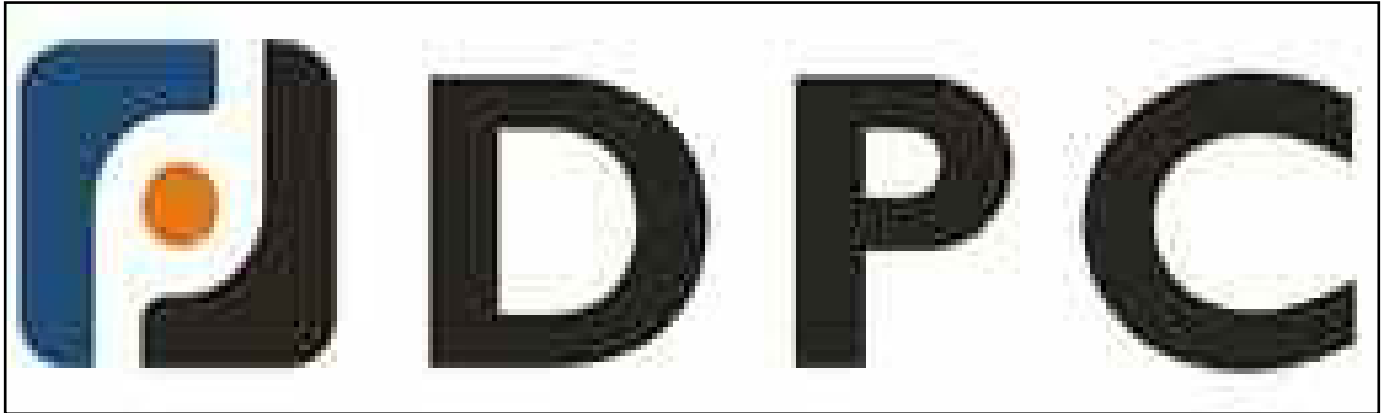


International community should uphold principles on Bosnia and Herzegovina's HJCP draft-law



The latest chapter in the West's struggle with the ruling elites in Bosnia and Herzegovina (BiH) dismantling the rule of law is reaching its endpoint tomorrow (September 6) with a final vote by the BiH Parliamentary Assembly's House of Peoples on an amended Law on the High Judicial and Prosecutorial Council (HJPC).

The background

The HJPC law amendment saga spans half a decade. In 2019, the EU made the HJPC the focus of a push by the @EU_Commission (through the Avis and the Priebe report) to strengthen an independent and accountable judiciary.

The HJPC as the BiH judiciary's self-managing body established by internationally-backed, post-war judicial reform is a crucial ingredient for this move.

The demise of @MiloradDodik's man at the head of the Council, Milan Tegeltija, was a first success in that push for reaffirming the HJPC.

A new HJPC law is part of the 14 reform priorities of the Avis, as is amending the HJPC law, focusing on the fight against nepotism and corruption within the HJPC as well as the judiciary overall.

A draft Law on Amendments to the Law on HJPC, in accordance with EU recommendations, supported by the Venice Commission, the OSCE and major Western embassies, and the HJPC itself, was adopted by the previous Council of Ministers of BiH in September 2022.

In May 2023, the new Council of Ministers (CoM) adopted a different version, with several amendments that undermine the Law's aims to strengthen the integrity, transparency and accountability of the justice sector.

The draft law watered down provisions preventing nepotism within the judi-

By Democratization Policy Council (DPC)

ary. It made the planned HJPC's authority over asset control of judges and prosecutors dependent on striking MOU's with entity, cantonal and Brcko district authorities.

In a joint letter to the BiH parliament leadership and heads of all party/peoples' caucuses of both houses, the heads/ambassadors of the @eubih, @OHR_BiH, @OSCEBiH, @USEmbassySJJ, UK, the Swiss Embassy, and @SwedenBiH strongly pushed back against these changes subverting the original intent of the law, requesting a return to the original draft, and warning of further, negative changes.

The signatories, including EU ambassador @josattler, concluded that changes contrary to the original intent of the draft law "call into question the commitment of their proponents... to the rule of law, and

to BiH's stable and prosperous future." Noting that "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" and warning that "efforts to obfuscate this responsibility will impact negatively BiH's progress towards its stated goal of European integration." Instead of backing down, the ruling SNSD-HDZ-Troika coalition escalated in August. On August 22, the BiH House of Representatives adopted the May CoM draft law, adding further amendments entered at the last minute through parliamentary procedure.

U-turn by the European Commission's delegation

Those final changes further watered down the original intent of the law, making the HJPC's authority over asset



control further dependent on sub-state level laws and bylaws, i.e. putting it at the discretion of entities, cantons and Brcko district.

In a U-turn, @josattler and the @eubih the very same day greeted the adoption, betraying and outmanoeuvring their co-signatories of the June 2023 letter.

The entire effort mirrored the well-established pattern of the ruling ethnonationalist elites dismantling the rule of law in BiH for more than a decade.

