

USTAVNI SUD
BOSNE I HERZEGOVINE



УСТАВНИ СУД
БОСНЕ И ХЕРЦЕГОВИНЕ

CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA

COUR CONSTITUTIONNELLE
DE BOSNIE-HERZEGOVINE

SUMMARY REPORT ON THE ENFORCEMENT OF DECISIONS OF THE CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA

The Constitutional Court of Bosnia and Herzegovina (“the Constitutional Court”), at its plenary session held on 13 July 2023, adopted the updated Report on the Enforcement of Decisions of the Constitutional Court, no. SU-04-618/23. According to the Report, the situation regarding the enforcement of decisions of the Constitutional Court in the period between July 2022, when the last Report on Enforcement was adopted, until 30 June 2023, is as follows:

1. Decisions within the Constitutional Court’s jurisdiction under Article VI(3)(a) and (c) of the Constitution of Bosnia and Herzegovina (or decisions on constitutionality – marked as “U”)

Eight U decisions that have not been enforced:

1. **U-15/11** (A request filed by Judge of the Cantonal Court in Sarajevo for review of the compatibility of the provision of Article 3a of the Law on Cessation of Application of the Law on Abandoned Apartments and the provisions of Article 39a and 39e of the Law on Sale of Apartments with Occupancy Right with Article II(3)(k) of the Constitution of BiH and Article 1 of Protocol No. 1 to the European Convention)

– the Parliament of the Federation of Bosnia and Herzegovina was ordered to enforce the decision.

2. **U-10/19** (A request filed by Judge of the Municipal Court in Cazin for review of the compatibility of the provisions of Article 69(3) and (4) of the Law on Enforcement

Procedure of the FBiH (*Official Gazette of the Federation of Bosnia and Herzegovina*, 32/03, 52/03, 33/06, 39/09, 35/12 and 46/16 and *Official Gazette of Bosnia and Herzegovina*, 42/18)

– the Parliament of the Federation of Bosnia and Herzegovina was ordered to enforce the decision.

3. **U-16/21** (A request filed by Judge of the Municipal Court in Zavidovići for review of the constitutionality of Article 21 (2) (4), Article 105 and a portion of Article 75 of the Law on Misdemeanours (*Official Gazette of the Federation of Bosnia and Herzegovina*, 63/14)

– the Parliament of the Federation of Bosnia and Herzegovina was ordered to enforce the decision.

4. **U-9/09** (A request filed by the Croat Caucus to the House of Peoples of the Parliamentary Assembly of BiH for review of the constitutionality of the provisions of Article 19.4 of the Election Law of BiH and Article 17 of the Statute of the City of Mostar)

- the Parliamentary Assembly of BiH and the Council of the City of Mostar were ordered to enforce the decision.

5. **U-18/22** (A request filed by Judge of the Municipal Court in Zavidovići for review of the constitutionality of Article for 56 (2) (3), Article 56 (3) and Article 94 of the Law on Misdemeanours (*Official Gazette of the Federation of Bosnia and Herzegovina*, 63/14)

– the Parliament of the Federation of Bosnia and Herzegovina was ordered to enforce the decision.

6. **U-18/21** (A request filed by Judge of the Basic Court in Zvornik for review of the constitutionality of the Law on Salaries and Other Compensations of Judges and Prosecutors in the Republika Srpska (*Official Gazette of the Republika Srpska*, 66/18)

–the National Assembly of the Republika Srpska was ordered to enforce the decision.

7. [U-16/20](#) (A request filed by twenty-four members of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina to resolve a dispute between Bosnia and Herzegovina and the Republika Srpska)

– the Concession Commission of Bosnia and Herzegovina was ordered to enforce the decision.

8. [U-23/14](#) (A request filed by Božo Ljubić, the Chairman of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina at the time of filing the request, for review of the constitutionality of Articles 10.10, 10.12, 10.15 and 10.16 of the Subchapter B of the Election Law of BiH and the provisions of Article 20.16A under Chapter 20 – Transitional and Final Provisions of the Election Law)

– the Parliamentary Assembly of Bosnia and Herzegovina was ordered to enforce the decision.

2. Decisions within the Constitutional Court’s jurisdiction under Article VI (3) (c) of the Constitution of Bosnia and Herzegovina (or appellate jurisdiction – marked as “AP”)

The following 31 AP decisions have not been enforced: AP-528/13; AP-3628/16; AP-4985/16; AP-4171/16; AP-2832/16; AP-2293/16; AP-2193/17; AP-2216/17; AP-2484/17; AP-3908/17; AP-3942/17; AP-4132/17; AP-4274/17; AP-7704/18; AP-7637/18; AP-5639/18; AP-4103/18; AP-3436/18; AP-2639/18; AP-1633/18; AP-2137/19; AP-3611/19; AP-2800/17; AP-3633/19; AP-3806/19; AP-3916/19; [AP-2245/21](#); AP-1464/21; AP-3932/21; AP-4370/21 and AP-861/10.

“Military apartments”

According to the last Report adopted in July 2022, **60 “AP”** decisions relating to military apartments were not enforced. In the meantime, the Constitutional Court adopted another decision in which it found a violation of the right to property. The Office of the Agent of BiH Council of Ministers before the European Court of Human Rights (“Office of the Agent”) notified the Constitutional Court that a “revised action plan related to this group of cases” had been

forwarded to the Committee of Ministers. Given that the enforcement of these decisions is subject to the supervision by the Committee of Ministers of the Council of Europe, the Constitutional Court has concluded that these cases will have a special “review” status. They will have this status pending an agreement with the Office of the Agent on an approach to be taken in terms of the final closure of these cases.

3. Other

The Constitutional Court adopted a ruling on non-enforcement in 24 “U” requests. The Prosecutor’s Office of Bosnia and Herzegovina notified the Constitutional Court that it issued an order not to conduct an investigation in 11 cases. No information about the actions of the Prosecutor’s Office of BiH in other cases has been received.

The Constitutional Court adopted a ruling on non-enforcement in 98 AP cases. In 84 cases, the Prosecutor’s Office of Bosnia and Herzegovina issued an order on the suspension/no investigation carried out, while in other cases the Court was not informed about the actions of the Prosecutor’s Office.

Note:

All decisions adopted within the reporting period are published and can be found on the website of the Constitutional Court of BiH www.ustavisud.ba.

Decisions can be found using the search engine on the website: [Constitutional Court of Bosnia and Herzegovina | Search Instructions / Ustavni sud Bosne i Hercegovine | Uputstvo za pretragu](#)