

Is Political Interference Addressed in the Frameworks of the Prosecutorial Councils in North Macedonia and Bosnia and Herzegovina?

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Introduction

The rule of law is one of the European Union's founding values and lies at the heart of the enlargement process.¹ Under the revised enlargement methodology, **Cluster 1- Fundamentals** is opened first and closed last, reflecting the importance of sustained progress in the rule of law for the accession process.² Within this cluster, **Chapter 23 - Judiciary and Fundamental Rights** plays a central role, covering the functioning of the justice system, fundamental rights, and the fight against corruption.³ In this context, an updated, independent, and impartial prosecution system is a cornerstone for meeting the standards of this chapter, requiring robust institutional safeguards so prosecutors can fulfill their duties free from any undue interference.⁴

Prosecutorial councils, functioning as the primary bodies of prosecutorial governance and self-regulation, play a critical role in safeguarding this independence. By overseeing key aspects of prosecutors' careers, including appointments, promotions, performance evaluations, and disciplinary

accountability systems, properly structured councils foster professionalism, competence and integrity of the prosecution service while providing safeguards against political interference.⁵ Their capacity to fulfil this mandate hinges on their composition, appointment procedures, functional autonomy, and the scope of power entrusted to them. Council of Europe standards, particularly the work of the Consultative Council of European Prosecutors (CCPE), recognise Councils of Prosecutors as important bodies of prosecutorial self-governance and emphasise that their status, composition, competence and functioning should support the effective and impartial functioning of prosecution services.⁶

The way these safeguards are designed and applied is therefore particularly important. As EU candidate countries, North Macedonia and Bosnia and Herzegovina are expected to strengthen the rule of law and the independence of justice institutions as part of their accession process. This policy brief therefore examines the institutional frameworks governing their prosecutorial councils, focusing on their composition, appointment procedures and institutional independence, as well as whether recent legislative developments provide adequate safeguards for their independent functioning in line with European standards.

1 'Consolidated version of the Treaty on European Union', Official Journal of the European Union, Article 2, 26 October 2012, https://eur-lex.europa.eu/resource.html?uri=cellar:2b-f140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF.

2 'Enhancing the Accession Process - A Credible EU Perspective for the Western Balkans', European Commission, 5 February 2020, https://enlargement.ec.europa.eu/document/download/ef0547a9-c063-4225-b1b4-93ff9027d0c0_en?filename=enlargement-methodology_en.pdf.

3 'Chapters of the Acquis - Chapter 23', Official website of the European Commission, https://enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en.

4 '2026 Rule of Law Report: The Rule of Law Situation in the European Union', COM(2026) 900 final (European Commission, 2026), 13, https://commission.europa.eu/document/download/66e838b2-498a-454a-9d02-3c9dff84c01b_en?filename=2026%20Rule%20of%20Law%20Report_Communication.pdf.

5 Consultative Council of European Prosecutors (CCPE), 'CCPE Opinion No. 18 (2023) on Councils of Prosecutors as Key Bodies of Prosecutorial Self-Governance', 20 October 2023, paras. 27-37, <https://rm.coe.int/opinion-no-18-2023-final/1680ad1b36>.

6 Consultative Council of European Prosecutors (CCPE), 'CCPE Opinion No. 18 (2023) on Councils of Prosecutors as Key Bodies of Prosecutorial Self-Governance', para. 39-69.

Institutional Landscapes

North Macedonia

The Council of Public Prosecutors of the Republic of North Macedonia was established in 2007⁷ and it is tasked with safeguarding the independence of the prosecutorial function (separate from the Judicial Council, which safeguards the judicial independence) and supporting its effective exercise within the justice system.

