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# Constitutional control in federal States: the system of concentration versus control also on the level of the entities: the examples of Austria and Bosnia and Herzegovina

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# Constitutional control in federal States: the system of concentration versus control also on the level of the entities: the examples of Austria and Bosnia and Herzegovina

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## 1. Austria: an example of a centralized constitutional control

### 1.1. The first special Constitutional Court of the world

The Republic of Austria is one of the successor States of the Austrian-Hungarian Monarchy established at the end of World War I. It is a federal State consisting of 9 provinces (Länder). The federal Constitution dates back to 1920 and has been amended numerous times. Between 1938 and 1945 Austria was ruled by Nazi Germany but the so-called „second Republic" established after the liberation in 1945 relied again on the Constitution of 1920 which is based to a considerable extent on the legal and constitutional theory of Hans Kelsen. One aspect of this theory is a strict hierarchical legal system with the federal Constitution at the top and all other legal norms, including the constitutions of the Länder, deriving their authority only from the federal Constitution and being subordinated to it.

In order to make this hierarchical structure effective, Hans Kelsen proposed a centralized Constitutional Court as the „guardian of the Constitution", i.e. with broad powers of judicial review and control of the Länder constitutions, statutes of the federal and Länder parliaments as well as administrative regulations, ordinances, decrees and individual administrative acts. Austria was, therefore, the first country in the world which in its 1920 Constitution already established a special Constitutional Court (based to some degree on the experience of the Reichsgericht from the time of the Austrian-Hungarian Monarchy). This court has served as a model for similar institutions in many other countries, the most recent examples being various constitutional courts in Central and Eastern European States, including the Russian Federation and Georgia.

**1.2. The composition of the Court**

The court consists of a president, a vice-president, 12 regular members and 6 substitute members. All justices are appointed by the Federal President of the Republic on the recommendation of either the Federal Government or the Federal Parliament. They are usually eminent lawyers selected from among university professors, judges, senior civil servants, attorneys or other legal professionals. The court does work in sessions, i.e. the justices (with the exception of civil servants) are entitled to continue to practice their ordinary profession. Owing to the heavy work-load (presently, the Court decides more than 3.000 cases per year), the function of Constitutional Court justice is a very time consuming activity.

Although the selection procedure is not free from political influence, all justices enjoy full judicial independence. They enjoy the right not to be dismissed (unless by a two-third majority decision of the court because of very serious misconduct) and hold office until they retire on 31 December of the year when they reach the age of 70.

**1.3. Jurisdiction of the Court**

The Constitutional Court has jurisdiction to decide in a final and binding manner in the following matters:

a) Individual complaints against alleged human rights violations by administrative authorities, including the independent administrative tribunals
b) Judicial review of parliamentary statutes (federal and Länder), of general administrative ordinances, of international treaties and domestic treaties (between the Federal Government and the Länder or between the Länder).
c) Review of elections
d) Impeachment of the Federal President, the Governors of the Länder and members of the federal or Länder governments
e) Conflicts of competence
f) Certain financial claims against the Government.

Most cases concern individual human rights complaints. Every individual has the right, after having exhausted the ordinary administrative remedies, to lodge a complaint that any of his or her constitutionally guaranteed human rights have been violated by an administrative authority. Since the European Convention on Human Rights has been fully incorporated into the Austrian Federal Constitution, most complaints today refer to the Convention. Other complaints refer to the traditional Austrian Bill of Rights dating back to 1867 or to additional recent human rights, such as freedom of the arts, the right to data protection or telecommunication secrecy. Economic, social and cultural rights are, however, not guaranteed by the Austrian Federal Constitution. In addition, it should be pointed out that the Constitutional Court is not competent to review judgments of the ordinary courts, including the Supreme Court. Similarly, the review of the legality of individual administrative acts falls under the competence of the Administrative Court. The Constitutional Court only reviews violations of the Constitution by administrative authorities, i.e. in particular human rights violations. If it finds a human rights violations, the respective administrative decision is quashed.

