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| Civil Society Organizations in electoral reform in Bosnia and Herzegovina |
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| **1. Summary**  At the initiative and with the support of the Delegation of the European Union to Bosnia and Herzegovina the Coalition “Pod lupom” had organized a series of online discussions with the civil society organizations on the electoral reforms as to additionally open the process towards the public and create a space for the organizations to express their views about the current topics. The discussions were organized under “STEP” project, which is financed by the European Union. Online discussions had brought together representatives of a large number of civil society organizations that participate in the activities of “STEP” project, implemented by the Coalition “Pod lupom”, but also other civil society organizations that are in different ways engaged in public policy development, particularly in relation to the electoral process and electoral legislation in Bosnia and Herzegovina.  The objective of the discussions is to provide space for the civil society in BiH where it can openly, without any influences, present its views, thoughts and opinions on electoral reform in BiH. These discussions are continuation of the activities to improve electoral legislation in BiH. The conclusions of the online discussions should be primarily used by the decision-makers in the process of adopting changes and amendments to the BiH Election Law.  The civil society organization that participated in the online discussions on the electoral reform in Bosnia and Herzegovina agree that every reform, particularly the constitutional reform, must involve a wide range of stakeholders: relevant institutions, political entities, academia, civil society organizations, media, and citizens in any way it would be possible, entailing inclusiveness and transparency of the process, unbiased media reporting, etc. Two parallel processes that are currently existing in terms of electoral reform – implementation of the judgments of the European Court of Human Rights and the domestic courts on one side, and “operative-technical”, but rather essential amendments to the BiH Election Law that will enable more free and fairer elections on the other side, should neither be merged nor should they be conditioned to run in parallel and simultaneously.  The Coalition “Pod lupom” has developed a questionnaire for the representatives of the CSOs, which is fully presented under point 3.2, as to obtain opinions of the civil society organizations (CSO) on the electoral reform and the current situation in Bosnia and Herzegovina (BiH). The questionnaire has showed that the civil society organization believe that improvement of the electoral process must be addressed, where 75% of them find the elections in BiH to be neither free nor fair. Economy was underscored as the first priority that the BiH authorities must address, followed by the fight against corruption and improving the justice system – as to respond primarily to the exceptionally pronounced corruption and perception thereof, while constitutional and electoral reform have taken fourth place on the list of priorities.  It is interesting to point out that when it comes to the process of amending and improving the BiH Election Law the CSOs’ representatives expect the most from the state level authorities, executive and legislative, the BiH Central Election Commission and the political party leaders. Unfortunately, the opinion that improvement will happen by the 2020 General Elections or that a comprise about the implementation of courts’ decision will be struck is relatively pessimistic as the largest number i.e. almost half of the respondents (48%) believe that it will happen, but only if international community is to exercise strong pressure. It is quite encouraging that 92% of the respondents believe that civil society organizations can influence this process, but only if they act together, in a coordinated manner and create pressure in the public to have the changes materialize. **2. Electoral reform in BiH – challenges and prospects** The 2021 non-election year was marked as the key year for electoral legislation reform, i.e. changes and amendments to the BiH Election Law. Even in the previous years the decision-makers were expected to work on improving the electoral process during a non-election year, particularly on implementing the judgments of the European Court of Human Rights concerning discrimination in the exercise of the voting rights on various grounds (judgments in cases “[Sejdić-Finci](http://www.mhrr.gov.ba/ured_zastupnika/novosti/default.aspx?id=1008&langTag=bs-BA)”, “[Zornić](http://www.mhrr.gov.ba/PDF/UredPDF/default.aspx?id=4745&langTag=bs-BA)”, “[Pilav](http://www.mhrr.gov.ba/PDF/UredPDF/default.aspx?id=6680&langTag=bs-BA)”, “[Šlaku](http://www.mhrr.gov.ba/PDF/UredPDF/default.aspx?id=6715&langTag=bs-BA)” and “[Pudarić](http://www.mhrr.gov.ba/ured_zastupnika/odluke/PUDARIC%20protiv%20BOSNE%20I%20HERCEGOVINE.pdf)”), as well as on implementing [decisions of domestic courts](https://www.ustavnisud.ba/uploads/odluke/_bs/U-23-14-1058444.pdf).  Ensuring that the elections are conducted in line with the European standards, realization of the OSCE/ODIHR recommendations (to be presented later on), recommendations of the Venice Commission, holding the elections in Mostar, securing transparency of political party financing, ensuring equality and non-discrimination of the citizens, particularly by implementing judgments of the European Court of Human Rights, have been highlighted as one of 14 key priorities that Bosnia and Herzegovina must meet in order to obtain the candidate status and slightly open the door to the membership in the EU. The only priority that has been met since 2019 is the holding of local elections in Mostar, first one in 12 years.  In addition to the international obligations and recommendations that Bosnia and Herzegovina must meet to have better elections, no less important are the recommendations of the domestic civil society organizations that are intensively involved in the electoral process, primarily the Coalition for free and fair elections “Pod lupom”, which is currently bringing together more than 80 organization from the entire BiH. There are, of course, other organizations monitoring different segments of the electoral process or election-related processes, and their recommendations should also be considered in the context of the process of improving electoral legislation.  At the initiative and with the support of the Delegation of the European Union to Bosnia and Herzegovina the Coalition “Pod lupom” had organized a series of online discussions with the civil society organizations on the electoral reforms as to additionally open the process towards the public and create a space for the organizations to express their views about the current topics. The discussions were organized under “STEP” project, which is financed by the European Union. Online discussions had brought together representatives of a large number of civil society organizations that participate in the activities of “STEP” project, implemented by the Coalition “Pod lupom”, but also other civil society organizations that are in different ways engaged in public policy development, particularly in relation to the electoral process and electoral legislation in Bosnia and Herzegovina.  The objective of the discussions is to provide space for the civil society in BiH where it can openly, without any influences, present its views, thoughts and opinions on electoral reform in BiH. These discussions are continuation of the activities to improve electoral legislation in BiH. The conclusions of the online discussions should be primarily used by the decision-makers in the process of adopting changes and amendments of the BiH Election Law. **3. Civil society organization on electoral reform and current situation in BiH****3.1. Online discussions “Participation of civil society organizations in electoral reform”** As previously mentioned, the online discussions with the civil society organizations on electoral reform in BiH were organized at the initiative of the EU Delegation to BiH. Three online events were organized on June 8, 9 and 10, 2021 and had featured the same keynote speakers. Keynote speakers were: Branka Bajić, representative of the EU Delegation to BiH; Faris Vehabović, judge of the European Court of Human Rights; Martina Barker Ciganikova, representative of the Office for democratic institutions and human rights, and Dario Jovanović, representative of the Coalition “Pod lupom”.  The representative of the EU Delegation to BiH reflected on the conditions that the EU had set before BiH on its path to the membership. She pointed out that the year 2021 was repeatedly marked as a year of opportunities for the domestic politicians to start long-awaited reforms with the aim of improving everyday lives of the citizens. It was pointed out that the European Commission had in May 2019 adopted [Opinion on Bosnia and Herzegovina's EU membership application](http://europa.ba/wp-content/uploads/2019/05/20190529-bosnia-and-herzegovina-opinion.pdf) providing a clear road map for the key reforms to be undertaken by BiH as to accelerate its pace on the path to the EU. The opinion identified 14 key priorities that represent the basis of the accession process. In the context of electoral reform the most significant priorities were identified in the area of democracy, unequivocally stating that BiH must ensure that elections are conducted in line with the European standards by implementing [OSCE/ODIHR](https://www.osce.org/files/BIH%202018%20General%20-%20final%20report%20with%20MM_upd.pdf)  and [Venice Commission](https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Code_conduite_PREMS%20026115%20GBR.pdf) recommendations, as well as that BiH has to fundamentally improve the institutional framework, including at constitutional level, *inter alia* as to ensure legal equality and non-discrimination of citizens, specifically underlining the implementation of the ECtHR judgments.  