The Council consists of 11 members, including the Public Prosecutor of the Republic of North Macedonia **ex officio**; six members elected by public prosecutors from among their peers, including one from the State Public Prosecutor's Office, four representing the Higher Public Prosecutor's Offices, and one elected by all public prosecutors who must belong to a non-majority community.⁸ The remaining four members are elected by the Assembly of the Republic of North Macedonia from among university law professors, attorneys, former judges of international courts and other prominent legal professionals,⁹ two of whom must belong to non-majority communities.¹⁰ Members serve four-year terms,

with the possibility of one further term after a four-year interval following the end of their previous mandate.¹¹ Its core statutory responsibilities¹² encompass the election, promotion, evaluation, and dismissal of public prosecutors, alongside managing a two-tier disciplinary accountability system.¹³ While the Constitution briefly mentions the Council's fundamental role in electing and dismissing prosecutors,¹⁴ its specific composition, structure, and operational safeguards are heavily regulated by law.¹⁵ This legal framework strictly prohibits political activity within the Council and explicitly tasks its members with preventing unlawful external influence over the Public Prosecutor's Office.¹⁶

7 Law on the Council of Public Prosecutors, *Official Gazette of the Republic of Macedonia* No. 150/2007

8 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* Nos. 102/2026 and 148/2026, Art. 6.

9 The term 'prominent legal professional' (истакнат правник) remains highly controversial in the domestic legal discourse. Experts and international observers have repeatedly noted that the law fails to establish objective and measurable requirements for this status (such as minimum publication records, professional reputation metrics, or verifiable career achievements). As a result, the vague legal definition allows political majorities in Parliament to interpret the term broadly, raising concerns about political influence over the selection of non-prosecutorial members. See more in: Blueprint Group for Judicial Reform, Analysis: Comprehensive assessment of the implementation of the Strategy for the reform of the justice system (2017 – 2022), available in <https://epi.org.mk/post/22769?lang=en>.

10 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* Nos. 102/2026 and 148/2026, Art. 6.

11 Ibid. Art. 7

12 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* Nos. 102/2026 and 148/2026, Art. 9.

13 Disciplinary accountability for public prosecutors is conducted in a two-tier system. At first instance, a five-member disciplinary commission, composed of prosecutors from the four Higher Public Prosecutor's Offices and the State Public Prosecutor's Office, conducts the disciplinary proceedings and determines the disciplinary measure. (Law on Public Prosecution, *Official Gazette of the Republic of North Macedonia*, No. 42/2020, art. 93(2)). The Council of Public Prosecutors acts as the second-instance body, deciding on appeals against the commission's decisions. It may uphold, annul or amend the first-instance decision, in accordance with the law. (Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* Nos. 102/2026 and 148/2026, Art. 9 and Art. 64).

14 Constitution of the Republic of North Macedonia, Amendment XXX (2005), amending Article 106.

15 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* Nos. 102/2026 and 148/2026.

16 Ibid. Art. 3

Bosnia and Herzegovina

Bosnia and Herzegovina has a unified model of judicial governance, with the **High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC)** acting as a single state-level regulatory institution with responsibilities covering both judges and prosecutors.¹⁷ The current HJPC was established in 2004, following an earlier phase in which three judicial and prosecutorial councils operated and the subsequent transfer of relevant competences from the entities to the state level. A central objective of this reform was to remove political influence from the appointment of judicial office holders and establish an independent judiciary.¹⁸ The HJPC has a broad statutory mandate that includes the appointment of judges and prosecutors, disciplinary responsibility, judicial administration and statistics, participation in matters concerning judicial budgets, professional development, ICT systems, ethical and professional standards, and coordination of justice-sector reforms.¹⁹

Under the current Law, 11 of the Council's 15 members come from the judiciary and prosecution, while four are non-judicial members: two lawyers appointed by entity bar associations, one member elected by the House of Representatives and one appointed by the Council of Ministers.²⁰ The exact balance between judges and prosecutors may vary because the member selected by the Judicial Commission of Brčko District may be either a judge or a prosecutor. The composition is also subject to formal ethnic representation requirements. Article 4(4) of the HJPC Law provides that the Council should, as a rule, reflect the composition of the peoples of BiH as well as gender representation, while the HJPC Rules of Procedure operationalize

this principle by prescribing a composition of six Bosniaks, five Serbs, three Croats and one member from the category of Others.²¹

This concentration of functions has long been identified as a distinctive structural feature of the BiH system, with concerns focusing on the composition of the Council, the procedures for selecting its members and the safeguards needed to prevent professional, institutional or political influence over decisions concerning judicial office holders.²²

17 Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, *Official Gazette of BiH*, Nos. 25/04, 93/05, 48/07, 15/08, 63/23, 9/24 and 50/24, Art. 1. See also Art. 18 on the Council's jurisdiction over courts and prosecutor's offices throughout Bosnia and Herzegovina.