From a political point of view, the review of the constitutionality of parliamentary statutes is the most important competence of the Constitutional Court. A respective procedure may be initiated by the Federal and Länder Governments and Parliaments as well as by appellate courts and by the Constitutional Court ex officio in so far as it has to apply the statute in a pending procedure, i.e. above all if an individual applicant in a human rights litigation alleges the unconstitutionality of the statute. In exceptional cases, even individuals may start proceedings of judicial review of statutes, but the Austrian Constitution does not provide for an *actio popularis*. If the Court finds that a parliamentary statute is unconstitutional or a general administrative ordinance unlawful, it has the full power to quash (repeal) such statute or ordinance. The legal effects of these decisions are, therefore, published in the Official Gazette.

Since its creation, the Constitutional Court has published more than 15.000 judgments. The case-load has increased dramatically during the 80s and 90s. In recent years, between 2000 and 4000 cases have annually been submitted to the Court and decided by it. Usually more than 80% of these cases are individual human rights complaints. In order to cope with this heavy work-load, the Court has been granted the power to deny the consideration of less important human rights complaints. Most of the cases are dealt with by this simplified procedure, and the Court only publishes approximately 300 to 400 judgments per year. Many judgments deal with a number of similar complaints or applications at the same time. In 1998, the Court decided about a total of

3272 complaints or applications of which 2670 (81,6%) were individual human rights complaints, 388 (11,9%) requests to review the constitutionality of parliamentary statutes and 162 (5%) requests to review the legality of general administrative ordinances. While only less than 17% of human rights complaints finally proved successful, about half of all norm-controlling requests led to the quashing of the respective legal provisions.

# 2. Bosnia and Herzegovina: a highly complex decentralized system of constitutional control imposed by the international community

## 2.1. The constitutional framework

Immediately after its independence from the Socialist Federal Republic of Yugoslavia in early 1992, the Republic of Bosnia and Herzegovina (BH) was torn into a war against the Federal Republic of Yugoslavia (Yugoslav National Army), Bosnian Serb and Bosnian Croat armed forces which led to the first genocide in Europe after the Nazi Holocaust.

On the basis of the Washington Agreement of March 1994, which terminated the armed conflict between Bosnian Croat and Governmental forces, a Bosniak-Croat Federation was established. Its Constitution provides, *inter alia*, for a Constitutional Court, a Supreme Court and a Human Rights Court.

On 14 December 1995, the so-called Dayton Peace Agreement entered into force. It established the biggest military and civilian peace-keeping and peace-building operation ever authorized under a Resolution of the UN Security Council. It consists of the General Framework Agreement for Peace in Bosnia and Herzegovina and a total of 11 Annexes thereto. Annex 4 contains the present Constitution of BH, and the Agreement on Human Rights in Annex 6 established the Human Rights Commission for BH consisting of the Office of the Ombudsperson and the Human Rights Chamber for BH.

According to the Constitution, the State of BH is a federal state consisting of two so-called „Entities“, the Bosniak-Croat Federation of BH and the Republika Srpska (RS). The Federation is in itself a kind of a sub-federal State consisting of 10 Cantons with their own constitutions. BH, therefore, has a total of 13 constitutions. According to Article III of the Constitution of BH, the responsibilities of the institutions of BH (the so-called „common institutions“ which are composed according to strict ethnic/religious criteria, such as the Parliamentary Assembly, the Presidency, the Council of Ministers or the Central Bank) are extremely limited and relate only to matters such as foreign policy, customs, monetary policy or air traffic control. In other words: All major powers including the military, police, the judiciary etc. rest with the two Entities. It might, therefore, be more appropriate to refer to BH as a confederation than a federal State. In

addition, BH is presently subjected to a kind of interim administration by the international community which means that at least for the period until December 2000, a substantial part of sovereignty is exercised by the High Representative (who, e.g., in March 1999 dismissed the President of the RS), the Peace Implementation Council (PIC), the NATO-led military Stabilization Force (SFOR), the OSCE, UN, the Human Rights Chamber, the Property Commission under Annex 7 etc.

**2.2. The Constitutional Court of BH**

One of the „common institutions“ and the only court at the level of the State of BH is the Constitutional Court of BH, which is regulated in Article VI of Annex 4. It is composed of six Bosnian judges (two Bosniaks, two Croats and two Serbs) and three so-called „international judges“ from Austria, France and Sweden selected by the President of the European Court of Human Rights after consultation with the Presidency of BH. The term of judges initially appointed is five years, the judges subsequently appointed shall serve until the age of 70.