The presentation of Faris Vehabović, judge of the European Court of Human Rights, which aimed to familiarize the participants with the judgments of this Court in the aforementioned cases against BiH that its citizens won on various grounds of discrimination, focused mostly on “Zornić” case. Starting with the judgment in case of “Sejdić-Finci vs. BiH”, judge Vehabović pointed out that the judgment was rendered with caution reflecting on the subject of discrimination against national minorities, others and even the citizens. In her application brought against BiH Zornić identified herself only as a citizen, without declaring ethnicity or affiliation with any of the three constituent peoples or national minorities. In that judgment the Court gave a precise overview of the state of democracy in BiH, setting possible lines of action in the process of electoral process reform, which includes amendments to the BiH Constitution. Vehabović referred to paragraph 43 of the judgment in the case “Zornić vs. BiH”  “43. In Sejdić and Finci the Court observed that when the impugned constitutional provisions were put in place a very fragile ceasefire was in effect on the ground and that the provisions were designed to end a brutal conflict marked by genocide and “ethnic cleansing” (see ibid., § 45). The nature of the conflict was such that the approval of the “constituent peoples” was necessary to ensure peace (ibid.). However, now, more than eighteen years after the end of the tragic conflict, there could no longer be any reason for the maintenance of the contested constitutional provisions. The Court expects that democratic arrangements will be made without further delay. In view of the need to ensure effective political democracy, the Court considers that the time has come for a political system which will provide every citizen of Bosnia and Herzegovina with the right to stand for elections to the Presidency and the House of Peoples of Bosnia and Herzegovina without discrimination based on ethnic affiliation and without granting special rights for constituent people to the exclusion of minorities or citizens of Bosnia and Herzegovina.”  The conclusion drawn by judge Vehabović was that the existence of current constitutional amendments was provisional, serving the goal to end the war and tragic conflicts in BiH at that time, and that “constituent peoples” were accepted as to secure peace, which at the same time implies temporary nature of such solution. It is, in his opinion, unacceptable that nothing has been done 20 years after the conflict to have the country founded on all principles of democracy, on separation of powers, on respect for the human rights and on free elections, which is normally the goal in every democratic country. BiH, as it is currently, does not deserve epithet of a democratic society, it could be more likely called an ethnocracy. Judge Vehabović reminded of the European Convention on Human Rights, which is above the constitution and any other regulation, which means that any regulation in BiH must be aligned with the Convention.  Judge Vehabović also underlined that the process to amend the Constitution, as well as the process to amend the BiH Election Law, are not processes that should involve a small number of people, on the contrary, these processes should in addition to the non-government organizations and the Central Election Commission, involve as much as possible all citizens as they will be the ones to suffer consequences of the solutions adopted.  Representative of the Office for Democratic Institutions and Human Rights ([ODIHR](https://www.osce.org/odihr)) of the Organization for Security and Cooperation in Europe ([OSCE](https://www.osce.org/)) had in her presentation referred to the OSCE/ODIHR Election Observation Mission Report for the 2018 General Elections, which provides a series of recommendations to improve not only the BiH Election Law, but also the electoral process. [OSCE/ODIHR Report](https://www.osce.org/files/BiH%202018%20General%20-%20FR_Bosnian.pdf) contains 22 recommendations to improve electoral legislation, whereof 7 are priority recommendations. The first priority recommendation relates to the implementation of aforementioned judgments of the ECtHR, prevention of the abuse of public resources for campaign purposes; addressing alleged cases of voter coercion; taking effective measures to protect the voters’ right to a free and secret choice; reconsidering the practice of announcing voters’ names at the polling stations; ensure the impartiality of election administration (particularly in the segment of appointment of polling station committees); strengthening regulatory framework to ensure transparency and accountability of campaign financing. Other OSCE/ODIHR recommendations include, inter alia: to ensure equality of vote by revising number of mandates from multi-member constituencies in line with the statutory obligations; to improve accuracy of the voters’ register – the recommendation specifies that political parties and civil society organization could be invited to review voters’ register as to increase public confidence in the integrity of voters’ list; gender equality on candidates’ lists, complaints and appeals: timely adjustment of deadlines for submission of appeals; disclosure of information and decisions by the BiH CEC and courts.  The Coalition “Pod lupom” also presented recommendations to improve electoral legislation, which are result of the election observation in BiH. It was pointed out that a growing trend of electoral irregularities in the pre-election period had been observed, particularly relating to abuse of public resources, premature election campaigning, trade of positions in the polling station committees, and abuse of by-mail voting. Priority recommendations of the Coalition “Pod lupom” include: to amend the procedure of selecting the president and deputy president of the polling station committee in a way to have them selected by the municipal/city election commission through a public vacancy, whereat they will be appointed and trained for that position during the non-election years; to introduce new technologies into the electoral process as to prevent violations of the BiH Election Law when determining the will of voters at the polling stations on the Election Day, thereat following the standards and criteria of security, feasibility and longevity of the chosen solution; to introduce electronic identification of voters at the polling station; to introduce deadlines for establishment of executive government and the obligation of announcing snap elections if the executive government is not established within the deadline; to have the BiH Election Law include the institute of a substitute parliamentary mandate as to avoid that one person is simultaneously performing a function in both executive and legislative government; to prevent misuse of public resources for pre-election and campaigning purposes by regulating this matter through the law; to reduce the intra-party threshold for the general elections in BiH to 10%, making it equivalent to the intra-party threshold for the local elections; to enable filing of the complaints at every stage of the election process; to introduce additional safeguarding mechanisms to prevent misuse of by-mail voting; to introduce mandatory annulment of elections for the polling stations at which excess of ballot papers was determined, and to simplify the procedure for accreditation of civic, non-partisan observers accredited by the CEC BiH by introducing the option for electronic submission of the applications.  The representatives of the Transparency International (TI BiH), Institute for social and political research (IDPI), and the Initiative Citizens for constitutional reforms also delivered short presentations, and other participants also got involved in the discussions. The TI BiH pointed out that in the context of electoral process their main focus lies on election campaign monitoring, conduct of political entities during the pre-election period, election campaign financing, and adherence to the BiH Election Law from the day elections are announced until the Election Day. The TI BiH recommendations target exactly these areas, and the focus of the recommendations lies on several segments: overlapping of mandates in the executive and legislative authority, as well aligning these provisions with the regulations on conflict of interest; composition and the method of selecting and appointing polling station committees and municipal/city election commissions, with reference to having at least one portion of the members who are not nominated by political parties; improving the framework regulating conduct of election campaign and its financing, which was recommended by both GRECO and ODIHR; expending the rights to file complaints and extending the deadline in complaint adjudication process; misuse of public resources; conduct of political entities in election campaigning as to introduce additional limitations concerning vote buying, voter coercion, and having them apply beyond the period of official campaign.  The [model](https://www.bild.ba/izbor-urednika/idpi-predstavio-prijedlog-izmjena-izbornog-zakona-bih-kojim-se-implementiraju-sve-presude-ustavnog-suda-bih-i-medunarodnih-sudova/), prepared by the Institute for social and political research (IDPI) was also presented. The model addresses implementation of the ECtHR’s judgments, as well as decisions of the domestic courts that we have mentioned earlier in the text. Focus of the proposal lies on the decisions of the BiH Constitutional Court and judgments of the ECtHR. The basis of the IDPI’s view of the ECtHR’s judgments is that the court has ruled that the specific rights, sought by the applications, should be granted to every applicant, and that it not the Court's intention to completely redefine the BiH Constitution and its political system. Judgments concern individual rights of citizens or groups of citizens to whom these judgments apply, and they should be viewed in that light. IDPI presented two models to the public, [A and B](https://www.idpi.ba/panel-diskusija-predstavljanje-idpi-modela-izmjena-izbornog-zakona-bih/), proposal A entails only amendments to the BiH Election Law, while the IDPI’s Proposal B would require amendments to the BiH Constitution, FBiH Constitution, and the BiH Election Law. According to the IDPI the substance of any of the ECtHR’s judgments does not derogate the principle of constituency of peoples. In that sense the ECtHR has the right to ask BiH to alight the BiH Constitution or any other law with the Court’s judgments, namely to have the Court’s judgments implemented through the legislative system, and the way in which it should be done is not under the competence of the ECtHR, but the BiH Parliamentary Assembly  [Initiative “Citizens for constitutional changes”](https://gradjankezaustavnepromjene.wordpress.com/) presented its activities in relation to its work on constitutional reforms, introducing another perspective that should be considered when talking about changes to the constitution, and that is the gender perspective. The focus of Initiative's subject of advocacy goes beyond the framework of collective categories, i.e. the categories of ethnic and constitutively organized collectives. Any reform of the constitution will involve finding a balance between the individual and citizens' rights. The initiative emerged as a response to the closeness of the process of constitutional reform discussions, especially with regard to the civil society’s participation. The Initiative's focus on gender equality comes from the fact that the Initiative brings together civil society organizations that have been dealing with the issues of gender equality for many years now. The civil society did not participate in the three previous attempts to achieve constitutional reforms, nor did the proposals contain gender equality as a constitutional principle. Therefore, the Initiative has developed a platform of priorities and gender-responsive amendments. Priorities relate to: gender-responsive language in the Constitution, introduction of affirmative measures, expansion of the existing catalog of rights related to health and family protection, greater judicial and legal protection of human rights and freedoms.  