18 'Agreement on the transfer of certain entity responsibilities through the establishment of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina', 11 March 2004, <https://vsts.pravosudje.ba/vstvfo/B/141/article/51961>.

19 Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Art. 17.

20 Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Art. 4.

21 Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Art. 4.

22 Branko Perić, *The Judiciary in BiH: State and Perspectives (Pravosuđe u BiH: stanje i perspektive)*, Transparency International in Bosnia and Herzegovina, 2019, pp. 8-12; 'Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina', Venice Commission, 18 June 2012, CDL-AD(2012)014, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)014-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)014-e); 'Opinion on the Draft Law on Amendments to the Law on the HJPC', Venice Commission, 23 March 2020, CDL-AD(2021)015, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)015-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)015-e);

Comparative overview: Current state of play

North Macedonia - The 2026 reforms and the limits of institutional autonomy

Reform of the Council of Public Prosecutors has been part of North Macedonia's broader justice sector reform, recognizing that revising the law is necessary to address weaknesses in the functioning of the Council and bring it closer to European standards.²³ The reform responded to concerns that persisted under the previous framework, established by the 2007 Law on the Council of Public Prosecutors²⁴ and substantially amended in 2020.²⁵ Although the 2020 amendments strengthened the Council's competences, appointment procedures and accountability,²⁶ subsequent assessments continued to identify weaknesses in the transparency and reasoning of its decision-making. The European Commission's 2023 Report noted that, despite improvements in transparency, the Council still needed to provide reasoning for its decisions and called for stronger efforts to safeguard its independence

and prevent undue influence.²⁷ The 2024 Rule of Law Report further identified shortcomings in the transparency and objectivity of prosecutorial appointments, including the absence of publicly available ranking lists and insufficiently reasoned final selections.²⁸ Against this background, the reform process began in November 2024 and was envisaged by the Development Sectoral Strategy for the Judiciary 2024–2028,²⁹ the Reform Agenda,³⁰ GRECO recommendations,³¹ the Rule of Law Roadmap and European Commission reports.³² The draft law was subsequently submitted to the Venice Commission for review, which issued its opinion in October 2025.³³

23 'The Law on the Council of Public Prosecutors passed the first reading of the Commission on Political System and Inter-Community Relations and the Legislative and Legal Commission in the Parliament', Official website of the Ministry of justice of the Republic of North Macedonia, 27 March 2026, <https://www.pravda.gov.mk/en-GB/odnosi-so-javnost/novosti/zakonot-za-sovetot-na-zakonot-za-javnite-obviniteli-go-pomina-prvoto-citanje-na-komisijata-za-politicki-sistem>.

24 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of Macedonia*, No. 150/2007.

25 Law Amending and Supplementing the Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia*, No. 42/2020.

26 European Commission, 'COMMISSION STAFF WORKING DOCUMENT North Macedonia 2020 Report', 6 October 2020, 17, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0351>.

27 European Commission, 'COMMISSION STAFF WORKING DOCUMENT North Macedonia 2023 Report', 8 October 2023, 19, https://neighbourhood-enlargement.ec.europa.eu/north-macedonia-report-2023_en.

28 European Commission, 'Commission Staff Working Document North Macedonia 2024 Report', 30 October 2024, 28, <https://bit.ly/4zLSsWQ>.

29 'Development Sectoral Strategy for the Judiciary (2024–2028)', Ministry of Justice, December 2023, <https://portal.mdt.gov.mk/post-body-files/strategiia-file-luvL.pdf>.

30 European Commission, 'Reform Agenda of North Macedonia 2024-2027', 2024, <https://portal.mdt.gov.mk/post-body-files/reformska-agenda-na-severna-makedonija-2024-2027-godina-file-3KKC.pdf>.

31 Group of States against Corruption (GRECO), Fourth Evaluation Round: Corruption Prevention in Respect of Members of Parliament, Judges and Prosecutors – Second Addendum to the Second Compliance Report: North Macedonia, 12 March 2024, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a9c93a>.

