

Failure to amend the Criminal Procedure Code could seriously harm BiH judiciary

Failure of the BiH authorities to adopt amendments to the Criminal Procedure Code (CPC), and by doing so harmonize the disputed provisions of the law with the BiH Constitution, could seriously jeopardize the functioning of the BiH judiciary.

If provisions of the BiH Criminal Procedure Code, affected by the Constitutional Court's decision from June 2017, are repealed by the Court through a decision on non-enforcement of its earlier decision, the BiH judiciary will be seriously crippled and it will not be able to process serious cases of crime and corruption in BiH.

Authorities in BiH need to acknowledge the seriousness of this situation and act accordingly in line with their responsibility to amend the Criminal Procedure Code. The swift adoption of appropriate amendments would remove the danger of BiH judicial institutions losing some of their capacity in fighting corruption. Otherwise, if the provisions disputed by the BiH Constitutional Court are put out of force before the BiH institutions address the need for amendments, it is difficult to foresee all the consequences for ongoing cases, and whether these cases will ever be properly tried.

At the same time, the OHR wishes to stress that it is important that the Constitutional Court recognizes the ongoing efforts of the institutions to resolve this issue. There are amendments in the parliamentary procedure that would, when it comes to substance, resolve the problem. In other words, the BiH authorities are undoubtedly working to resolve the issue and the OHR hopes that the Constitutional Court will take this into account.

BiH needs to be empowered to fulfil its obligations prescribed by the Constitution. Therefore it is of utmost importance that the amendments to the BiH Criminal Procedure Code continue to enable the full exercise of the state's criminal jurisdiction and ensure compliance with international standards in the fight against corruption and organized crime. BiH's criminal legislation must strengthen the fight against crime and corruption and not disable the state in exercising its jurisdiction, as well as its obligation to preserve the legal order.

The OHR is observing this matter closely and is alarmed by the potential consequences.