

The Constitutional Court of Bosnia and Herzegovina, sitting, in accordance with Article VI(3) (b) of the Constitution of Bosnia and Herzegovina, Article 18(3)(h), Article 57(2)(a) and Article 58 of the Rules of the Constitutional Court of Bosnia and Herzegovina – consolidated text (*Official Gazette of Bosnia and Herzegovina*, 94/14, 47/23 and 41/24), in plenary and composed of President Mirsad Ćeman, Vice-Presidents Valerija Galić and Angelika Nussberger, and judges Helen Keller, Ledi Bianku, Marin Vukoja and Larisa Velić, having deliberated on the appeal by the political organisation ***Za pravdu i red - Lista Nebojše Vukanovića*** in case no. **AP-4618/25**, at the session held on 19 November 2025, adopted the following

DECISION ON ADMISSIBILITY

The appeal lodged by the political organisation ***Za pravdu i red - Lista Nebojše Vukanovića*** against ruling of the Court of Bosnia and Herzegovina, no. S1 3 Iž 053064 25 Iž of 10 October 2025, is hereby rejected as inadmissible for being *ratione materiae* incompatible with the Constitution of Bosnia and Herzegovina.

REASONS

1. On 22 October 2025, the political organisation ***Za pravdu i red - Lista Nebojše Vukanovića*** (“the appellant”), from Trebinje, lodged an appeal with the Constitutional Court of Bosnia and Herzegovina (“the Constitutional Court”) against ruling of the Court of Bosnia and Herzegovina (“the Court of BiH”), no. S1 3 Iž 053064 25 Iž of 10 October 2025. The appellant also filed a request for the issuance of an interim measure whereby the Constitutional Court would order the Central Election Commission of Bosnia and Herzegovina (“the CEC”) to decertify *Savez nezavisnih socijaldemokrata* (“the SNSD”) for participation at the 2025 early elections for President of the Republika Srpska (“the RS) pending adoption of a final decision of the Constitutional Court.

Introductory remarks

2. The Court of BiH delivered judgment no. S1 2 K 046070 23 K on 26 February 2025 (upheld by a second-instance judgment dated 12 June 2025 - “the criminal judgment”), sentencing Milorad Dodik (president of the SNSD political party) to one-year imprisonment for committing the criminal

offence of Failure to Implement Decisions of the High Representative under Article 203a paragraph 1 taken in conjunction with Articles 39, 42 and 48 of the Criminal Code of Bosnia and Herzegovina (“the CC BiH”). Pursuant to Article 203a paragraph 4 taken in conjunction with Article 73 of the CC BiH, under the same judgment the Court of BiH imposed on Milorad Dodik a ban on performing the duty of RS President for a period of six years.

3. The CEC adopted a decision on 6 August 2025, terminating the mandate of Milorad Dodik, President of the RS elected at the 2022 elections, as of 12 June 2025 as the date on which the criminal judgment became final.

4. On 28 August 2025, the CEC adopted a Decision to Call and Hold Early Elections for President of the Republika Srpska.

5. In accordance with Instruction on Election Activities Deadlines for Holding Early Elections for President of the Republika Srpska, political parties and independent candidates were required to submit applications for certification of participation at the elections between 25 and 29 September 2025.

6. According to information from the CEC’s official website, applications of the following political subjects have been certified: *Savez za novu politiku*, *Ekološka partija Republike Srpske* (Environmental Party of the Republika Srpska), Slavko Dragičević-independent candidate, the appellant, *Srpska demokratska stranka* (Serbian Democratic Party - SDS), the SNSD and Igor Gašević - independent candidate (see at https://www.izbori.ba/Documents/2025/pi_2025_1/kontakti_ovjrenih_ps_pi_rs_2025-bos.pdf).

