

OHR Urges FBiH Parliament to Adopt the Proper Version of FBiH Law on Pardons

OHR urges FBiH Parliament to adopt the correct version of the Law on Pardons of FBiH at its Tuesday and Wednesday session, the version that would respect BiH's jurisdiction in criminal matters and which ensures transparency and public scrutiny over such extraordinary decisions of executive clemency. As there are two versions sent to Parliament, to be clear, the correct version is the version sent by SDA Caucus and not the one sent in urgent procedure by FBiH Government last week. The Law sent by FBiH Government fails to correct the key deficiency which is entity interfering with the state competencies.

Adoption of the FBiH Pardon law has been outstanding for years. It is a high time for Federation of BiH to face the reality that this issue has to come to an end. When suspending pardons in FBiH in 2005 the HR's Decision stated that suspension will stay in place as long as there is no FBiH Law which meets the conditions set by the High Representative. If Law as proposed by FBiH Government is adopted this means exactly that – suspension of pardons in FBiH will remain in place.

The FBiH Presidency can only give pardons for individuals sentenced by FBiH judiciary, not the state judiciary. This is as simple as it can get. There can be no reason why proponents of this law within the Federation of BiH government cannot understand this other than a misplaced desire to perpetuate the system.

Should FBiH Parliament adopt proper version of the Law, dully respecting the State level jurisdiction in criminal matters

and meeting all conditions spelled out in the Decision of the High Representative, where Republika Srpska adopted such law long ago, such Law would require full publication of pardon decisions, it will require this whole process to be conducted in the public gaze. It will give right to the judiciary to have their views heard and taken into account, it would require a President giving a Pardon against the advice of judge to explain in public why he or she is overruling the judges opinion and it will provide for many other safeguards. Above all such law will prevent politicians granting pardons to their party friends and members on ad hoc and unfounded basis.