



Resolution 2201 (2018)¹

The honouring of obligations and commitments by Bosnia and Herzegovina

Parliamentary Assembly

1. Bosnia and Herzegovina joined the Council of Europe on 24 April 2002. Since then, the authorities have implemented all the country's formal commitments entered into upon accession. To date, Bosnia and Herzegovina has signed and ratified 90 Council of Europe conventions.
2. The Parliamentary Assembly congratulates the authorities of Bosnia and Herzegovina on the adoption of an ambitious reform agenda in July 2015 and on officially submitting its application for membership of the European Union in February 2016.
3. The Assembly also welcomes the long-awaited publication, in 2016, of the 2013 population and household census, and the progress made in the implementation of the revised strategy for the implementation of Annex VII to the Dayton Peace Agreement on the return of refugees and internally displaced persons.
4. The Assembly considers that the issue of missing persons should remain high on the authorities' agenda and expects the Missing Persons Institute to receive the necessary budgetary means.
5. The Assembly regrets the slow pace of implementation of the 2009 National War Crime Strategy: the 2015 deadline for the most complex cases was not met and investigations into alleged war crimes against at least 7 000 people remain to be resolved by December 2023. The Assembly urges both the entities and the State to ensure that the judiciary is sufficiently funded.
6. The Assembly is pleased to note that the Central Election Commission organised the 2014 general elections and the 2016 local elections in a professional and efficient manner and constantly strives to promote further technical improvements to the voting procedures.
7. However, the Assembly notes that the 2014 elections were held for the second time under a legal and constitutional framework which is in violation of the European Convention on Human Rights (ETS No. 5) since the 2009 judgment in the case of *Sejdić and Finci*: once again, only Serbs, Croats and Bosniaks could run for the State presidency or be elected/appointed to the State House of Peoples.
8. No constitutional amendments to solve this fundamental issue have been adopted to date. The Assembly urges once again all political stakeholders to shoulder their responsibilities and to adopt the necessary changes both in the constitution and in the electoral law, at the latest six months before the next general elections in October 2018. The residency requirement for the election of the tripartite State presidency should also be removed, in accordance with the judgment of the European Court of Human Rights in the *Pilav* case.
9. The Assembly also urges the authorities of Bosnia and Herzegovina to adopt the changes required for the implementation of decisions by the Constitutional Court on the electoral system for the city of Mostar and on the composition of the Federation House of Peoples.

1. *Assembly debate* on 24 January 2018 (6th Sitting) (see [Doc. 14465](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Tiny Kox and Sir Roger Gale). *Text adopted by the Assembly* on 24 January 2018 (6th Sitting).