7. According to information from the CEC’s official website, after the application procedure for the certification of participation in the elections, the CEC considered the applications of the candidates. In addition to two independent candidates, the CEC certified four candidates for participation at the early elections for the RS President nominated by four certified political parties, as follows: Dragan Đokanović (*Savez za novu politiku*), Branko Blanuša (SDS), Siniša Karan (SNSD) and Nikola Lazarević (*Ekološka partija Republike Srpske*). The order in which the political subjects would appear on a ballot was also determined, namely: 1. *Savez za novu politiku*; 2. SDS; 3. Igor Gašević – independent candidate; 4. SNSD; 5. Slavko Dragičević – independent candidate, and 6. *Ekološka partija Republike Srpske* (see at <https://www.izbori.ba/?Lang=3&CategoryID=64&Id=5792>). It follows that the appellant did not nominate its candidate for the early presidential elections in the Republika Srpska.

Procedure in which the disputed decision was adopted

8. CEC adopted decision no. 06-1-07-3-991/25 on 1 October 2025, certifying the application of the SNSD political party for participation at the early elections for the RS President to be held on 23 November 2025. In the process of checking the specific application the CEC found that the SNSD was certified for participation at the 2022 elections for the RS President and that it met the requirements for certification of application for the same level of government at the early elections.

9. The Court of BiH issued ruling no. S1 3 IŽ 053064 25 IŽ on 10 October 2025, dismissing the appellant's appeal filed against the CEC's decision. The Court of BiH noted in the reasons that the appellant indicated in its appeal that the CEC's decision that the SNSD met the certification requirements was unlawful because it contradicted the criminal judgment, the Constitution of Bosnia and Herzegovina ("BiH") and the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the European Convention"). The appellant stressed that Milorad Dodik - who was banned from performing the duty of RS President under the criminal judgment - signed the application of the said political party. According to the Court of BiH, the appellant was of the view that the CEC disregarded the legal consequences of Milorad Dodik's conviction and certified the application of the political subject whose president was subject to a prohibiting measure, thereby affecting the rule of law. The appellant claimed that the legal consequence of the judgment against Milorad Dodik also included a ban on performing the duty of president of the SNSD, which the CEC violated by the disputed decision. The appellant further pointed out that the CEC regulated the procedure of registration of political parties for early elections by a by-law, which is exclusively within the competence of the legislator as indicated by a legal position expressed in the Constitutional Court's decision no. U-19/00. According to the Court of BiH, the appellant noted that Milorad Dodik's official duty of president of the SNSD ceased because of the legal consequences of the conviction and the CEC, by certifying the participation of this political organisation at the elections, refused to implement the legal consequences of the criminal judgment.

10. First, the Court of BiH noted that the CEC's allegation that the appellant's appeal should be rejected on the grounds that it has been filed by an unauthorised person is unfounded. As reasoned, the appellant had its application for participation at the early elections in question certified, thereby acquiring, in accordance with the relevant provisions of the BiH Election Law, the status of a political subject with a right to file complaints "alleging violations of the rights established by this Law". The Court of BiH further noted that the disputed decision was based on a proper application of Article 2.9 paragraph 1(5) of the BiH Election Law and Article 8 of the Instruction on the Procedures for Implementing Early Elections for President of the Republika Srpska ("the Instruction"). Namely, it

was reasoned that the disputed decision was adopted within the framework of legally prescribed competencies, following a procedure established by a by-law. The Court of BiH stressed that by adopting the Instruction the CEC did not change the statutory rights of the political subjects, coalitions or independent candidates. Instead, the CEC prescribed a procedure of filing applications for early elections, which falls within its powers under Article 2.9 paragraph 1(2) and Article 14.3 paragraph 5 of the BiH Election Law. As for the appellant's argument challenging the CEC's decision because a ban on performing public duties was imposed on Milorad Dodik (who signed the SNSD's application) under the final criminal judgment, the Court of BiH dismissed it as unfounded. Namely, at the moment of filing the application, Milorad Dodik was entered as a person authorised to represent the SNSD, which is confirmed by a document of the Basic Court of Banja Luka dated 21 August 2025. The Court of BiH therefore concluded that the disputed decision properly found that the political subject was entered in the court register at the time of filing of the application and that the application was signed by a person authorised to represent it.