The Initiative also advocates the implementation of the Recommendations of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), which requires the state of BiH to incorporate definition of equality between women and men and prohibition of direct and indirect discrimination against women in public and private spheres into the Constitution.  The position of all member organizations of the Initiative is that the reform of the constitution must represent a consensus, engaging all stakeholders on issues that would define the future framework of common life in BiH.  Judgment in the case "Zornić" was particularly underlined in the continuation of the discussion, as well as that consideration should also be given not only to the European Convention on Human Rights and Fundamental Freedoms, but also the International Covenant on Civil and Political Rights in terms of provisions relating to passive and active suffrage. It was emphasized that BiH must respect fundamental human and civil rights, both collective and individual. One of the proposals was that the BiH Presidency has three members, one from RS, and the other two from FBiH, and that there cannot be two members coming from the same people. There is also a proposal to have members of the BiH Presidency elected indirectly in the Parliamentary Assembly of BiH, where the House of Representatives - as a House of Citizens and the House of Peoples would be brought to the same level.  The problem of abuse of ethnic affiliation in order to gain certain positions was also pointed out, and that it is necessary to introduce restrictions on changing ethnic affiliation in at least two election cycles (only in relation to candidacy) in order to prevent these abuses.  It was also noted that it is necessary to bring the reform down from the daily political level to the legislative one, above all to harmonize the BiH Election Law with international standards in this area. It is therefore necessary to have, in additional to political parties, the non-governmental sector, academia, judicial institutions and representatives of the international community in BiH included in the process. To demystify this matter by organizing a series of sessions and discussions with the civil society organizations, citizens, intellectuals and young people, explaining that these are in fact basic democratic postulates, which need to be incorporated into the Election Law as to respect basic principles for protection of human rights and freedoms. Representatives of political parties, both the ruling and the opposition has to be involved in the process, as well as the High Representative in BiH, giving him thus a chance not to "impose reforms", but to realize them in cooperation with the citizens and their representatives. This has to be done until the next general elections.  The principle of "one man, one vote" would then be respected, restoring the individual freedom of every person, and to have the collective/national principles protected by some other, more appropriate mechanisms. Development of these model mechanisms would require engagement of domestic and international experts, who would create the best models, modeled after similar ones in the world, but tailored to "our" situation. It is simply necessary to do this as soon as possible, because it hinders the progress of BiH in all spheres.  The support to implementing the recommendations of all relevant stakeholders, which will contribute to the improvement of the legal framework for the organization and conduct of elections, as well as the importance of transparency and inclusiveness of this process, were voiced on several occasions during the discussion. **3.2. Civil society organizations on electoral reform and current situation in BIH – overview of survey’s results**  In order to obtain the opinions of the civil society organizations (CSOs) on electoral reform, but also the current situation in Bosnia and Herzegovina (BiH), the Coalition "Pod lupom" created a survey for the representatives of civil society organizations.  A total of 73 CSO's representatives took part in the survey, and this section of the Report gives an overview of questions and answers. 54.8% of the respondents come from Federation of BiH (FBiH), 41.1% from Republika Srpska (RS), and 4.1% from Brčko District of BiH (BD BiH)  Demographics  Vision of the country  In respondents’ opinion currently the biggest problems that BiH needs to work on are:    The respondents ranked other problems in the following manner:   * **Education** (better educational system and infrastructure, better curricula and teaching staff) - 22 or 31.2% of answers * **Youth leaving the country** – 12 for 16.4% of answers * **Social protection** (pensions, disability checks, unemployment benefits) – 10 or 13.7% of answers * **Health care** (fight against pandemic, improvement of services and infrastructure, procurement of equipment) – 6 or 8.2% of answers * **Infrastructure** (roads, construction and housing policy) – 5 or 6.8 of answers * **Environmental protection** – 4 or 5.5% of answers * **Culture and sports** – 2 or 2. 7% of answers   In respondents’ opinion the authorities in BiH are currently mostly engaged in tackling the following issues:  In the respondents’ opinion the BiH authorities are currently less engaged in the following topics:   * **Economy** (economic development, new jobs, higher salaries) – 6 or 8.2% of answers * **Fight against corruption and crime** – 5 or 6.8% of answers * **Culture and sports** – 5 or 6.8% of answers * **Judiciary** (independent judiciary, more efficient performance of courts and prosecutor’s offices) – 3 or 4.1% of answers * **Youth leaving the country** – 3 or 4.1% of answers   Respondents gave a number of individual answers, about 20, which indicate that the authorities in BiH are not engaged in tackling any of the aforementioned issues, but that they are mainly engaged in: "staying in power", "nothing but getting the country in the debt", "fighting for themselves and their own interests ","they deal with their own interests ", etc.  Elections    In respondent’s opinion the key recommendations that should be implemented as to improve elections in BiH are: I  In respondents' opinion the ones most responsible for improving the electoral process and amending the BiH Election Law are:  Following the online discussions, the Coalition further surveyed the representatives of civil society organizations, who attended the discussions, to get feedback on the success of the event, and to hear their thoughts on if the electoral process will be improved or not. One third of the participants in the online discussions completed the survey.  The usefulness and concept of online discussions of the civil society organizations was evaluated positively. 92% of representatives of the civil society organizations stated that they were better acquainted with the judgments of the European Court of Human Rights regarding the discrimination that was established in the Constitution of BiH and possible improvements in the electoral process. Online discussions as a concept, as well as panelists and the exchange of views, were rated excellent by 52% of representatives, very good by 36%, and as good by 12% of the representatives. All representatives, who completed the survey, stated that they were interested in similar future events/discussions on the topics of constitutional and electoral reforms, as well as other topics of social importance.  The following answers were given to questions if the electoral process will be improved and the judgments of the European Court of Human Rights implemented by the 2022 elections, and what impact civil society organizations can have on the process of electoral reform:   **4. Instead of a conclusion** Civil society organizations that participated in online discussions on electoral reform in Bosnia and Herzegovina agree that any reform, especially if we are talking about constitutional reform, must involve a wide range of stakeholders: relevant institutions, political entities, academia, civil society organizations, media, and citizens in a way that is possible, which implies inclusiveness and transparency of the process, impartial media reporting, etc.  Two parallel processes that are currently existing in terms of electoral reform – implementation of the judgments of the European Court of Human Rights and the domestic courts on one side, and “operative-technical”, but rather essential amendments to the BiH Election Law that will enable more free and fairer elections on the other side, should neither be merged nor should they be conditioned to run in parallel and simultaneously. It is important to separate the political process from the improvement of the electoral process, which aims, among other things, to protect will of the voters on the Election Day.  Representatives of the civil society organizations have, through the survey presented above, clearly expressed their views and thoughts on the current situation in BiH and the priorities that decision makers should take into account. It was unequivocally stated that work must be done on improving the electoral process, where as many as **75%** of respondents from the CSOs believe that elections in BiH are neither free nor fair. BiH's membership in the EU is supported by **86%** of respondents and this is the dominant vision of all citizens about the future of the country. Unfortunately, an equal percentage (**86%**) believe that BiH is currently not moving in the right direction, and as many as **62%** of them have considered leaving BiH. The survey also showed what are the biggest aliments of citizens of this country: the economy in the first place, then the fight against corruption and the improvement of the situation in the judiciary - in order to respond to extreme corruption and the perception of corruption, while constitutional and electoral reform are ranked fourth on the list of priorities.  In terms of the attitudes of representatives of the civil society organizations on how the electoral process should be improved, the first priority underlined is the introduction of new technologies in elections (electronic voter identification, electronic vote counting); followed by prevention of electoral fraud before the Election Day (trade of positions in PSCs, by-mail voting, abuse of public resources), and the reform of PSCs (method of appointment, education, sanctions).  