

HJPC conclusions fail to ensure the integrity and independence of judges and prosecutors



The Office of the High Representative views with deep concern the 26 October 2017 conclusions of the High Judicial and Prosecutorial Council reached in connection with the information submitted by the Center for Research of War, War Crimes and Search for Missing Persons of the Ministry of Justice of Republika Srpska which include calls for dismissal of judges and prosecutors without appropriate disciplinary proceedings. Of particular concern is the HJPC conclusion by which the HJPC shall request from the Ministry of Justice of BiH, Council of Ministers of BiH and Parliamentary Assembly of BiH to, in urgent procedure, amend the Article 44 of the Law on the HJPC BiH in the sense of introduction of exceptional possibility for dismissal of a judge or prosecutor without conducted disciplinary procedure.

It is the view of the OHR that such actions against judicial officials are inconsistent with the Council's proclaimed goal of building an independent and professional judiciary.

In a state governed by the rule of law, as BiH is under Annex 4 of the GFAP, Judicial Councils play an important role in protecting and promoting judicial independence by ensuring integrity and independence of judges and prosecutors, in

particular by protecting them from external undue influence or pressure. Judges and prosecutors' security of tenure should be fully protected and dismissals should only be considered after a fair, transparent and adequate disciplinary procedure.