



REVIEW OF THE WORK OF THE CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA FROM 1 JANUARY 2010 TO 31 DECEMBER 2021

The Constitutional Court of Bosnia and Herzegovina (“CC BiH”) is one of the key state institutions. The Court acts as an independent guardian of the Constitution of BiH and institutional guarantor of human rights and fundamental freedoms protection.

The Constitutional Court shall have jurisdiction to:

1. resolve constitutional disputes between the Entities, the State and the Entity, and the institutions of BiH;
2. decide whether the provisions of the constitutions or laws of the State and the Entities are consistent with the Constitution of BiH;
3. decide on the constitutionality of special parallel relations of the Entities with neighbouring states, including provisions concerning the sovereignty and territorial integrity of BiH;
4. decide on disputes related to the protection of the status and authority of the Brčko District of BiH under this Constitution and the awards of the Arbitral Tribunal;
5. decide on constitutional issues referred to it by any court in BiH;
6. decide on the unblocking the Parliamentary Assembly of BiH; and
7. decide appeals of individuals who consider that their rights and freedoms guaranteed by the Constitution have been violated by court judgments or decisions of other bodies.

The Constitutional Court consists of nine members - six national and three international judges.

Four members are selected by the House of Representatives of the Federation of BiH, and two members by the Assembly of the Republika Srpska. International judges are selected by the President of the European Court of Human Rights after consultation with the Presidency of BiH.

The Constitutional Court makes all decisions at the sessions of the:

- Chamber (President and two Vice-Presidents);
- Grand Chamber (six national judges) and
- Plenary sessions (all nine judges).

The cases received by the Constitutional Court are designated as:

- “U” cases submitted in regards to constitutional disputes or constitutional review and unblocking of the Parliamentary Assembly of BiH
- “AP” cases – individual constitutional claims lodged by physical and legal entities

Year	Received cases ("AP" + "U")	Sessions (Plenary + Grand Chamber)	Resolved cases ("AP" + "U")	Resolved/received	
				More than received	Less than received
2010	6.056	22	4.062		1.994
2011	5.076	22	5.888	812	
2012	4.759	22	3.485		1.274
2013	5.452	25	6.363	911	
2014	5.733	23	7.375	1.642	
2015	5.756	21	6.075	319	
2016	5.080	24	7.947	2.867	
2017	5.579	22	5.408		171
2018	7.736	23	6.641		1.095
2019	5.026	22	6.464	1.438	
2020	4.779	23	5.150	371	
2021	4.560	24	4.281		279
Total	65.592	273	69.139	8.360	4.813

Number of received and resolved cases and number of sessions per years

NOTE: On 31 December 2009, 6.517 cases remained unresolved from previous years so that in this period there was a total of 72.109 cases pending. Out of that number 69.139 was resolved. On 31 December 2021, 2.970 cases remained unresolved.

For the decision to be adopted at the Plenary or the Grand Chamber session, five votes of judges are required.

At the Plenary sessions, the Court decides on:

- All "U" cases initiated by authorised applicants;
- "AP" cases in which Grand Chamber did not reach majority of five judges; or in cases when it is called for, in order to take a legal position, to decide on them at the Plenary session; and on certain administrative issues.

Year	"U" cases	"AP" cases	Total
2010	19	4.043	4.062
2011	15	5.873	5.888
2012	17	3.468	3.485
2013	23	6.340	6.363
2014	17	7.358	7.375
2015	11	6.064	6.075
2016	15	7.932	7.947
2017	17	5.391	5.408
2018	9	6.632	6.641
2019	15	6.449	6.464
2020	8	5.142	5.150
2021	17	4.264	4.281
Total 12 years	183	68.956	69.139

Structure of resolved cases per years

The Constitutional Court adopts the majority of decisions at the sessions of the Grand Chamber where decisions are taken by six national judges.

- 99.1% of the cases were resolved at the Grand Chamber sessions.
- 0.9% of the cases were resolved at the Plenary sessions.

Year	Plenary sessions	Grand Chamber sessions	Total
2010.	58	4.004	4.062
2011.	59	5.829	5.888
2012.	204	3.281	3.485
2013.	59	6.304	6.363
2014.	52	7.323	7.375
2015.	30	6.045	6.075
2016.	35	7.912	7.947
2017.	34	5.374	5.408
2018.	34	6.607	6.641
2019.	20	6.444	6.464
2020.	11	5.139	5.150
2021.	32	4.249	4.281
Total 12 years	628	68.511	69.139

Review of resolved cases at the Plenary and Grand Chamber sessions per years

Most decisions in “U” cases were taken unanimously (61.14%), although these cases mostly have a political character. Only 38.86% of the decisions in such cases were made by majority votes.

Enforcement of Decisions of the Constitutional Court of Bosnia and Herzegovina

Decisions of the Constitutional Court are final and binding but there is a number of decisions not enforced, partially or fully.

On 31 December 2021, 9 “U” decisions were not enforced.

Four decisions were not enforced by the **Parliamentary Assembly of BiH**: U-23/14 - Election Law, the so-called Ljubić case, U-5/16 - Second Partial Decision relating to a number of provisions of the Criminal Procedure Code of BiH, U-6/16 - Law on Police Officials of BiH and U-21/16 - Law on the Intelligence-Security Agency of BiH.

At the level of the **Federation of BiH**, three decisions have not been enforced: U-15/11 - Law on Sale of Apartments with Occupancy Right, U-20/16 - Law on Amendments to the Law on Enforcement Procedure of BiH and U-10/19 - Law on Enforcement Procedure of the F BiH.

Republika Srpska failed to enforce one decision, more specifically U-6/20 - Law on the Rights of Combatants of the Homeland War of the Republika Srpska.

One decision, U-9/09 has been enforced partially. That decision relates to the Election Law in the part concerning the City of Mostar and the Statute of the City of Mostar. It has been enforced insofar as the Election Law is concerned, and it has not been enforced insofar as the Statute is concerned, which is the obligation of the City Council of Mostar.

Some of those decisions, wherein a violation was found, were enforced formally (the contested provisions of those laws were rendered ineffective) but they were not enforced as to their substance (U-2/18).

A portion of decisions in “AP” cases relating to the failure to pay compensation by a public authority or failure to terminate the proceedings before the courts or administrative authorities, was not enforced. The majority of “AP” cases (133) that is not enforced relates to the so-called military apartments. Those cases relate to the decision U-15/11, which is not enforced by the Federation of BiH.

The Constitutional Court is a guarantor of human rights and fundamental freedoms protection in Bosnia and Herzegovina.

More information available at www.ustavisud.ba.