In terms of this process representatives of the civil society organizations expect the most from the national authorities, both executive and legislative, the Central Election Commission and the leaders of political parties. Unfortunately, the opinion that an improvement will happen or a compromise on the implementation of courts' judgments reached by the 2022 General Elections is relatively pessimistic because the largest number, i.e. almost half of the respondents (48%) believe that this will happen, but only if strong pressure is exercised by the international community. What is encouraging is the fact that 92% of respondents believe that civil society organizations can have an impact on this process, but only if they act together, in a coordinated manner and create public pressure to have the changes materialize.  **Civil society organizations that participated in the discussions:**   * Centers for Civic Initiatives (CCI) * Center for Civic Cooperation Livno (CGS Livno) * Forum of Tuzla citizens (FGT) * “Perpretuum Mobile – Institute for youth and community development” Banja Luka * Citizens’ Association “Democracy – Organization – Progress” Prijedor (DON Prijedor) * “Center for youth education” Travnik * “Citizens’ Association Grahovo” * Association “Sunce” Bugojno * Association “Sara” Srebrenica * “Local Democracy Agency” Zavidovići * Association “BRAVO” Sarajevo * UPP “Hercegovina” Čapljina * Institute for social and political research Mostar * Women’s Association “Most” Višegrad * “Center for responsible democracy” Rudo * Association “Priroda” Bratunac * Citizens’ Association “Topeer” Doboj * “Local Democracy Agency” Mostar * Association “Nova vizija” Novi Travnik * Citizens’ Association “Bonitas” Trnovo (RS) * “Sarajevo Open Center” * “Transparency International BiH” * Initiative “Citizens for constitutional changes” * Helsinki Citizens’ Assembly Banja Luka * Association “Vizija” Doboj * Youth Cultural Association “BPK” * “Unique youth association Jelah” * Association “Viva” Novo Goražde * Association “Ključ budućnosti” Ključ * “Volunteers and friends of Konjic region” * “Youth club Feniks” Kostajnica * “Center for Development of Youth Activism CROA” * Women’s association for rural development “Zeleni vir” Olovo * “Youth council” Rogatica * “Association for preservation of environment and tourism development” Stolac * Citizens’ Association “Mi volimo Čajniče” * “Youth Council Posušje” * “Youth Council of Pale Municipality” * Citizens’ Association “TELEDOM” Ljubinje * Youth Association “KVART” Lukavac * Youth Association “Mobilijar” Sokolac * “Youth Center Zvornik” * “PRONI Center” Brčko * Association for protection of animals and environment “FORTUNA” Fojnica * Youth Association “KRUG” Kladanj * Youth Center “Peta strana svijeta” Kotor Varoš * Cycling club Bihać * Foundation “Zaboravljena avlija” Hadžići * “Youth Association Petrovo”   **Proposals of the civil society organizations for changes and amendments to the BiH Election Law and changes and amendments to the BiH Constitution**  **Annex 1.**  Recommendations of the Coalition “Pod lupom” for improvement of electoral process  Legal framework and electoral system in BIH  Constitution(s)   1. To implement the European Court of Human Rights judgments (“Sejdić-Finci”, “Zornić”, “Pilav”, “Šlaku”, “Pudarić”) giving both active and passive suffrage to all citizens of BiH who have attained 18 years of age regardless of their ethnic affiliation and permanent place of residence. 2. To implement the decisions of the Constitutional Court of BiH concerning amendments to the Constitution and the BiH Election Law related to establishment of the House of Peoples of the FBiH Parliament. 3. To prevent change of ethnic affiliation in the period of three consecutive electoral cycles by the BiH Constitution and the BiH Election Law. 4. To ensure minimum representation of the three constituent peoples in the representative bodies at the level of cantons in FBiH, and at the local level by amending the statutes of municipalities/cities.   Law(s)   1. To introduce deadlines for establishment of the executive government and the obligation of announcing snap elections if the executive government is not established within the set deadline. 2. To have the BiH Election Law envisage the situation when election process is interrupted and the establishment of the election results is not possible, setting a deadline in which new elections must be held. 3. To have the BiH Election Law include the institute of a substitute parliamentary mandate as to avoid that one person is simultaneously performing a function in both executive and legislative government 4. To shorten all election related deadlines from the day the elections are announced until the official and complete publication of the final election results (to 120 days maximum instead of the current 180 days). 5. To adopt official consolidated version of the BiH Election Law. 6. To launch an initiative for adoption of the Law on Political Organizations at the national level.   Electoral system   1. To reduce the intra-party threshold for the general elections in BiH to 10%, making it equivalent to the intra-party threshold for the local elections. 2. To eliminate compensatory candidates’ list and to award compensatory mandates to the candidates on the regular candidates’ lists of political entities at the entity level having the highest number of preferential votes won.   Election administration   1. To harmonize the BiH Election Law with the Gender Equality Law in the part relating gender equality in the process of appointment of the BiH CEC’s members. 2. To pay special attention to the criteria of competence and experience when appointing and confirming members of the local election commissions. 3. To ensure continuous training of the local election commissions aimed at attaining greater efficiency in their performance during the election period. 4. To improve the system of control of political parties’ financial operations both in the election and non-election year by strengthening human and technical capacities of the BiH CEC’s Audit Office, as well as by involving other institutions that control financial operations of the legal entities.   Polling station committees   1. To prevent the trade of positions in the polling station committees that is done by the political entities in a way as to introduce additional criteria under which the political entities qualify to take part in the operations of the polling station committees. 2. To amend the procedure of selecting the president and deputy president of the polling station committee in a way to have them selected by the municipal/city election commission through a public vacancy, whereat they will be appointed and trained for that position during the non-election years. 3. To increase pecuniary fines for the members of polling station committees who were found in violation of the BiH Election Law and the BiH CEC’s implementing acts (minimal fine of 2.000 KM). 4. To set forth by the law that, besides the polling station committees' members, sanctions are to be pronounced to the political entities that nominated the person to the polling station committee if found that provisions of the Election Law were violated on the instruction of the political subject. 5. To sanction unjustified withdrawals from a position in the polling station committee just before the Election Day by prohibiting future engagement in at least two electoral cycles, setting forth the obligation to keep records of such sanctions at the level of local election administration.   Pre-election period   1. To prevent misuse of public resources for pre-election and campaigning purposes by regulating this matter through the law. 2. To more precisely define responsibility of political entities that conduct election campaign before the start of the deadline established by the Law and to more precisely specify premature campaigning on social networks in the Law. 3. To introduce additional safeguarding mechanisms to prevent misuse of by-mail voting.   Election Day  New technologies   1. To introduce new technologies into the election process as to prevent violations of the BiH Election Law when determining the will of voters at the polling stations on the Election Day, thereat following the standards and criteria of security, feasibility and longevity of the chosen solution. 2. To introduce electronic identification of voters at the polling station.     Set of polling station   1. To introduce separate translucent ballot boxes for every level of authority that is being elected. 2. To lower the height of voting booths to the maximum height of 30 cm to prevent certain irregularities while guaranteeing secrecy of the vote. 3. To strictly implement the BiH CEC’s implementing acts concerning publication of the names of polling station committees’ members, which has to include the name (not the code) of the political subject on behalf of which the members were appointed.   Election observation   1. To simplify the procedure for accreditation of civic, non-partisan observers accredited by the CEC BiH by introducing the option for electronic submission of the application.   Establishment of results   1. After determining the number of unused ballots, and before they are packed into the original boxes, the unused ballots should be made unusable by cutting off the lower right and left corners of the ballots with scissors. 2. To technically improve preparation of the copies of the aggregate result forms so the latter would be legible, and to ensure their publication at the polling station after all processes at the polling station are completed, as prescribed. 3. To ensure strict adherence to provisions of the BiH Election Law and the provisions of the implementing acts that set forth the procedure of safeguarding the polling material at every polling station and to strengthen the control over delivery of the sensitive polling material to/from the polling stations. 4. To introduce mandatory annulment of elections for the polling stations at which excess of ballot papers was determined.   Protection of electoral right   1. To enable filing of the complaints at every stage of the election process. 2. The BiH CEC should provide timely information on received complains and decision made thereon on its website.   Annex 2  Recommendations of Transparency International BiH for improvement of the BiH Election Law  Chapter 1 – General provisions  Incompatibilities - Article 1.8  TI BiH comment: Obligations and status of civil servants differ in this case, having in mind that the Civil Services Laws have differently prescribed obligations (from resignation to suspension).  