10. For the Assembly, it is highly problematic that the authorities cannot muster the political will necessary to end a situation where the citizens of Mostar have been prevented from exercising their right to choose their representatives in the city council for over eight years.
11. The Assembly considers it a matter of urgency to implement the Constitutional Court's decision of 1 December 2016 on the composition of the Federation House of Peoples (in the *Ljubić* case) well ahead of the next general elections in 2018, as otherwise there is a serious risk that government formation both at federation and State level after the elections will be blocked.
12. The Assembly urges the authorities in both entities to adopt amendments to their constitutions: it is highly regrettable that the Constitution of Republika Srpska still provides for the death penalty and that the federation's constitution still contains provisions related to an ombudsman institution that was abolished in 2008. In four cantons of the federation, constitutional amendments to the respective cantonal constitutions are required to guarantee the status of "constituent people" to the Serbs living there.
13. The Assembly considers that the authorities of Bosnia and Herzegovina should step up efforts to implement the country's remaining accession commitments and its membership obligations. While respecting the entities' and the Brčko District's autonomy, the necessary reforms should be implemented in a spirit of constructive dialogue between the various levels of authority. State structures in key areas should be reinforced and not undermined.
14. While accepting that the institutional framework of the country is a complex one, the Assembly regrets that complicated decision-making processes in the State parliament (such as the requirement of entity voting, a double qualified majority needed for the adoption of all decisions, or the invocation of the Vital National Interest protection clause) considerably slow down the legislative reform process.
15. The Assembly also regrets that nationalistic and ethnic rhetoric still dominates the political discourse throughout the country, particularly ahead of elections. There should be zero tolerance for hate speech or the glorification of war criminals.
16. The Assembly is very concerned about the increasing disrespect for the rule of law in Bosnia and Herzegovina and urges the competent authorities to abide by decisions of the Constitutional Court and the State Court, which are final and binding. It regrets in particular the decision of the Republika Srpska not to implement a decision of the State Court on the State-level registration of defence property located on its territory, the decision to hold a referendum on the Republika Srpska national day despite a ruling by the Constitutional Court banning it, and the protracted delay by the State parliament in implementing the decision of the Constitutional Court on Mostar.
17. As regards the strengthening of democratic institutions, the Assembly calls on the authorities of Bosnia and Herzegovina to:
 - 17.1. strengthen local self-government in Bosnia and Herzegovina in line with the 2012 recommendations of the Congress of Local and Regional Authorities of the Council of Europe;
 - 17.2. adopt a new law on the prevention of conflicts of interest at State and entity level, in accordance with international standards, and strengthen the bodies monitoring conflicts of interest as well as the asset disclosure regime;
 - 17.3. further improve the law on the financing of political parties and implement all outstanding recommendations contained in the third evaluation round of the Group of States against Corruption (GRECO) concerning the transparency of party funding both at State and entity level;
 - 17.4. complete the establishment of a unified public service broadcasting system with State-level management, set up the corporation of public broadcasting services and adopt legislation ensuring permanent funding of the three public broadcasters;
 - 17.5. adopt legislation aimed at ensuring transparency in the ownership of media outlets;
 - 17.6. ensure that the law on access to information is effectively implemented and take measures to increase the safety of journalists who have been subjected to death threats and other intimidation measures in recent years;
 - 17.7. pursue the reform of the State-level ombudsman institution in line with the recommendations of the European Commission for Democracy through Law (Venice Commission) and ensure sufficient funding for the institution, notably to enable it to comprehensively monitor the implementation of the 2009 Law on Prohibition of Discrimination.

18. As regards the rule of law, the Assembly calls on the authorities to:
- 18.1. step up the fight against corruption within the judicial and prosecution system, the police and the administration; prosecute cases of political corruption, bribery and trading in influence both at State and entity level and harmonise the various applicable legislations; and strengthen the institutional capacity of the anti-corruption agency;
 - 18.2. adopt without further delay the remaining laws and by-laws on anti-money laundering and the financing of counter-terrorism in order for the country to be removed from the “light grey list” of the Financial Action Task Force (FATF);
 - 18.3. adopt a new law on the courts and set up either a Supreme Court at State level or an Appellate Court within the existing State Court, in line with the recommendations of the Venice Commission; adopt a new law on the High Judicial and Prosecutorial Council taking into account the recommendations of the Venice Commission; continue efforts to harmonise the four existing legal systems in the country.
19. As regards the protection of human rights, the Assembly calls on the authorities to:
- 19.1. continue with the harmonisation across the country of the legal framework for the execution of criminal sanctions and ensure better co-operation between the three existing separate prison administrations.
 - 19.2. establish fully independent police complaint bodies to investigate allegations of ill treatment of detainees, in line with the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);
 - 19.3. continue to implement measures to foster the integration of the Roma community in society;
 - 19.4. continue to implement measures to deal with the phenomenon of trafficking in human beings, particularly children;
 - 19.5. take as a matter of priority all necessary steps to implement their accession commitment to eliminate segregation and assimilation in education.
20. The Assembly, while welcoming progress made in a number of areas since the adoption of its [Recommendation 2025 \(2013\)](#) on the functioning of democratic institutions in Bosnia and Herzegovina, remains concerned about the lack of progress in the field of constitutional reform and reform of the electoral law, which threatens the political stability and progress of Bosnia and Herzegovina. Therefore, pending the implementation of this and previous resolutions and recommendations, it resolves to pursue its monitoring of the honouring of obligations and commitments by Bosnia and Herzegovina.