32 'The Law on the Council of Public Prosecutors passed the first reading of the Commission on Political System and Inter-Community Relations and the Legislative and Legal Commission in the Parliament', Official website of the Ministry of justice of the Republic of North Macedonia.

33 'Joint Opinion on the Draft Laws on the Public Prosecutor's Office and on the Council of Public Prosecutors', Venice Commission and Directorate General Human Rights and Rule of Law (DG1) of the Council of Europe, 14 October 2025, CDL-AD(2025)036, <https://www.coe.int/en/web/venice-commission/-/cdl-ad-2025-036-e>.

The Law on the Council of Public Prosecutors, adopted by the Assembly on 7 May 2026 and published in the Official Gazette on 14 May 2026,³⁴ introduced a number of changes, including new criteria for the selection of Council members, stronger merit-based criteria for the selection, promotion and dismissal of prosecutors, greater transparency in the Council's decision-making, strengthened safeguards for disciplinary procedures, and a more defined role for the Council in the appointment and dismissal of the Public Prosecutor.³⁵ Measured against the Venice Commission's opinion on the draft law, the final text incorporates a substantial number of its recommendations, while leaving several issues unresolved, particularly those concerning the Council's institutional independence, the selection of its members, and safeguards for balanced decision-making.

Several of the Venice Commission's key recommendations regarding the Council of Public Prosecutors remain unaddressed, particularly concerning the election and eligibility of its lay members. The four lay members of the Council are now elected by the Assembly with an absolute majority of the total number of MPs,³⁶ rather than the qualified majority recommended by the Commission to ensure political neutrality.³⁷ In the Opinion³⁸ it is stated that the Commission was informed that, under the Constitution³⁹, the Assembly may only use a special majority where it is expressly provided for. Because the existing constitutional requirement for a two-thirds majority regarding the Public Prosecutor's Office does not extend to the Council,⁴⁰ the Commission concluded that introducing a qualified majority

would require constitutional reform.⁴¹ A different interpretation has also emerged in the domestic debate, arguing that the Constitution sets the minimum threshold for parliamentary decision-making, but does not prevent the Assembly from establishing a higher majority by law where the Constitution itself does not prescribe a specific threshold.⁴² No constitutional reform addressing these issues has been proposed to date, and the adopted Law did not introduce a qualified majority for the election of the Council's lay members, leaving the issue unresolved. Additionally, the eligibility requirements for lay members remain misaligned, demanding 15 years of professional experience for attorneys compared to just seven years for university law professors.⁴³ The Venice Commission considered that these requirements should be reconsidered and brought into greater alignment, as such strict eligibility criteria for lay members of the Council in a relatively small country results in only a very select group of persons being qualified for election as lay members.⁴⁴

Furthermore, the adopted law retains broad and vaguely formulated grounds for removing a Council member, such as when a member "impacts the autonomy of public prosecutors" or "fails to perform their function and duties."⁴⁵ The Venice Commission considered such formulations lack foreseeability, are too subjective, and leave considerable room for interpretation, which may negatively affect the security and independence of Council members.⁴⁶ Finally, the adopted law only partially addresses the Commission's concerns about the risk of critical decisions being determined by the prosecutorial majority, given that prosecutors constitute the majority of the Council alongside the Public Prosecutor

34 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* Nos. 102/2026 and 148/2026.

35 'The Proposed Law for the Council of Public Prosecutors was passed in the Parliament', Official website of the Ministry of justice of the Republic of North Macedonia, 7 May 2026, <https://www.pravda.gov.mk/en-GB/odnosi-so-javnost/novosti/so-branieto-go-donese-predlog-zakonot-za-sovetot-na-jo>.

36 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* Nos. 102/2026 and 148/2026, Art. 35, line 14.

37 'Joint Opinion on the Draft Laws on the Public Prosecutor's Office and on the Council of Public Prosecutors', paras. 17-19.

38 Ibid.

39 Constitution of the Republic of North Macedonia, Amendment X to Article 69, *Official Gazette of the Republic of Macedonia*, No. 84/2003.