paragraph 4)  (4) One person can hold maximum one directly elected public office, or maximum one directly elected office and one indirectly elected office, unless otherwise specified by the Law. It is also incompatible to hold at the same time one directly or indirectly elected office and one position in an executive body of authority, except in the period until executive bodies of authority, elected at the regular elections in the same electoral cycle, are constituted. It is also incompatible to hold more than one position in an executive body of authority.  TI BiH Proposal:  (4) One person can hold maximum one directly elected public office, or maximum one directly elected office and one indirectly elected office, ~~unless otherwise specified by the Law~~. It is also incompatible to hold at the same time one directly or indirectly elected office and one position in an executive body of authority. In the period until constituting of the executive bodies of authority, elected at the regular elections in the same electoral cycle, elected official shall suspend the elected mandate, and it shall be awarded to the next candidate on the candidates’ list, ~~except in the period until executive bodies of authority, elected at the regular elections in the same electoral cycle, are constituted. It is also incompatible to hold more than one position in an executive body of authority~~.  Alternative: Set a deadline within which the elected official can perform a function in the executive body, as stated in the CEC’s proposal: “It is also incompatible to hold at the same time one directly or indirectly elected office and one position in an executive body of authority, except in the period until executive bodies of authority, elected in the same electoral cycle, are constituted, up to a maximum of 90 days.”  Chapter 2 – Election management bodies  Article 2.2 and Article 2.3  Polling station committees and MECs  TI BiH Recommendations:  • Introduce non-party presidents and vice presidents of polling station committees;  • Improve the transparency of appointment and composition of the polling station committees in order to prevent trade of positions in polling station committees, and fictitious registration of political entities by constituencies  In Article 2.3 introduce the obligation for the members of an election commission, the president and deputy president of the PSC not to be members of a party, not limiting only to members of the highest executive political body of a political party, in order to ensure impartiality.  In Article 2.12, paragraph 7) also introduce these provisions for MEC members.  Harmonize Article 2.19, paragraph 2) with the changes from Article 2.3, and introduce the obligation to appoint the president and deputy president of the PSC on the basis of a public vacancy, and introduce the obligation to publish the names of PSC's members.  Article 2.19 paragraph 15) introduce the obligation of delivering training to all members of the PSCs.  Chapter 4 – Certification and candidacy for the elections  Use of single bank accounts, and separation of regular financing of political parties and election campaign financing, in accordance with GRECO recommendation: *(i) to promote the use of the banking system for the receipt of donations and other sources of income, as well as for the payment of expenditure, by political parties and election candidates, in order to make them traceable, and (ii) to introduce the principle of a single campaign account for the financing of election campaigns (recommendation ii).*  Recommendation:  - Elaborate the provisions of Article 4.4 relating to reporting account through which the election campaign is financed - with the aim of separating regular and campaign financing,  - Introduce provisions that imply the obligation to use only one account, and prescribe the purposes for which it is used, the existence of measures in case of using multiple accounts, etc., as well as obligations and deadlines regarding the opening and closing of the account. These provisions may possibly be elaborated through Chapter 15.  See: Law on Financing of Political Entities and Election Campaigns of Montenegro, ("Official Gazette of Montenegro", No. 3/2020 and 38/2020) available at: <https://bit.ly/3ro1M07>  Chapter 5 – Conduct of elections  Secrecy of the vote, Articles 5.10 to 5.13, Article 17.2  TI BIH Recommendation:  - Introduce a strict prohibition of reading the voters' name out loud when issuing ballots, and further harmonization with Chapter 17, Article 17.2 relating to the conduct of observers and respect for the secrecy of the vote by specifying the prohibition of observers keeping the records of who voted.  Chapter 6 – Protection of the electoral right  TI BiH Recommendation:  • Extension of the right to object in Article 6.2 to any person (not only to political entities and voters whose right is directly violated) bearing in mind that every citizen/person can identify a certain irregularity or get certain knowledge about it, and should have the right to report it, having at the same time a mechanism of legal protection, so as not to leave the decision on probability of initiating ex-officio procedure based on the reports of authorized persons at the discretion of the election commissions.  • Extension of deadlines for complaint/reports of individual violations, i.e. classify deadlines in relation to individual violations.  Chapter 7 - Rules of conduct in election campaign  TI BiH Recommendation: Rephrase the title of the chapter in "Rules of conduct for political entities" or "Rules of conduct in the election period"  Given the increasing incidence of political misconduct, voter suppression and intimidation, as noted in the OSCE/ODIHR Final Report for the 2018 General Elections, as well as in the reports of the civil society organizations, the provisions contained in Chapter 7, in particular Article 7.3, which refer to the rules of conduct in the election campaign, have to be extended to the period beyond the election campaign, for example the period from the day elections were announced until the Election Day.  It is especially important, in order to prevent the mentioned practice, to introduce precise prohibitions of voter suppression and intimidation from the position of public office (through Article 7.3), both through public appearances and through the position of power in a certain public body, legal entity, etc. that is also used to exert pressure to collect votes. It is proposed to adopt additional provisions in Article 7.3. These would be:  *"No candidate or a holder of a public function shall intimidate the voters, individuals and particularly the vulnerable categories of the population with the aim of securing votes and electoral support."*  *"It shall not be prohibited to condition provision of public services, public funds, employment or any other right by voting for a particular political party or candidate, and no pressure shall be exerted on the employees for the purpose of collecting the voters."*  In paragraph 4 of Article 7.3. it is necessary to expand and further specify the promise of a monetary reward or other material benefit in such a way that the prohibitions apply to gifting money or goods, or even to the likelihood of some benefits, whether monetary or in form of an employment, appointment, promotion, etc., with an invitation to vote for a particular candidate or a party.  Election campaign – preventing abuse of public funds (Chapter 7 and Chapter 15)  Proposal of definition:  Public resources are financial, administrative, human and other tangible and intangible resources available to the bodies of authority at all levels of government in Bosnia and Herzegovina.  Abuse of public resources is defined as any form of use of public resources (see above) to gain an advantage or support or o undermine any political entity (political party, coalition or candidate).  Recommendations for additional provisions can be found in the Law on Financing of Political Entities and Election Campaigns of Montenegro, ("Official Gazette of Montenegro", No. 3/2020 and 38/2020) available at: <https://bit.ly/2VNJ1Yg>  Chapter 15 – Campaign financing  Paragraph 4 of Article 15.1 that relates to the type of expenditure declared by political entities in the financial statements needs to be improved by distinguishing items for all individual forms of advertising (e.g. TV advertising, print media advertising, radio advertising, internet advertising, billboard advertising , leaflets, etc.), preparation and holding of pre-election rallies, conceptual solutions and preparation and production of advertising material, etc., having in mind that the existing formulations in the law are outdated, overlap, and do not offer insight into individual costs.  In Article 15.1 establish the obligation to submit and publish all transactions, especially in terms of the identity of suppliers and service providers.  It is necessary to specify the obligation to publish the complete financial statements of the parties and all information contained therein on the CEC website in Article 15.5 in order to improve transparency.  Chapter 16 – Media  In addition to submitting price lists to the Communications Regulatory Agency the media should be obligated in Article 16.2 to publish price lists on their website before the start of the official election campaign, and to keep them up throughout the election campaign. The aim of this measure is to determine if paid advertising services are provided to everyone under the same conditions, and to be able to monitor and determine the costs of the election campaign of political entities.  Chapter 19A – Penalty provisions  As stated in all relevant reports, including the OSCE/ODIHR and GRECO, the legal framework needs to be amended to provide for proportionate and deterrence sanctions for violations.  Fines for violating the provisions of the Election Law need to be significantly increased, because the existing ones are not proportional to the profit that political entities can gain by violating the law, especially in Article 19.9, covering more serious violations, which should include the violations concerning abuse of public resources, where the total range needs to be increased to 30.000 KM. (Regarding the proposed range of sanctions, see the proposals of the BiH CEC published at: <https://bit.ly/36LMsks>)  Annex 3  Proposals of the Institution for social and political research (IDPI) Mostar for changes to the BiH Election Law  As stated by the Institute for social and political research, the characteristics of the Proposal for Amendments to the BiH Election Law of are contained in the principles presented below. A detailed overview of the models can be viewed at the following link: https://bit.ly/3ilRZnq   1. Neither Proposal A nor Proposal B require the national identification of either voters or candidates in the entire electoral process. Everyone, regardless of their nationality, can participate in all elections. 