FBiH Pardon Law Undermines State Competence

The FBiH House of Representatives will tomorrow discuss the draft FBiH Law on Pardon, during which they will have the opportunity to make changes to the draft law.

A presidential pardon is a measure of last resort. Presidential pardons are granted in only extremely limited circumstances.

Given concerns raised about the previous frequent use of presidential pardons, the High Representative last year issued a Decision suspending the use of the Presidential Pardon at the Entity, State and District level until a new law that adequately addresses the deficiencies of the previous law is in place. Appropriate legislation has been passed at the State level and in the RS.

However, the draft law that will be presented to the FBiH House of Representatives does not fully remedy the legal loopholes that have thus far enabled politicians to pardon their friends and party colleagues. If passed in the version proposed by the FBiH Minister of Justice, this legislation will undermine the BiH Presidency and the State Court by granting the FBiH authorities the power to grant pardons in cases in which, under BiH Law, only the Presidency of Bosnia and Herzegovina may grant pardons.

The passing of a Law on Pardon that is harmonized with the State Law is also required to complete criminal law reform in BiH. The RS passed similar legislation earlier this month which fully respects the competence of the State of BiH.