



Resolution 1725 (2010)¹

Final version

Urgent need for constitutional reform in Bosnia and Herzegovina

Parliamentary Assembly

1. The Parliamentary Assembly recalls its [Resolution 1701 \(2010\)](#) on the functioning of democratic institutions in Bosnia and Herzegovina, in which it called the key political stakeholders to engage in meaningful and constructive dialogue about concrete proposals for constitutional amendments, with a view to adopting a comprehensive reform package, removing in particular constitutional discrimination against the so-called “others” as well as the members of the constituent peoples who do not reside in the entity where their ethnic group is largely represented, before the calling of the October 2010 general elections. It has followed closely the developments in Bosnia and Herzegovina since the adoption of that resolution, especially in the light of the need to amend the constitution before the elections in execution of the legally binding judgment of the European Court of Human Rights (the Court) in the case *Sejdić and Finci v. Bosnia and Herzegovina*.
2. The Assembly is seriously concerned that the initiatives launched by the authorities so far have not led to any concrete results. Although still theoretically possible, the adoption of amendments to the constitution before the calling of the elections appears to be rather unlikely. Therefore, there is a serious risk that the October 2010 general elections will be once again held in violation of the European Convention on Human Rights (ETS No. 5) and its protocols, as well as of the judgment of the Court.
3. The Assembly recalls that the revision of electoral legislation, the elimination of constitutional discrimination against the so-called “others” and the representatives of constituent peoples not residing in the entity where their ethnic group is widely represented, preventing them from standing for the elections to the presidency and to the House of Peoples, as well as the strengthening of state institutions, are key outstanding commitments of Bosnia and Herzegovina. Regrettably, the Assembly notes that, since 2006, very little progress has been achieved in the implementation of these and other commitments. This is most disappointing, the Assembly having repeatedly called on the authorities of Bosnia and Herzegovina to speed up the reforms and fulfil the outstanding commitments.
4. As noted in previous Assembly resolutions, the lack of constitutional reform hampers the completion of much-needed reforms in key sectors, such as democratic institutions, the rule of law and human rights, and slows down the country’s advancement on the path to Euro-Atlantic integration. In order to end the perpetual cycle of deadlock and confrontation, the authorities of Bosnia and Herzegovina and the key political stakeholders must shoulder their political responsibilities, resolve the constitutional reform deadlock and complete the outstanding post-accession commitments as rapidly as possible.
5. The Assembly is fully aware of the possible implications of the non-implementation of the Sejdić and Finci judgment before the October 2010 general elections and of the holding of these elections on the basis of rules which are in violation of the European Convention on Human Rights and its additional protocols. In such a case, it will revert to the matter with a view to taking the requisite political stance.

1. *Assembly debate* on 29 April 2010 (16th Sitting) (see [Doc. 12222](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Sasi and Ms Woldseth). *Text adopted by the Assembly* on 29 April 2010 (16th Sitting). See also [Recommendation 1914 \(2010\)](#).



6. In the meantime, the Assembly urges the authorities of Bosnia and Herzegovina to lose no time and launch, before the general elections of October 2010, a serious institutionalised process for the preparation of a comprehensive package of constitutional amendments, in accordance with the country's post-accession commitments, while making full use of the expertise and recommendations of the European Commission for Democracy through Law (Venice Commission). This institutionalised process, based on a clear political mandate, should seek to involve a broad range of domestic legal experts, in order to make a comprehensive analysis of all existing proposals and produce a package of concrete amendments which would generate consensus among the key political stakeholders. Appropriate consultations with civil society should also be conducted in due course. This process should continue after the elections and the formation of new authorities which should make the implementation of the country's remaining post-accession commitments, including the constitutional reform, their political priority.
7. At the same time, the Assembly stresses the importance of full co-operation of Bosnia and Herzegovina with the Council of Europe and urges the authorities to appoint, as rapidly as possible, members to the Venice Commission, as well as to other Council of Europe monitoring bodies in which the country has no member yet.
8. The Assembly calls upon all international partners and in particular the European Union to fully support the proposed institutionalised process for the preparation of constitutional amendments, in order to speed up the country's advancement on the road to Euro-Atlantic integration. It stresses the importance of the Council of Europe's participation in the European Union-Western Balkans Summit to be held on 2 June 2010, with a view to ensuring appropriate synergies with key regional and international partners.
9. The Assembly resolves to closely follow the process of constitutional reform in Bosnia and Herzegovina and invites its Monitoring Committee to examine regularly the progress achieved by the authorities at its forthcoming meetings, in order to propose to the Assembly any further action to be taken as required by the situation.