2. Both Proposal A and Proposal B enable every citizen, regardless of national (non)affiliation, to have the right and the opportunity to stand as candidate for bodies of authorities and to participate in the process of voting for all bodies of authority elected in the General Elections (BiH Presidency, BiH PA, Parliament of FBiH, National Assembly and Council of Peoples of RS). 3. Both Proposal A and Proposal B respect the constituency of peoples and mutual equality of the constituent peoples, as well as the right of members of the group of Other peoples and citizens to stand for the elections and be elected to all bodies of authority elected in the General Elections. 4. Both Proposal A and Proposal B ensure the implementation of the principle that members of one constituent people shall not decisively influence the election of either representatives of another constituent people or representatives of a group of Other peoples and citizens. 5. Both Proposal A and Proposal B ensure the implementation of the principle of legitimate representation, as well as the principle of equal value of the vote, to each specific demos participating in the General Elections. 6. Neither Proposal A nor Proposal B change or create any new internal boundaries, either temporarily or permanently, thus ensuring that the changes in electoral legislation required for the full implementation of the General Elections do not create any reason to change the dual entity structure or existing administrative-territorial boundaries within the entities. 7. Proposal A at the entity level abolishes all forms of electoral discrimination on an administrative-territorial basis, both among members of individual constituent peoples and among members of the group of Other peoples and citizens. Proposal B at the level of the entire state abolishes all forms of electoral discrimination on an administrative-territorial basis, both among members of individual constituent peoples and among members of the group of Other peoples and citizens. In practice, this means that a Croat in Sarajevo or Goražde has the same value of the and the ability to vote and be elected as a Croat in Mostar or Široki Brijeg. The same is true for Bosniaks, Serbs and Others throughout BiH. 8. Both Proposal A and Proposal B promote an electoral system that provides more equality, transparency and uniformity, based on mathematical formulas rather than on the national identification of candidates and voters, or on the creation of new constituency boundaries. 9. Both Proposal A and Proposal B encourage further democratization, diversity of political ideas and pluralism of political options within each of the three constituent peoples. This is of special importance for Croats, whose intra-national party pluralism is the least developed, which has led to a state of pronounced domination of only one party and one political option. 10. Achieving a political agreement, both for Proposal A and Proposal B, can relax interethnic tensions in the country and allow for the election of legitimate representatives and constituent peoples and Others at the General Elections in October. These representatives could then, with the legitimacy gained in democratic, free and fair elections, build on the success achieved in the reform of electoral legislation and reach a compromise on other necessary reforms in BiH, primarily economic and judicial reforms. 11. Reform of electoral legislation, either through Proposal A or Proposal B, would be the greatest internal political success since Dayton that could restore BiH citizens' faith in a democratic and functioning country that operates on the basis of political agreement and consensus, instead of the already existing practice of political conflict, exclusiveness and stagnation. 12. 12. Due to the complexity, asymmetry and non-transparency of the existing electoral model, it is difficult to establish a system of accountability of public officials towards those who elected them. By implementing both Proposal A and Proposal B, it would be completely clear who elected who and who suits who the best, i.e. the voters of each specific demos could finally more clearly assess if the ones they have elected met their expectations or not, and reward them accordingly or punish them in the next elections. |
| Annex 4  Proposal of amendments to the BiH Constitution by the Initiative “Citizens for constitutional reforms”  The initiative "Citizens for constitutional changes" was established in 2013 and since then it advocates sensitization and changes to the BiH Constitution from a gender and human rights perspective. Members of the Initiative "Citizens for constitutional change" have defined five priorities that will be subject of their advocacy efforts in the process of reforming the Constitution of BiH, and in line with them they created gender-responsive amendments to the BiH Constitution.  Priorities are:  1. Use of gender-responsive language in the BiH Constitution;  2. Introduction of affirmative measures in the BiH Constitution in order to achieve full gender equality;  3. Expansion of the existing Catalog of Rights with provisions related to the universal health,  social and family protection;  4. Greater judicial and legal protection of human rights and freedoms;  5. The principle of direct democracy applied to the process of constitutional reform.  Here we present proposal concerning priority 4:  Greater judicial and legal protection of human rights and freedoms  Although the BiH Constitution in its first sentence on human rights states that, (...) All persons within the territory of Bosnia and Herzegovina shall enjoy the human rights and fundamental freedoms referred to in paragraph 2 of this Article (2) '', (Article 2, Paragraph 3), this is not provided either in the legislation on the entire territory of BiH or in the application and consumption of these rights. Throughout its text, the BiH Constitution prefers collective rights of the constituent peoples to the individual, civil rights. "The general right of equality is quite specifically mentioned in the first place in the catalog of basic human rights. It, to a certain extent, normatively compensates for the ailment from which the political creation Bosnia and Herzegovina suffers the most, and that being the strict differentiation between the members of the three constituent peoples.” Therefore, it would be important to have changes to the Constitution guarantee individual rights in all segments of work and activities in BiH, while respecting all achieved international standards. The BiH Constitution should include provisions that provide judicial legal protection of human rights and freedoms, as well as explicitly state the equality of all before the courts in the State of BiH.  More detailed information on proposals and drafted amendments to the BIH Constitution are available at: <https://bit.ly/3z94itZ> |
| Annex 5  Proposals of the amendments to the BiH Constitution by the Forum of Tuzla citizens  The expert group of the Forum of Tuzla Citizens (FGT) had in 2011 presented to the public a proposal for amendments to the BiH Constitution. The expert group consisted of: Vehid Šehić, Šahbaz Džihanović, Slavo Kukić, Nerzuk Ćurak, Miodrag Živanović and Goran Marković.  Amendment 1  First paragraph of the BiH Constitution’s preamble is supplemented and reads:  “Based on respect for human dignity, liberty, equality and social justice,”  Amendment 2  Last paragraph of the BiH Constitution’s preamble is amended and reads:  “Citizens of Bosnia and Herzegovina, as Bosniaks, Croats, and Serbs, who are constituent peoples, national minorities and nationally undecided, as well as the citizens hereby determine that the Constitution of Bosnia and Herzegovina is as follows:”  Amendment 3  Article I, item 2 of the BiH Constitution is amended and reads:  “Bosnia and Herzegovina is a complex, democratic, legal, social and secular state, that bases its existence and organization on universal values, and especially on the values of anti-fascism.”  Amendment 4  Article I, item 6 of the BiH Constitution is amended and reads:  “Bosnia and Herzegovina shall have a flag, coat of arms and anthem in accordance with the law passed by the Assembly of Bosnia and Herzegovina.”  Amendment 5  Article I, item 7 of the BiH Constitution is amended and reads:  “There shall be a citizenship of Bosnia and Herzegovina, and a citizenship of the Entities.   1. Citizens of Bosnia and Herzegovina are at the same time citizens of one of the Entities. 2. No person may be unlawfully deprived of the citizenship of Bosnia and Herzegovina, the citizenship of the Entities or in any other way deprived of the citizenship. No one shall be deprived of the citizenship of Bosnia and Herzegovina or the Entities, for any reason such as gender, race, color, language, religion, political or other opinion, national or social origin, affiliation to a national minority, property, birth or any other status. 3. Citizens of Bosnia and Herzegovina may have the citizenship of another state, provided that there is a bilateral agreement between Bosnia and Herzegovina and that state which regulates this issue. Persons with dual citizenship may vote in Bosnia and Herzegovina only if Bosnia and Herzegovina is their country of residence. 4. A citizen of Bosnia and Herzegovina abroad shall enjoy the protection of Bosnia and Herzegovina.”   Amendment 6  Article II, item 1 of the BiH Constitution is amended and reads:  “Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognized human rights and fundamental freedoms.”  Amendment 7  In Article II, item 3 of the BiH Constitutions, point “I” is amended and reads:  “l) right to education under equal conditions.”  The following points are added after point m):   1. The right to work and freedom of work. 2. The right to protection at work. 3. The right to the highest attainable standard of health under equal conditions. 4. The right to special protection for mothers, children, families, elderly, unemployed and persons who are unable to work and are without means of subsistence. 5. Freedom of association and trade union action. 6. The right to strike. 7. The right of employees and members of their families to social security and social insurance. 8. The right of employees to participate in management at the workplace. "   Amendment 8  Article II, item 5 of the BiH Constitution is amended and reads:  “All refugees and displaced persons have the right freely to return to their homes of origin.  They have the right, in accordance with Annex 7 to the General Framework Agreement, to:  a) have restored to them property of which they were deprived in the course of hostilities since 1991;  b) to receive fair market compensation for any such property that cannot be restored to them.  