11. It further noted that the fact that a ban on performing public duties was imposed on Milorad Dodik, president of the SNSD, by a final decision of a criminal court had no bearing on the rights of the political party that meets the statutory requirements for appearing at the early elections because no ban on the political party's activities has been imposed. The Court of BiH noted, in contrast to the arguments in the appeal, that the CEC had no basis to refer to the criminal judgment in the disputed decision because it did not discuss the suitability of the candidates, since the subject of the certification was not the candidate list. It was about the process of certification of the application of a political subject (the SNSD) after which the certification of candidate lists would follow and only at that stage the CEC would assess whether the candidates meet the prescribed conditions for certification of their candidacy. As further noted by the Court of BiH, the appellant's contention that the legal consequences of the criminal judgment regarding the prohibiting measures imposed on Milorad Dodik extend to the right to perform the duty of president of the political party are not relevant to the dispute at hand. Namely, this legal issue can be the subject of discussion in a procedure of deleting the entry of the right of representation. However, as reasoned, given that the aforementioned individual was entered in the court register at the time of submitting the application in question on behalf of the political party, this means that he took action in accordance with the powers of the party president.

Complaints

12. The appellant argues that the disputed decision has violated freedom of assembly and association under Article II(3)(i) of the Constitution of BiH and Article 11 of the European

Convention, as well as Articles I(2) and II(1) of the Constitution of BiH. The appellant is substantially reiterating the complaints made during the proceedings that the CEC and the Court of BiH disregarded the legal consequences of the criminal judgment against Milorad Dodik under Article 203a paragraph 5(a), (c) and (d) of the CC BiH. The appellant noted it is a political organisation that participates actively in the election processes at all level of government in BiH. In its view, the CEC erroneously applied provisions of substantive and procedural law in the procedure upon the SNSD's application, thereby violating Article I(2) of the Constitution of BiH. The appellant stresses that the legal consequences of conviction for violating Article 203a paragraph 5(a), (c) and (d) of the CC BiH occur by force of law. It further mentioned in detail that due to the consequences of the criminal judgment Milorad Dodik cannot be president of the SNSD and the CEC cannot certify the SNSD's application for participation at the elections signed by Dodik. According to the appellant, in terms of constitutional law, the CEC's decision violates the principle of rule of law and introduces legal and public uncertainty, and endangers the moral and rights of others. The appellant also notes that the CEC falls within the executive branch and accordingly, it does not have any prerogatives of the legislature. In that connection, the appellant refers to decision of the Constitutional Court no. U-19/00 (paragraph 26) and decision of the Human Rights Chamber no. CH/98/375 (paragraph 1244), noting that it clearly follows from the cited case-law (interpreting Article I(2) of the Constitution of BiH) that the CEC cannot use a by-law (in the present case, the Instruction) to regulate something that falls within the competence of the legislator, or implement a law in a manner contradicting court decisions. In the appellant's view, the interpretation of the Election Law and by-laws, as applied in the decisions of the Court of BiH and the CEC, is manifestly contrary to the Constitution of BiH. In the appellant's view, this also violated rights guaranteed Article I(2) of the Constitution of BiH.

Relevant Law

13. The **Election Law of Bosnia and Herzegovina** (*Official Gazette of BiH*, 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 48/11 – decision of the CC BiH, 63/11 – decision of the CC BiH, 15/12 – ruling of the CC BiH, 11/13 – ruling of the CC BiH, 18/13, 7/14, 31/16, 1/17 – decision of the CC BiH, 54/17 – ruling of the CC of BiH, 41/20, 38/22, 51/22, 67/22, 24/24, 24/24 - corrigendum) For the purposes of this decision, an unofficial consolidated text prepared by the Constitutional Court is used, reading as follows:

Article 1.13

The application for certification to participate in the elections shall include a statement signed by the president of a political party, coalition, the independent

candidate(s), representative of the list of independent candidate(s), registered association, or other registered organised form of action of national minorities and a group of at least 40 citizens with the voting rights, stating that this political party, coalition, independent candidates, registered associations, other organised forms of action of national minorities shall adhere to the General Framework Agreement for Peace in Bosnia and Herzegovina in their activities.

