

Society

## Policy Brief: Pressures on judges and prosecutors in BiH decrease trust in the judiciary

by EWB 17. 03. 2022.



Flag of Bosnia and Herzegovina; Photo: Flickr/ Jennifer Boyer

VIENNA – Considering the cumulative impact of a number of dominantly political factors that influence the judiciary, coupled with the internal mechanisms of undue influence, it is obvious that the current state of affairs of the judiciary in BiH cannot be satisfactory neither for the EU nor the citizens of Bosnia, it was concluded in the Policy Brief „Rule of law in Bosnia and Herzegovina – the Transformation of the High Judicial Prosecutorial Council”, published within the WB2EU Network.

As the authors recommended, full institutional and financial independence of the judiciary in Bosnia and Herzegovina must be ensured on the judicial level, following the example of the Brčko District. The judiciary in Brčko District is an exception as the Judicial Commission of the District proposes a budget to the District Assembly. The Mayor or the District’s Finance may not modify the budget proposal submitted by the Commission.

Since the judiciary is not explicitly mentioned in the Constitution of BiH and had been regulated only in the entity constitutions and in the Brčko District Statute, the international community in Bosnia engaged heavily and enabled important progress in establishing and strengthening the judicial system at the state level.

Policy Brief especially underlined the problems of financial independence of the judiciary. In BiH judiciary is financed from 14 different sources mirroring the administrative-territorial organization of the country – state, entity, and cantonal budget. The authors assessed that such extreme fragmentation of the financing system is a problem *per se*.

***“While courts and prosecutor offices prepare the budget proposals and submit them to the local ministries of finance or justice, they are approved first by the local governments and then ultimately by the local parliaments. Consequently, the mentioned funding mechanisms may influence the judiciary and its work in the same way as any other budget beneficiaries. Institutions approving the budget have a strong position to influence the judiciary”, the authors said.***



They explained that while the budget allocated to the judiciary continuously rises, a large discrepancy remains between the required budget estimated by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, which would provide the minimum required for the functioning and the actual budget approved.

***“The revised Law on the High Judicial and Prosecutorial Council should ensure a comprehensive reform of its functioning given its immense influence – while the independence from external factors should be strengthened, internally it should be restructured to avoid the concentration of power. The Office of the Discipline Council particularly needs full institutional, financial, and personal independence from the High Judicial and Prosecutorial Council”, Policy Brief recommended.***

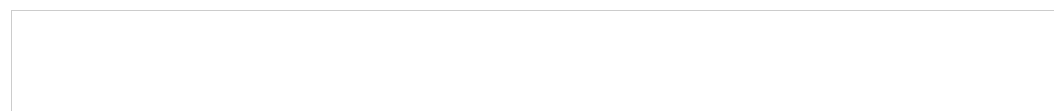
The authors recommended amending specific aspects and provisions of disciplinary procedures and elaborating ethical codes in order to further develop, clarify and promote the application of the highest ethical standards within the judiciary would be a measure particularly important for restoring public trust in the judiciary.

Policy Brief mentioned that all problems in judiciary in BiH resulted low public trust in judiciary in BiH. For many years this level has been consistently low and further diminishing the independence of judges and prosecutors.

“While the data on the level of public trust reflect worrying trends regionally, the judiciary in BiH appears to be one of the least accessible (54% citizens find it poorly accessible) and costliest (67%). Public confidence has taken a steady decline course since 2015 culminating with recent media reports only 19% of public trust in judiciary in BiH”, the authors stressed.

***The Policy Brief is published in the framework of the [WB2EU project](#). The project aims at the establishment of a network of renowned think-tanks, do-tanks, universities, higher education institutes and policy centres from the Western Balkans, neighbouring countries and EU member states that will be most decisive for the enlargement process and Europeanisation of the region in the upcoming years. The WB2EU project is co-funded by the European Commission under its Erasmus+ Jean Monnet programme.***

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