All legal affairs or statements concerning the property of displaced persons or refugees, which were given under duress, shall be considered null and void.  These rights shall not have statute of limitations.”  Amendment 9  Article IV of the BiH Constitution is amended and reads:  “Article IV  Assembly of Bosnia and Herzegovina  The Assembly of Bosnia and Herzegovina shall have two chambers: the House of Representatives and House of Peoples.  1. House of Representatives  The House of Representatives shall comprise 81 Members, representing the citizens of Bosnia and Herzegovina, whereof 50 Members are from Federation of Bosnia and Herzegovina and 31 from Republika Srpska.   1. Members shall be elected directly, by secret ballot, on the basis of universal and equal suffrage, to be regulated by the election law of Bosnia and Herzegovina. 2. The constituting session of the House of Representatives shall be held no later than 30 days after the publication of the official election results. 3. The work of the House of Representatives shall be managed by the Speaker and three Deputy Speakers, one of whom shall belong to parliamentary minority, in the manner prescribed by the Rules of Procedure. The Speaker and Deputy Speakers shall each serve as the Chair for one 12 months rotation. 4. Decisions in the House of Representatives shall be taken by a majority vote of the total number of Members, unless a qualified majority is prescribed by the Constitution. 5. A majority of members in the House of Representatives shall comprise a quorum.   2. House of Peoples  The House of Peoples shall comprise 31 Delegates, whereof 17 would be from Federation of Bosnia and Herzegovina, as follows: 6 Bosniaks, 6 Croats and 3 Serbs and 2 belonging to national minorities and nationally undecided, and 14 from Republika Srpska, as follows: 6 Serbs, 3 Bosniak and 2 Croats and 2 belonging to national minorities and nationally undecided.   1. The proposed delegates from Federation of Bosnia and Herzegovina shall be elected by the appropriate caucuses of the House of Peoples of the Federation of Bosnia and Herzegovina, and the delegates from Republika Srpska shall be elected by the appropriate caucuses of the Council of Peoples of Republika Srpska. 2. The constituting session of the House of Peoples shall be held no later than 30 days after the publication of the official election results. 3. The work of the House of Peoples shall be managed by the Speaker and three Deputy Speakers elected from amongst constituent peoples and national minorities and nationally undecided, in the manner prescribed by the Rules of Procedure. The Speaker and Deputy Speakers shall each serve as the Chair for one 12 months rotation. 4. Delegates shall be organized into caucuses of delegates of constituent peoples and delegates of national minorities and nationally undecided for the purpose of deciding on matters of vital national interest. 5. Seventeen delegates of the House of Peoples shall comprise a quorum, having at least 5 delegates from each constituent people and 2 from national minorities and nationally undecided, including one third of the delegates from the territory of both entities, present at the session. 6. Decisions in the House of Peoples shall be made by a majority vote of the total number of delegates, provided that at least one third of the total number of delegates from both entities vote for the decision. If the required majority is not reached, the House of Peoples can form a commission composed of delegates from both entities on a parity basis that will try to find a compromise solution within 5 days. If the House of Peoples does not accept the proposal of the commission, it will be considered that the decision has not been made. 7. If at least four delegates from amongst one constituent people in the House of Peoples consider that the decision of the Assembly of Bosnia and Herzegovina offends the vital interest of the constituent people they represent, they have the right to veto. In that case, the House will form a commission composed of one delegate from each constituent people, which will try to find a compromise solution within five days. If the commission does not find a compromise solution by consensus, or if the majority of delegates from each of the constituent peoples present at the session of the House of Peoples do not vote for that solution, it will be considered that the decision has not been adopted. 8. h) If at least four delegates from one constituent people veto the decision of the Assembly of Bosnia and Herzegovina due to endangerment of vital national interest, and at least four delegates from another constituent people expressly oppose the veto, the Constitutional Court of Bosnia and Herzegovina shall decide if the disputed decision relates to an issue of vital interest to the constituent people. If the majority of judges of the Constitutional Court, which includes two judges coming from the constituent people whose delegates in the House of Peoples have vetoed, considers that the disputed decision does not contain an issue of vital interest to the constituent people, the House of Peoples will make a decision. Otherwise, the House of Peoples shall make a decision as prescribed in item g) of this Article.   3. Joint provisions   1. The term of office of members and delegates is 4 years 2. Houses are equal in decision-making. All decisions within the competence of the Assembly of Bosnia and Herzegovina must be adopted in the same text in both houses. 3. Decisions of the Assembly of BiH shall enter into force on the eighth day after their publication in the Official Gazette of BiH, unless otherwise provided by law. 4. Members and delegates shall not bear criminal and civil liability for acts committed in the performance of their duties.   4. Jurisdiction  Assembly of Bosnia and Herzegovina:   1. Decides on amendments to the Constitution of Bosnia and Herzegovina 2. Adopts laws, other regulations and general acts 3. Adopts the budget of the institutions of Bosnia and Herzegovina 4. Decides on the ratification of international treaties and agreements 5. Adopts the security and defense strategy of Bosnia and Herzegovina 6. Elects the President and Vice Presidents of Bosnia and Herzegovina 7. Appoints the President and members of the Council of Ministers of Bosnia and Herzegovina and exercise control over their work 8. Elects judges of the Constitutional Court of Bosnia and Herzegovina 9. Decides on calling a referendum in accordance with the law 10. Controls the work of intelligence and security services 11. Grants amnesty for criminal offenses in accordance with the law 12. Decides on the declaration of war and state of emergency 13. Performs other tasks in accordance with the Constitution and the law.”   Amendment 10  Article V of the BiH Constitution is amended and reads:  **“Article V  President and Vice Presidents of Bosnia and Herzegovina**  The function of the head of state is performed by the President of Bosnia and Herzegovina, and in cases determined by this Constitution, the President and the three vice-presidents together. The president and vice presidents shall come from amongst the constituent peoples, national minorities and the nationally undecided. The president and vice presidents shall not come from the same entity.  1. Election of President and Vice Presidents of Bosnia and Herzegovina   1. Candidates for President and Vice-Presidents shall be elected from among the members of the House of Representatives of the Assembly of Bosnia and Herzegovina. Candidates for President and Vice-Presidents may be nominated by at least 10% of the members. A member of the parliament shall nominate only one candidate. 2. Caucuses of delegates in the House of Peoples shall, by a majority vote of their members, choose one candidate amongst their constituent people as well as amongst the national minorities and nationally undecided. The determined list of 4 (four) candidates shall be submitted to the House of Representatives for confirmation. If the House of Representatives does not confirm the list, it shall vote individually on each candidate on the list. If one of the candidates does not receive the required majority in the House of Representatives, the appropriate caucus of delegates in the House of Peoples shall, according to the previously established procedure, propose another candidate on whom the House of Representatives will decide. The President and Vice-Presidents shall be elected within 15 (fifteen) days after the constitution of the Assembly of Bosnia and Herzegovina. 3. Elected candidates for President and Vice-Presidents shall each serve as the President for one 12 months rotation in line with the order established on the electoral list. The order of the list shall be determined by drawing lots in the House of Peoples during setting up of the list. The term of office of the President and Vice President is 4 (four) years. The same person may be elected to the position of President no more than 2 (two) times.   2. Powers of the President and Vice President  President of Bosnia and Herzegovina:   1. Represents Bosnia and Herzegovina. 2. Promulgates by decree the laws adopted by the Assembly of Bosnia and Herzegovina. 3. Signs international treaties and agreements. 4. Appoints diplomatic representatives of Bosnia and Herzegovina on the proposal of the Council of Ministers in accordance with the law. 5. Convenes and chairs the sessions of the Supreme Security and Defense Council of BiH 6. Appoints military and military-diplomatic representatives of Bosnia and Herzegovina in diplomatic and consular missions of Bosnia and Herzegovina, international organizations and institutions 7. Decides on the structure of the Armed Forces in accordance with the law 8. Appoints holders of the highest military duties in accordance with the law 9. Accredits and receives foreign diplomatic representatives in accordance with the law. 10. May request the convening of a session of the Council of Ministers or any house of the Assembly of Bosnia and Herzegovina and participate in their work. 11. Grants pardon in accordance with the law.”   Amendment 11  Article V, item 4 in the BiH Constitution is erased and Article V, item 5 become Article V, item 3 and reads as follows:  “3. Supreme Security and Defense Council of Bosnia and Herzegovina  The Supreme Security and Defense Council of Bosnia and Herzegovina shall be the Supreme Commander of the Armed Forces of Bosnia and Herzegovina.  Composition and decision-making   1. The Supreme Security and Defense Council shall consist of the President and Vice Presidents of Bosnia and Herzegovina, the President of the Council of Ministers of Bosnia and Herzegovina, the Commander of the Joint Staff of the Armed Forces of Bosnia and Herzegovina, the Speakers of the Houses of the Assembly of Bosnia and Herzegovina. 2. The Supreme Security and Defense Council shall make decisions within its competence by consensus.   