Article 2.9, paragraph 1(2) and (5)

The Central Election Commission of BiH is an independent body, which derives its authority from and reports directly to the Parliamentary Assembly of BiH. The Central Election Commission of Bosnia and Herzegovina shall:

2. issue administrative Regulations for the implementation of this law;

5. certify the participation of political parties, coalitions, lists of independent candidates and independent candidates for all levels of direct elections in BiH;

Article 4.1

In order to participate in the elections, political parties, independent candidates, coalitions and lists of independent candidates shall certify their eligibility with the Central Election Commission of BiH.

Article 4.3

In order to participate in the elections, a political party must be registered with the competent authority in accordance with the law. The application for certification must be accompanied by evidence not older than 60 days that the political party is registered with the competent authority. The political party must apply for certification under the same name that it registered with the competent authority.

Article 4.4, paragraph 5

(5) In order to be certified for participation in the elections, a political party must present to the Central Election Commission of BiH its application for participation in the elections, [...].

Article 4.6, paragraphs 3 and 4

(3) If the information from the application is incorrect or if the application contains any other deficiency in the sense of this Law or of an act issued by the Central Election Commission of BiH, the Central Election Commission of BiH shall notify the applicant thereof, who shall be bound to correct the deficiencies within two (2) days after receipt of the notice. In the event that the political party fails to remove the deficiency referred to in this paragraph upon the expiration of this deadline, the Central Election Commission of BiH shall not certify the application of that political party for participation in the election.

(4) The Central Election Commission shall decide whether or not to certify or reject the application for participation in the elections.

Article 14.3, paragraph 5

The Central Election Commission of BiH shall conduct early elections in the manner and through the procedure prescribed by this Law for the conduct of regular elections.

14. **Instruction on the Procedures for Implementing Early Elections for President of the Republika Srpska** (*Official Gazette of the RS*, 52/25 of 2 September 2025), in so far as relevant, reads:

Article 8, paragraphs 1 and 2

(Registration of political parties that participated in the regular elections for the RS President)

(1) Political parties that were certified to participate in regular elections for the President and Vice-President of the Republika Srpska in 2022 are not required to resubmit the entire documentation for certification of participation in early elections for the RS President. Instead, the application with documentation, which was submitted for the regular elections for the RS President, is accepted upon submission of a new filled out form of their application for certification of participation in the early elections, a new special account for financing election campaign costs and a report of transactions on the special account for financing election campaign costs.

(2) Political parties that were certified to participate in regular elections for the President and Vice-President of the Republika Srpska in 2022 as well as political

parties that are members of a coalition, are not required to pay a fee for participating in early elections for the RS President and are exempt from the obligation to collect signatures of support.

15. The **Criminal Code of Bosnia and Herzegovina** (Official Gazette of BiH, 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10, 47/14, 22/15, 40/15, 35/18, 46/21, 31/23 and 47/23) An unofficial consolidated text prepared at the Constitutional Court will be used for the purpose of this decision, reading so far as relevant as follows:

Failure to Implement Decisions of the High Representative

Article 203a paragraphs 1, 4 and 5

(1) An official person in an institution of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, the Brčko District of Bosnia and Herzegovina, or in a canton, city or municipality or local community or any form of local government and self-government, or a responsible person, who does not apply, implement, enforce or otherwise comply with a decision of the High Representative for Bosnia and Herzegovina, or who prevents or otherwise obstructs its application, implementation or enforcement, shall be punished by imprisonment for a term between six months and five years.