40 Constitution of the Republic of North Macedonia, art. 106, *Official Gazette of the Republic of Macedonia*, No. 52/1991, as amended.

41 'Joint Opinion on the Draft Laws on the Public Prosecutor's Office and on the Council of Public Prosecutors', para. 19.

42 'Election of a public prosecutor with a new model? (Избор на јавен обвинител со нов модел?)', *Deutsche Welle*, 17 March 2026, <https://www.dw.com/mk/kvalifikuvano-mnozinstvo-za-izbor-na-javen-obvinitel-dali-e-dojden-moment/a-76392320>.

43 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* No. 102/2026, Art. 34, (2).

44 'Joint Opinion on the Draft Laws on the Public Prosecutor's Office and on the Council of Public Prosecutors', para. 16.

45 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* No. 102/2026, Art. 41.

46 'Joint Opinion on the Draft Laws on the Public Prosecutor's Office and on the Council of Public Prosecutors', para. 25.

as an ex officio member.⁴⁷ It therefore recommended additional safeguards for critical decisions that affect prosecutorial independence and accountability, including qualified majorities, a requirement for support from both groups of Council members, or stronger transparency requirements for individual votes.⁴⁸ While the adopted law introduces some transparency by requiring members to explain their votes on the election and dismissal of public prosecutors,⁴⁹ and raises the dismissal threshold for a dismissal of a prosecutor and a Council member to a qualified majority,⁵⁰ it fails to apply these safeguards universally. It does not extend the vote-explanation requirement to the election of higher and basic public prosecutors,⁵¹ nor does it introduce the recommended qualified-majority rules for the appointments of the public prosecutors,⁵² higher public prosecutors and basic public prosecutors.⁵³ The Commission's broader concern about preventing the prosecutorial majority from determining decisions without support from the lay members therefore remains only partially addressed.

The 2026 reform therefore represents less a completed transition towards stronger prosecutorial self-governance than a partial step towards it. While the new Law strengthens several aspects of the Council's functioning, its most politically sensitive features, particularly the selection of lay members and safeguards against the dominance of the prosecutorial majority, remain only partly addressed. Further progress will therefore depend not only on the implementation of the new framework, but also on addressing the constitutional and institutional issues that continue to shape the Council's independence.

47 'Joint Opinion on the Draft Laws on the Public Prosecutor's Office and on the Council of Public Prosecutors', para. 27.

48 Ibid.

49 Law on the Council of Public Prosecutors of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* No. 102/2026, Art. 50 (3) and Art. 64 (5). The qualified majority requires at least eight votes out of the Council's 11 members for the dismissal of a Council member or a public prosecutor.

50 Ibid. Art. 44 (2) and Art. 64 (3).

51 Ibid. Art. 51 (6). Article 51, which regulates the election of higher and basic public prosecutors, only provides that "the Council's decision on the election of a public prosecutor must be reasoned, individualised and comparable". By contrast, Article 50 which regulates the election of public prosecutors, requires each Council member to orally explain at a Council session their decision for or against the election of a public prosecutor.

52 Ibid. Art. 50 (4).

53 Ibid. Art. 51 (2). For the election of a higher or basic public prosecutor, the candidate who receives a majority of votes from the total number of Council members is elected.

Bosnia and Herzegovina - An Unfinished Reform of Judicial Self-Governance

Reform of the HJPC has been an outstanding EU accession requirement since 2019 when the EC's Opinion on BiH's membership application identified the adoption of new legislation on the HJPC, in line with European standards, as fundamental for improving the functioning of the judiciary.⁵⁴ This requirement remains unfulfilled. At the same time, the HJPC's position as the single countrywide judicial self-governance body has itself been repeatedly challenged by political authorities in Republika Srpska. An entity-level HJPC initiative launched in 2022 was assessed by the European Commission as a violation of the constitutional and legal order and a clear backsliding on EU rule of law priorities.⁵⁵ In February 2025, the RS entity parliament went further by adopting a separate Law on the HJPC of RS, which was subsequently suspended and repealed by the Constitutional Court of Bosnia and Herzegovina as unconstitutional.⁵⁶ These attempts illustrate how, alongside difficulties in institutional design and internal accountability, judicial governance in BiH faces direct political challenges to the integrity of the countrywide judicial governance framework.⁵⁷