Jurisdiction  The Supreme Security and Defense Council shall be responsible to:   1. propose to the Assembly of Bosnia and Herzegovina the declaration of a state of war or emergency; 2. propose to the Assembly of Bosnia and Herzegovina the security and defense policy of Bosnia and Herzegovina; 3. authorize of the Chairman of the Council of Ministers to implement the decision on the use and deployment of Armed Forces in the country through the competent ministry; 4. engage a security and defense system to provide assistance to civilian authorities in the event of natural, humanitarian and other disasters or incidents; 5. perform other tasks in accordance with the law.”   Amendment 12  A new Article Va is added after Article V in the BiH Constitution. It reads as follows:  “Article Va  Council of Ministers of Bosnia and Herzegovina  The Council of Ministers of Bosnia and Herzegovina is an institution of the executive power of Bosnia and Herzegovina that performs its rights and duties as government functions. The Council of Ministers shall be responsible for the implementation of policies and decisions of the institutions of Bosnia and Herzegovina, reporting to the Assembly of Bosnia and Herzegovina thereon.  1. Composition, election and responsibility   1. The Council of Ministers consists of the President and the Ministers. An equal number of members of constituent peoples and an appropriate number of members of national minorities and nationally undecided shall compose the Council of Ministers. A maximum of two thirds of the ministers may be from the territory of Federation of Bosnia and Herzegovina. 2. The candidate for President of the Council of Ministers of Bosnia and Herzegovina shall be nominated by the President of Bosnia and Herzegovina, with the consent of the Vice Presidents of Bosnia and Herzegovina. The candidate for President of the Council of Ministers shall nominates ministers. The Assembly of Bosnia and Herzegovina elects the President and Ministers of the Council of Ministers in the regular decision-making process in the Houses. 3. The composition, manner of decision-making and other issues that further regulate the work of the Council of Ministers of Bosnia and Herzegovina, as well as the competencies of the ministries, shall be regulated by the relevant laws. 4. The Council of Ministers shall be accountable to the Assembly of Bosnia and Herzegovina, and will resign if the Assembly of Bosnia and Herzegovina passes a vote of no-confidence. Ministers may be removed by the Assembly of Bosnia and Herzegovina, on its own initiative or at the proposal of the President of the Council of Ministers.   2. Jurisdiction  The Council of Ministers:   1. is responsible for the protection of the territorial integrity and international sovereignty of the country in accordance with the Constitution of BiH and international law; 2. implements the policy and executes acts and decisions of the Assembly of Bosnia and Herzegovina; 3. conducts foreign policy and propose diplomatic representatives of Bosnia and Herzegovina; 4. proposes laws and other acts within the competence of the Assembly of Bosnia and Herzegovina; 5. proposes the budget to the Assembly of Bosnia and Herzegovina; 6. ensures the even development of Bosnia and Herzegovina and the redistribution of funds in accordance with the established policy, the country's budget and the law; 7. issues decrees and other regulations necessary for the execution of the law; 8. takes care of the execution of decisions of the Constitutional Court of Bosnia and Herzegovina; 9. establishes and steers the work of administrative bodies and organizations of Bosnia and Herzegovina in accordance with the law; 10. ensures the fulfillment of the obligations of Bosnia and Herzegovina in accordance with the Constitution and the law; 11. performs other duties entrusted by the Constitution and the law.   The Council of Ministers of Bosnia and Herzegovina shall have the powers to, pending the decision of the Constitutional Court of Bosnia and Herzegovina, repeal any law, other regulation or general act or action of any legislative and executive body in Bosnia and Herzegovina, which calls into question the territorial integrity and the international sovereignty of Bosnia and Herzegovina.  The Council of Ministers of Bosnia and Herzegovina shall also be responsible for other issues within its competence that are important for the functioning of the state and coordination between the entities.”  Amendment 13  “Article VI -the Constitutional Court of Bosnia and Herzegovina  The Constitutional Court of Bosnia and Herzegovina shall be an autonomous and independent body that protects constitutionality and legality and minority rights and freedoms.  Decisions of the Constitutional Court shall be final and generally binding.  The Constitutional Court shall decide on:   1. compliance of the constitutions of the Entities with this Constitution, international treaties and generally accepted rules of international law; 2. compliance of ratified international agreements with the Constitution; 3. compliance of other general acts with the law of Bosnia and Herzegovina; 4. compliance of general acts of entities, cantons and local self-government units with the Constitution and the law; 5. the agreement of general acts of organizations entrusted with public authority, political parties, trade unions, citizens' associations and collective agreements with the Constitution and the law.   1.a Constitutional Court:   1. resolves conflicts of jurisdiction between the entities and the state of Bosnia and Herzegovina; 2. resolves conflicts of jurisdiction between courts and other state bodies; 3. resolves conflicts of jurisdiction between entity bodies and bodies of Bosnia and Herzegovina; 4. resolves conflicts of jurisdiction between the entities; 5. monitors the constitutionality and legality of elections, state referendums and citizens' initiatives, and resolves election disputes that are not within the scope of the regular judiciary.   The Constitutional Court shall decide on the constitutionality of the programs and activities of political parties and on the prohibition of the work of a political party, trade union organization or citizens' associations.  The Constitutional Court may assess the constitutionality of a law, as well as the constitutionality and legality of other regulations that have ceased to be valid if no more than one year has elapsed between that termination and the submission of a request or proposal to initiate proceedings.  The Constitutional Court shall monitor the realization of constitutionality and legality, and shall submit the reports to the Assembly of Bosnia and Herzegovina on the observed phenomena of unconstitutionality and illegality.  2. Constitutional complaint  The Constitutional Court shall decide on constitutional complaints against individual acts or actions of state bodies, entity bodies, cantons and local self-government units, and legal entities that have public authority when these acts violate or deny human rights and fundamental freedoms, as well as the right to local and regional self-government guaranteed by the Constitution of Bosnia and Herzegovina, if other legal means for their protection have been exhausted or not provided for.  3. Ensuring execution of the decision  Everybody shall be obliged to respect and execute the decision of the Constitutional Court.  The Constitutional Court shall by its decision regulate the manner of execution of the decision, when necessary.  Execution of the decision of the Constitutional Court shall be regulated by the law of Bosnia and Herzegovina.  4. Composition, election and appointment of the judges of the Constitutional Court  The Constitutional Court consists of 10 judges, three of whom are from amongst Bosniak people, three from amongst Croat people, three from amongst Serb people and one judge from amongst national minorities and nationally undecided citizens.  Judges of the Constitutional Court shall be appointed by the Assembly of Bosnia and Herzegovina on the basis of a list of candidates determined by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina in accordance with the law.  A person who is a citizen of Bosnia and Herzegovina and who is either a prominent lawyer or prominent social science expert of high moral standing and who has reached the age of 45 before being elected to this position may be elected a judge of the Constitutional Court.  A person who has held any office in a political party for a period of five years prior to the election may not be elected a judge of the Constitutional Court.  Judges of the Constitutional Court shall be appointed for nine years. One person may be appointed a judge of the Constitutional Court no more than twice.  5. Initiating proceedings before the Constitutional Court  The proceedings before the Constitutional Court may be instituted by:   1. the President or Vice-President of any legislative authority in Bosnia and Herzegovina; 2. one quarter of the members in the House of Representatives of the Assembly of BiH or one quarter of the delegates in the House of Peoples of the Assembly of BiH 3. the President and Vice-Presidents of Bosnia and Herzegovina; 4. the President and Vice-Presidents of the Council of Ministers of Bosnia and Herzegovina or one third of the Ministers of the Council of Ministers; 5. any court or prosecutor's office in Bosnia and Herzegovina in the event that the question of compliance of a law or other regulation with this Constitution is raised before the court or prosecutor's office, whose validity depends the decision of that court or prosecutor's office; 6. the Public Attorney in cases when the issue of compliance of a law or other regulation with this Constitution is raised, on whose application depends the protection of the rights or legal interests of the state of Bosnia and Herzegovina, entities, cantons, cities or municipalities; and 7. the majority of members of a representative body of local or regional self-government units on issues of protection of the right to local or regional self-government. 8. The initiative to initiate proceedings before the Constitutional Court of Bosnia and Herzegovina may be given by any citizen of Bosnia and Herzegovina.   The Constitutional Court of Bosnia and Herzegovina may, on its own initiative, initiate procedure to review constitutionality or legality.  The organization of the Constitutional Court, the termination of judges’ duties, the conditions and reasons for initiating the procedure of assessing constitutionality and legality, the procedure and legal effect of its decisions, protection of human rights and fundamental freedoms protected by the Constitution, mutual relations between the Constitutional Court of BiH and other courts shall be regulated by the constitutional law.” |
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