The @MiloradDodik-@Dragan_Covic tandem, through the HDZ-led BiH justice ministry (minister @BunozaDavor) and the RS justice ministry, in secrecy drafted the law changes making a mockery of its original intent and international obligations and inserting their long-term political project of redefining BiH as a loose union of entities and cantons into the legislation. Plus, hiding the draft from HJPC and the relevant CoM bodies in charge of vetting draft laws (on compliance w/ EU requirements and standards, etc.), thereby undermining the authority of both state-level institutions. The Troika ultimately backed down, confirming that under EU and US pressure it had given up on its democratic values & principles, in return for government participation.

As a high-level Troika representative recently put it to @DPC_global, explaining the parties' giving in to @OHR_BiH Schmidt's 10/22 and 4/23 "election law reform" impositions – "don't expect us to be more European than the EU."

The EU institutions in the end gave their seal of approval to the dismantling of the rule of law, contrary to official EU policy, standards & reform conditions, oscillating between tacit support (backing down on, lowering conditionality) and – as in the current case – outright collusion.

EU institutions desperate

This is even worse in the current EU BiH policy context: With the 12/22 EU decision to grant candidate status to BiH, despite lack of progress on reform, and the declaring of the post-10/22 election state-level coalition as a reform coalition, EU institutions are now desperate to declare progress ahead of the @EU_Commission BiH country report scheduled for October.

What is playing out on the micro-level in the case of the HJPC Law amendment is part of a broader, dangerous development of EU institutions, the @EU_Commission (partly in cooperation with the minority of illiberal member states) usurping the competences of EU member states in enlargement policy through hijacking the EU's policy towards candidate countries, moves like the Commission's 10/22

recommendation on BiH's candidate status, that served to legitimize the @EU_Commission's role in pushing for ethno-territorial division of BiH in the 2021-22 negotiations on so-called election law reforms, a policy based on transactional and/or illiberal agendas that undermines the liberal democratic core of the EU both within and in its external policies.

The HJPC and the @OSCEBiH have both publicly called for the delegates of the HoP of BiH to tomorrow reject the HJPC Law in the version adopted on August 22, and to return to the pre-May 2023 version. @DPC_global calls on them, particularly those from the Troika, to do so.

West should speak up

Western and EU member states, – the US, UK, Germany and France – should publicly speak out today in favour of the HJPC, the rule of law in BiH and EU standards.

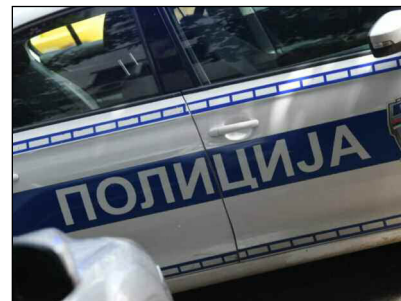
Because the next battle for the rule of law and state-level judicial institutions is already around the corner: A draft Law on Courts of BiH (an Avis condition and part of a set of "reform laws") scheduled by the ruling coalition for adoption in the autumn in the hope that the EU will grant the opening of accession talks in December in return, has been put on the CoM agenda for this Thursday.

The draft-law has been wilfully shielded from public scrutiny, being negotiated between minister Bunoza and Banja Luka in recent weeks.

Adoption of the law, long requested by the EU, had been blocked by the HDZ and SNSD's continuous efforts aimed at either eliminating the state-level judiciary jurisprudence over acts against the constitutional order and territorial integrity of BiH, or/and a de facto general amnesty for high-level (political) corruption. They were the reasons for the @EU_Commission in 2016 terminating its ill-devised and -managed Structured Dialogue on Judicial Reform. It also fits a wider pattern of EU Delegations accentuating or outright manufacturing positive developments in order to create the appearance of progress in the enlargement process. This tendency may advance careers (in the EU and WB6 politics) but sets these countries and societies up for failure.

The Berlin-based Democratic Policy Center (DPC) think-tank is an initiative for accountable democratization policy worldwide. It seeks to draw the attention of policymakers, legislators and civil society to encroachments on freedoms within the democratic framework

RS Interior Ministry urges FBiH media to 'stop spreading ethnic hatred'



The Interior Ministry of Bosnia's Republika Srpska urged all media outlets on the Federation (FBiH) entity to "stop spreading religious and ethnic hatred, as they create tension and an inciting atmosphere."

"In accordance with its competencies, the Republika Srpska Ministry of the Interior (MoI) undertakes all necessary measures and actions to ensure that the security situation in the territory of the RS is favourable and we are the guarantor of security for all the RS citizens regardless of which ethnicity they belong to," the MoI said.

They recalled that public gatherings and events organized by Bosniak associations were held in the territory of the RS (for Eid, Bosnia's Independence Day as organized by the Coordination of the Bosniak Community and other Bosniak associations in local communities, as well as other gatherings of different character) and that none of them were ever banned, nor were any incidents recorded at these events, primarily because the police officers took all the necessary measures and steps.

"Police officers act in accordance with the Law on Police and Internal Affairs, the Law on Criminal Procedure and the Law on Misdemeanors of the RS for every report (regardless of the ethnicity of the victim or perpetrator)," they said. The MoI called on the media from the FBiH to "stop spreading religious and ethnic hatred, because they create tension and an inciting atmosphere."

"We suggest to all those interested to get involved in the work of the forum for security in local communities and to put forward constructive proposals at those meetings that will contribute to the status of all citizens, including the returnee population that they supposedly care for," the Ministry of the Interior wrote in their statement.