As of the 2025 enlargement assessment, BiH was still required to finalize and adopt a new HJPC Law in line with Venice Commission recommendations.⁵⁸ The reform was intended to address structural weaknesses in judicial governance, not merely to adjust individual elements of a system whose independence, accountability and effectiveness have remained persistently problematic. Yet much of the reform process so far has focused on modifying the

54 'Commission Opinion on Bosnia and Herzegovina's Application for Membership of the European Union', European Commission, 29 May 2019, COM(2019) 261 final, Key priority 6, <https://enlargement.ec.europa.eu/system/files/2019-05/20190529-bosnia-and-herzegovina-opinion.pdf>.

55 *Bosnia and Herzegovina Report 2022*, SWD(2022) 336 final (European Commission, 2022), 8, https://enlargement.ec.europa.eu/bosnia-and-herzegovina-report-2022_en.

56 'Decision No. U 8/25', Constitutional Court of Bosnia and Herzegovina, 29 May 2025, paras. 44-49, https://www.ustavnisud.ba/uploads/odluke/_bs/U-8-25-1474418.pdf.

57 Ibid.

58 *Bosnia and Herzegovina 2025 Report*, SWD(2025) 751 final (European Commission, 2025), pp. 5-6, 27-30, https://enlargement.ec.europa.eu/document/download/5d-8fc547-f8f8-456f-84e3-b38998acafd_en?filename=bosnia-and-herzegovina-report-2025.pdf.

existing architecture without resolving several of its underlying vulnerabilities.⁵⁹

Formal judicial self-governance has not provided sufficient protection against political influence or ensured consistently merit-based appointments. In 2025, no progress was recorded in the functioning of the judiciary, while operational inefficiency and political interference, including pressure and intimidation, continued to affect judicial follow-up in prominent corruption cases within a broader institutional environment showing increasing signs of political capture.⁶⁰ The EC Report states that judicial appointments were still not consistently merit-based, with ethnic considerations continuing to influence selections, while concerns remained over the functional independence of the new Asset Declarations Department.⁶¹ The gap between formal independence and independence in practice is reinforced by weak accountability, persistent political influence over institutional appointments and limited implementation of reforms intended to strengthen integrity and the prosecution of corruption.⁶²

Similar vulnerabilities affect the HJPC itself. The Law does not require a qualified majority or a uniform open and merit-based procedure for the two politically elected members (one member elected by the House of Representatives and one appointed by the Council of Ministers),⁶³ while ordinary Council decisions are taken by a simple majority.⁶⁴ This limits the capacity of non-judicial members to act as an effective counterweight and leaves room for political influence in their selection.

The Venice Commission has therefore called for broader non-judicial representation, clearer eligibility criteria and qualified-majority parliamentary appointment with an anti-deadlock mechanism.⁶⁵

A further concern is the increasing reliance on ethnic criteria in determining the Council's composition. Turning ethnicity into a structural organizing principle for allocating seats risks narrowing the pool of eligible candidates and subordinating professional merit, experience and integrity to predetermined identity requirements.⁶⁶ Some reform proposals have gone considerably further than establishing minimum representation, effectively predetermining a substantial share of Council seats by ethnicity and leaving aspects of the allocation mechanism to subsequent regulation involving executive authorities.⁶⁷ Such a model risks transforming representation safeguards into a mechanism through which political and ethnic bargaining influences who can realistically be elected to the institution responsible for protecting judicial independence. Ethnic balance should therefore operate, if retained at all, as a temporary corrective applied after an open and merit-based selection process, instead as a criterion determining in advance which institutions must elect candidates of a particular ethnicity.⁶⁸ The accountability framework also remains weak, as the current Law uses broadly formulated grounds for terminating a member's mandate and leaves removal to the Council itself. Clearer statutory grounds and procedural safeguards are needed both to ensure accountability and to protect members from undue pressure.