(4) For the criminal offence referred to in paragraph 1 of this Article, the security measure of ban on performing a profession, activity or duty shall be imposed.

(5) In accordance with Articles 113 and 114 of this Code, a sentence for a criminal offence referred to in paragraph 1 of this Article shall entail as legal consequences incident to conviction:

a) cessation of an official duty and termination of employment;

b) deprivation of decorations;

c) ban on performance of an official duty in the legislative, executive, judicial, administrative or any body financed by public funds in whole or in part;

d) ban on acquisition of an official duty in the legislative, executive, judicial, administrative or any body financed by public funds in whole or in part.

16. In examining the admissibility of the appeal, the Constitutional Court invoked the provisions of Article VI(3)(b) of the Constitution of BiH and Article 18(3)(h) of its Rules.

17. Article VI(3)(b) of the Constitution of BiH reads:

The Constitutional Court shall also have appellate jurisdiction over issues under this Constitution arising out of a judgement of any other court in Bosnia and Herzegovina.

18. Article 18(3)(h) of the Rules of the Constitutional Court reads:

(3) An appeal shall also be inadmissible in any of the following cases:

h) the appeal is ratione materiae incompatible with the Constitution;

19. The appellant argues that the disputed decision has violated freedom of assembly and association under Article II(3)(i) of the Constitution of BiH and Article 11 of the European Convention. The Constitutional Court recalls that Article 11 of the European Convention provides that *everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests*. In that connection, the Constitutional Court observes that the present case involved a decision on the SNSD's application for participation at the early elections for the RS President to be held on 23 November 2025. Consequently, no appellant's rights that can be linked to freedom of assembly and association were decided in the procedure. In view of the above, the Constitutional Court holds that the appellant's complaints of a violation of freedom of assembly and association under Article II(3)(i) of the Constitution of BiH and Article 11 of the European Convention are *ratione materiae* incompatible with the Constitution of BiH.

20. The Constitutional Court further observes that the appellant also argues that the disputed decision has violated its rights "guaranteed under Article I(2) of the Constitution of BiH" and that it follows from the appellant's complaints that the rule of law has been violated. The Constitutional Court recalls that Article I(2) of the Constitution of BiH provides: "Bosnia and Herzegovina shall be a democratic state, which shall operate under the rule of law and with free and democratic elections". The Constitutional Court recalls that according to its previous case-law, Article I(2) of the Constitution of BiH has been interpreted as incorporating the principle of the rule of law. The principle of rule of law is not confined only to the formal adherence to constitutionality and legality but it requires that all legal acts (laws, regulations, etc.) must have a certain content/quality that is appropriate to a democratic system, so that they protect human rights and freedoms as regards a relationship between citizens and governmental bodies within a democratic political system. In this

connection, the Constitutional Court recalls that the standard of quality of a law requires that a legal norm must be accessible for persons to whom it will be applied and it must be foreseeable, meaning that it must be formulated with sufficient precision, so that the persons can know actually and specifically their rights and obligations, to a degree that is reasonable in the circumstances, to regulate their conduct accordingly (see, Constitutional Court, Decision on Admissibility and Merits, *AP-542/21*, 7 April 2021, paragraph 64). Furthermore, the Constitutional Court recalls that the rule of law, one of the fundamental principles of a democratic society, is a notion inherent in all the Articles of the European Convention (see ECtHR, *Vistiņš and Perepjolkins v. Latvia*, judgment of 25 October 2012, application no. 71243/01, § 95). However, the Constitutional Court observes that it follows from the complaints that the appellant is in substance alleging a violation of the rule of law because the decisions of the Court of BiH and the CEC are not lawful and contradict the Constitution of BiH. However, the appellant has failed to mention the manner in which its rights have been violated by those decisions, i.e. how those decisions affect its rights.

