

The panel discussion on “Guaranteeing Local Autonomy in the Federation of Bosnia and Herzegovina through Compliance with the Standards of the European Charter of Local Self-Government”

Panel 1. Special Character of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina

Taking into account the previously formed opinions of the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina, conclusions from conferences and meetings of the Association's bodies, conclusions of the Commission for Local Self-Government of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina from December 21, 2023, the opinion of the Federal Ministry of Justice from July 29, 2008, regarding the implementation and character of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina, we draw the following conclusions:

CONCLUSIONS

1. We demand from all levels of government in the Federation of Bosnia and Herzegovina to **consistently and unreservedly respect the special character of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina**, which, according to the opinion and recommendations of the Congress of Local and Regional Authorities of the Council of Europe, is fully aligned with the principles and standards of the European Charter of Local Self-Government (Recommendation 324 (2012) on Local and Regional Democracy in Bosnia and Herzegovina).
2. We believe that it is necessary to strengthen the capacities of the Federal Government regarding the establishment of institutional care for the functioning and improvement of the local self-government system in the Federation of Bosnia and Herzegovina. In this context, we call upon the Government of the Federation of Bosnia and Herzegovina, in accordance with the opinion and recommendations of the Congress of Local and Regional Authorities of

Europe (Report CG37(2019)18 final from October 31, 2019), **to initiate the process of enhancing capacities within the Federal Ministry of Justice through the establishment of a department for local self-government.**

3. Local self-government units in the Federation of Bosnia and Herzegovina have been facing a lack of understanding from higher levels of government towards the challenges they encounter for many years, resulting in a large number of unresolved issues that hinder the successful functioning of local authorities. We consider it extremely important for the Federal Government to devote more attention to resolving accumulated problems in order to enable more successful work of local authorities. **In line with this, we ask the Government of the Federation of Bosnia and Herzegovina to urgently establish an interdepartmental Working Group tasked with determining a list of federal-level laws that should be harmonized with the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina** ("Official Gazette of FBiH", No. 49/06 and 51/09). The Working Group should also include representatives of the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina.
4. The local self-government system in the Federation of Bosnia and Herzegovina is monotypic, meaning that local self-government units, despite significant differences in territorial size, population, economic strength, level of urbanization, and personnel capacities, have the same competencies. These differences among local self-government units are increasing, leading to the creation of "dwarf municipalities" that are unable to meet even the costs of administration with their regular revenues and they are forced to rely on voluntary assistance for their survival. We believe it is necessary to embark on a process of comprehensive reform of the local self-government system in the Federation of Bosnia and Herzegovina. **Accordingly, we call upon the Government of the Federation of Bosnia and Herzegovina to initiate the process of developing a Strategy for the Reform and Development of Local Self-Government.** The Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina is an indispensable factor in this process.
5. The Constitutional Court of the Federation of Bosnia and Herzegovina, addressing requests for the protection of the right to local self-government, had issued 117 judgments by February 2024. In the absolute majority of cases, judgments were in favor of local self-government units, indicating a violation of the right to local self-government. The Constitutional Court of the Federation of Bosnia and Herzegovina has thus far demonstrated a high level of understanding regarding the issues faced by local self-government units in the Federation of Bosnia and Herzegovina. However, the problem arises from the lack of enforcement of these judgments. **We call upon the Government of the Federation of Bosnia and Herzegovina to initiate the process of developing regulations aimed at ensuring effective judicial protection and enforcement of decisions of the Constitutional Court of the Federation of Bosnia and Herzegovina and other courts regarding local self-government.**

Panel 2. Determining and organizing the work of Administration Services and Other Services of Local Self-Government Units in FBiH

Considering that the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina signed a Cooperation Agreement with the Government of the Federation of Bosnia and Herzegovina in 2011, aimed at implementing joint coordination and efficient institutional dialogue in the implementation of activities to improve the local self-government system, and taking into account that the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina signed a Cooperation Agreement with the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina in 2019, which, among other things, stipulates that the signatories of the Agreement agree to jointly participate in the legislative process and other acts adopted by the House of Representatives within the permissible constitutional, legal, and procedural frameworks, we hereby draw the following conclusions:

CONCLUSIONS

1. Considering the fact that the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina is a *lex specialis*, governing all matters significant for the functioning of local self-government units as a distinct area with clear and specific needs, operating mode and functioning, **the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina hereby emphasizes and appeals to the executive and legislative authorities in the Federation of Bosnia and Herzegovina to fulfill the legal obligation of harmonizing regulations with the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina, as stipulated by Article 58 of this Law, by transferring tasks, competencies, and responsibilities assigned to local self-government units.**
2. **We request the Federal Ministry of Justice**, following its Response No: 06-02-556/08 from July 29, 2008, regarding the implementation of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina and the Law on the Organization of Administrative Bodies in the Federation of Bosnia and Herzegovina, which was sent to the Association of Municipalities and Cities of FBiH in 2008, **to submit an initiative to the Government of Federation of Bosnia and Herzegovina to harmonize Article 49, paragraph 4, Article 50, paragraph 3, and Article 52, paragraph 1, points (3) and (4) of the Law on the Organization of Administrative Bodies in the Federation of Bosnia and Herzegovina ("Official Gazette of FBiH", No. 35/05) with the provisions of Article 15 of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina ("Official Gazette of**