The challenge facing BiH is consequently not simply to adopt a new HJPC Law, but to ensure that it amounts to the systemic reform demanded in 2019. Successive proposals have contained improvements, but fundamental questions concerning composition, merit-based appointments, ethnic criteria, executive influence, integrity safeguards and the regulation of key issues through bylaws have

59 'Bosnia and Herzegovina - Follow-up Opinion to Previous Opinions on the Draft Law on the High Judicial and Prosecutorial Council', Venice Commission, 18 March 2025, CDL-AD(2025)004, <https://www.coe.int/en/web/venice-commission/-/cdl-ad-2025-004-e>.

60 *Bosnia and Herzegovina 2025 Report*.

61 *Ibid.*

62 Srđan Blagovčanin et al., National Integrity System Study: Bosnia and Herzegovina 2023 (Studija sistema nacionalnog integriteta: Bosna i Hercegovina 2023) (Transparency International in Bosnia and Herzegovina, 2023), <https://ti-bih.org/wp-content/uploads/2024/04/TIBIH-NIS-2023-BHS-Web-FIN3.pdf>.

63 Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Arts. 4 and 8. The Law provides for one member to be elected by the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina and one member to be appointed by the Council of Ministers of Bosnia and Herzegovina, without establishing a qualified-majority requirement for these two members.

64 *Ibid.*, art. 7. The Council adopts decisions by a majority of the total number of its members, unless otherwise provided by law.

65 Srđan Blagovčanin et al., National Integrity System Study: Bosnia and Herzegovina 2023 (Studija sistema nacionalnog integriteta: Bosna i Hercegovina 2023).

66 Transparency International in Bosnia and Herzegovina. *Amendments to the Draft Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina*. 2025, comments on Articles 4, 8 and 9.

67 *Ibid.*

68 *Ibid.*

remained unresolved.⁶⁹ The preparation of the legislation has also been characterized by multiple versions, insufficient transparency and doubts about whether consultations with the judiciary, civil society and other stakeholders meaningfully influence the final text.⁷⁰ Without addressing these structural weaknesses, a new law risks becoming a formal fulfilment of an EU condition rather than the substantive reform needed to prevent political, ethnic and institutional considerations from continuing to override merit, integrity and judicial independence.

Conclusion

The comparison shows that both North Macedonia and Bosnia and Herzegovina have made progress in reforming the bodies responsible for prosecutorial governance, but that important questions about their independence and functioning remain unresolved. In both cases, legislative reform has been driven in part by the EU accession process and European standards, yet the adoption or amendment of legislation alone does not guarantee that these bodies will be able to operate independently in practice.

In North Macedonia, the 2026 reform represents a meaningful step forward, improving transparency, member selection and disciplinary safeguards. However, concerns identified by the Venice Commission remain, particularly regarding the possibility for a parliamentary political majority to determine the selection of lay members and the limited safeguards against dominance by the prosecutorial majority. Further attention is needed to ensure balanced participation in sensitive decisions.

In Bosnia and Herzegovina, the challenge is more fundamental. Reform should address the HJPC's structural weaknesses, including its composition, merit-based appointments, integrity safeguards and protection from political influence. The legislative process should also ensure greater transparency and meaningful consultation with the judiciary, civil society and other stakeholders.

For both countries, the priority should ultimately be to make the governing bodies independent not only in law, but also in the way they are composed and make decisions. This requires clear eligibility and selection criteria, transparent appointment procedures, safeguards against political interference, and balanced decision-making rules that prevent disproportionate influence. These safeguards should also be accompanied by effective implementation and regular public scrutiny of how the councils exercise their powers. Such an approach would help ensure that reforms are not treated simply as milestones in the EU accession process, but contribute to durable institutional arrangements capable of protecting the independent functioning of the prosecution service. ate institutional reforms.

69 'Bosnia and Herzegovina - Follow-up Opinion to Previous Opinions on the Draft Law on the High Judicial and Prosecutorial Council'.

70 'Farce and procedural Manipulation: Draft Law on HJPC sent to Council of Ministers despite ongoing consultations', *Transparency International in Bosnia and Herzegovina*, 28 November 2025, <https://ti-bih.org/farce-and-procedural-manipulation-draft-law-on-hjpc-sent-to-council-of-ministers-despite-ongoing-consultations/?lang=en>.