21. In that connection, the Constitutional Court indicates that it found, in its previous case-law on the jurisdiction under Article VI(3)(b) of the Constitution of BiH, that “the purpose of the aforementioned constitutional provision is to provide protection to the participants in the proceedings that resulted in a decision considered to have violated constitutional rights. This finding is supported by the part of Article VI(3)(b) of the Constitution of BiH reading ‘over issues under this Constitution arising out of a judgment of any other court in Bosnia and Herzegovina’ (see decision of the Constitutional Court, *AP-1580/20*, 20 May 2020, paragraph 22 - available at www.ustavnisud.ba). Therefore, the Constitutional Court has taken a position in its case-law that the subject of the proceedings within this jurisdiction (appellate jurisdiction) is direct protection of human rights and fundamental freedoms guaranteed by the Constitution of BiH. The appellate jurisdiction, in substance, prescribes an individual constitutional complaint through the Constitution of BiH, allowing appellants to address the Constitutional Court to have their individual rights and fundamental freedoms guaranteed by the Constitution of BiH protected. The Constitutional Court recalls that according to consistent case-law of the European Court, the applicant must show that he was a victim of an alleged violation of a right or freedom guaranteed by the European Convention and he must be directly affected by the alleged violation or the application will be rejected as inadmissible (see, *inter alia*, ECtHR, *Romano Scozzafava and Others v. Italy*, decision of 25 April 2017, application no. 20014/13).

22. Based on the foregoing, the Constitutional Court is of the view that the appellant cannot invoke a violation of Article I(2) of the Constitution of BiH only because it considers that decisions of

ordinary courts and competent authorities were not adopted in line with the principle of rule of law. Specifically, the appellant is required to specify how the violation of the rule of law under Article I(2) of the Constitution of BiH resulted in a violation of one of its rights or freedoms guaranteed by the Constitution of BiH and the European Convention. Otherwise, any person can lodge an appeal against an ordinary court's decision by referring to Article I(2) of the Constitution of BiH regardless of whether that decision actually decided on their rights and interests.

23. The Constitutional Court recalls that the disputed decision decided on the regularity of the SNSD's application for participation in the early elections for the RS President. Therefore, the appellant's application was not the subject of the procedure in question. Furthermore, the Constitutional Court does not observe that another right of the appellant's was decided upon. Specifically, the Constitutional Court observes that the appellant had its application for participation at the elections in question certified and did not nominate its candidate for the early elections (see paragraphs 6 and 7 of this decision). The Constitutional Court does not observe that the procedure in question could affect the appellant's rights as a political subject directly or indirectly. Furthermore, the Constitutional Court observes that the appellant argues that the decisions of the Court of BiH and the CEC violated its rights "guaranteed by Article I(2) of the Constitution of BiH", but fails to mention the manner in which the disputed decision has affected any of its rights directly or indirectly. Thus, it follows that that the appellant failed to cite or offer evidence that the decision challenged by the appeal could have any bearing on its constitutional rights or fundamental freedoms. The Constitutional Court therefore holds that the complaints alleging a violation of Article I(2) of the Constitution of BiH are *ratione materiae* incompatible with the Constitution of BiH.

24. Regarding the appellant's reference to Article II(1) of the Constitution of BiH, the Constitutional Court indicates that it is not a matter of substantive law, the violation of which the appellant can independently invoke, but rather a constitutional provision obliging BiH and its Entities to ensure the highest level of internationally recognised human rights and fundamental freedoms. The Constitutional Court therefore finds that these complaints are *ratione materiae* incompatible with the Constitution of BiH as well.

25. In view of Article 18(3)(h) of the Rules of the Constitutional Court, according to which the appeal shall be rejected as inadmissible if *ratione materiae* incompatible with the Constitution of BiH, the Constitutional Court decided as set out in the enacting clause of the present decision.

26. In view of the decision of the Constitutional Court in the present case, there is no need to consider separately the appellant's request for the issuance of an interim measure.

27. Pursuant to Article VI(5) of the Constitution of BiH, the decisions of the Constitutional Court shall be final and binding.