FBiH", No. 49/06 and 51/09), taking into account the special character and priority of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina in regulating issues related to local self-government in the Federation of Bosnia and Herzegovina. We remind you that in this act of the Federal Ministry of Justice, it is stated that the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina should be applied as " a *lex specialis* because it specifically regulates the competencies of the executive and legislative authorities of local self-government units in relation to the Law on the Organization of Administrative Bodies in the Federation of Bosnia and Herzegovina, which regulates the organization of administrative bodies generally at all levels of government."

3. **We remind you that the Commission for Local Self-Government of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, at the session held on December 21, 2023, while addressing the request of the Association,** adopted conclusions related to the need to harmonize Article 49, paragraph 4, Article 50, paragraph 3, and Article 52, paragraph 1, points (3) and (4) of the Law on the Organization of Administrative Bodies in the Federation of Bosnia and Herzegovina ("Official Gazette of FBiH", No. 35/05) with the provisions of Article 15 of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina ("Official Gazette of FBiH", No. 49/06 and 51/09), taking into account the special character and priority of the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina in regulating issues related to local self-government. This includes the need to form a working group consisting of representatives of the Commission for Local Self-Government and the Association, tasked with determining a list of federal-level laws that need to be harmonized with the Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina.
4. **We call upon the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina** to reconsider the conclusions of the Commission for Local Self-Government adopted at the session held on December 21, 2023.

Panel 3. The relationship of higher levels of government to the competences and financing of the local level of government

Taking into account the previously formed opinions of the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina, conclusions from conferences and meetings of the Association's bodies, recommendations from the monitoring mission of the Congress of Local and Regional Authorities of the Council of Europe, conclusions of the Working Group for the Development of Methodology for Allocation and Distribution of Public Revenues in the Federation of Bosnia and Herzegovina, as well as analyses and studies in the field of fiscal decentralization prepared by the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina, we draw the following conclusions:

CONCLUSIONS

1. Over the past 15 years, municipalities and cities in the Federation of Bosnia and Herzegovina have been facing the transfer of expenditure responsibilities without corresponding transfers of adequate funding sources, thereby questioning the quality and accessibility of public services at the local level, and in some cases, even the functioning of local government units. This problem is particularly indicated in small and fiscally vulnerable municipalities. **We request from the Government of the Federation of Bosnia and Herzegovina, as well as from cantonal governments, that when adopting laws and other regulations, they respect the principles of the European Charter of Local Self-Government by ensuring sufficient financial resources for the execution of additionally delegated expenditure responsibilities to municipalities and cities in the Federation of Bosnia and Herzegovina. We also propose the adoption of a Law on Financing of Local Government Units or a new Law on the Allocation of Public Revenues in the Federation of Bosnia and Herzegovina to better regulate this matter.**
2. There are increasing differences in the level of development between local self-government units, which do not contribute to balanced regional development. The outflow of population from small municipalities to larger urban centers is a long-term threat to the sustainability of these municipalities. Small and fiscally vulnerable municipalities need to be treated separately in the public finance system in the Federation of Bosnia and Herzegovina. **We call on the**

Federal Ministry of Finance to amend the methodology outlined in the Law on the Allocation of Public Revenues in the Federation of Bosnia and Herzegovina and to recognize the special expenditure needs of small municipalities in the Federation of Bosnia and Herzegovina. This includes ensuring that transfers to the local level from the annual budget incorporate specific criteria for this category of municipalities. We also urge the Government of the Federation of Bosnia and Herzegovina to create a positive legal framework for inter-municipal cooperation, through which efficiencies can be enhanced and savings achieved in the provision of public services.

3. The existing system for repaying the external debt of Bosnia and Herzegovina, as well as the methodology for distributing public revenues in the Federation of Bosnia and Herzegovina, do not ensure that each level of government receives its legally defined share of public revenue distribution. In this way, the actual share of municipalities and cities in the distribution of public revenues among levels of government in the Federation of Bosnia and Herzegovina is significantly reduced on an annual basis. **We request from the Federal Ministry of Finance amendments to the Law on the Allocation of Public Revenues in the Federation of Bosnia and Herzegovina or the adoption of a new law to regulate this matter in a way that ensures each level of government receives a legislatively defined nominal share of public revenues.**
4. Considering the complex organization of authorities in the Federation of Bosnia and Herzegovina regarding the distribution and overlapping of competencies and the allocation of public revenues, **we call on the Government of the Federation of Bosnia and Herzegovina and cantonal governments to conduct mandatory consultations with the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina when adopting regulations that involve the redistribution of competencies or the allocation of revenues. This is particularly important regarding the potential impact on the finances of municipalities and cities.**