The Constitutional Court has exclusive jurisdiction to decide any dispute that arises under the Constitution between the Entities or between BH and the Entities including the question whether any provision of an Entity's constitution is consistent with the State's Constitution. It also has appellate jurisdiction over constitutional issues arising out of a judgment of any other court in BH, i.e. also of the constitutional courts of the two Entities. Finally, the Court has jurisdiction to give a preliminary ruling over issues referred by any court in BH concerning whether a law, on whose validity its decision depends, is compatible with the Constitution, with the European Convention on Human Rights, with the laws of BH or with a general rule of public international law. The decisions of the Court are final and binding.

The Constitutional Court started operating in late spring of 1997 and adopted its Rules of Procedure on 27 July 1997. In addition to 26 cases which the Court had inherited from the former Constitutional Court (and which were mostly struck off the list or rejected) it dealt so far with 27 new cases. Most of them were declared inadmissible because of lack of standing of the applicants. This can be explained by the fact that, apart from appellate jurisdiction and preliminary rulings, disputes may only be referred to the Court by a member of the Presidency, by the Chair of the Council of Ministers, by the Chair or a Deputy Chair of either chamber of the Parliamentary Assembly, or by one-fourth of the members of the Parliamentary Assembly or the

legislature of an Entity. Since the Council of Ministers presently has two Co-Chairmen, the Court, in a controversial decision, decided that one of the two Co-Chairmen is also alone competent to refer a dispute to the Court and declared the respective complaint admissible.

Another controversial question was whether the Constitutional Court has appellate jurisdiction in respect of judgments of the Human Rights Chamber, i.e. whether the Chamber can be considered as „any other court in BH". After a respective expert opinion of the Venice Commission and an authoritative interpretation by the High Representative on this matter, the Constitutional Court decided on 26 February 1999 that it has no appellate jurisdiction in respect of the Chamber's decisions. On 7 June 1999 the Constitutional Court adopted its first decision on the merits in which it affirmed its power to review decrees of the Government of BH and declared Decrees on the Ratification of the Agreement on Customs Co-operation with the Republic of Croatia as unconstitutional. It also specified the legal effects of this decisions in the way that „these decrees cease to be valid *ex nunc* on the day of the adoption of this decision". In other words: The Court interprets its power of judicial review not only in the sense of a declaratory judgment but as the competence to quash decrees and parliamentary statutes (see also Article 56 of the Rules of Procedure).

**2.3. The Constitutional Court of the Federation**

The Federation's Constitutional Court is regulated in Chapter IV, Section C (Articles 9 to 13) of the Constitution of the Federation of BH of June 1994. It consists of 9 judges: 2 Bosniaks, 2 Croats, 2 Serbs and 3 „international" judges (from Nigeria, Syria and Belgium) designated for a first transitional period of 5 years by the President of the International Court of Justice. The Court was created in 1995 but only became operational in January 1996.

The primary function of the Court is to resolve disputes between any of the 10 Cantons, between any Canton and the Federation Government or in relation to cities and municipalities. The Court also determines, at the request of the highest authorities of the Federation or any Canton or at the request of one-third of the Federation or Canton Legislature, whether any enacted or proposed law or regulation of the Federation or the Cantons (including the Constitution of the Cantons) or of the cities or municipalities is in accordance with the Constitution of the Federation. The Supreme Court, the Human Rights Court or a Cantonal court have an obligation to submit any doubt as to whether an applicable law is in accordance with the Constitution to the Constitutional

Court. If the Court determines that a law or regulation is unconstitutional, such law or regulation shall not remain in force. Proposed laws or regulations found to be unconstitutional shall not enter into force. The decisions of the Court are final and binding. In particular, any court which presents a constitutional question to the Constitutional Court, shall stay the proceedings and shall decide in accordance with the Constitutional Court´s rulings.

The Constitutional Court has no appellate jurisdiction. In particular, it has no power to decide about human rights complaints. This power is vested in a special Human Rights Court which for a first transitional period should consist of three Bosnian judges and four „international" judges to be appointed by the Committee of Ministers of the Council of Europe in accordance with Resolution 93 (6). In order to avoid a proliferation of human rights courts, the Committee of Ministers, in view of the entry into force of the Dayton Peace Agreement and the creation of the Human Rights Chamber, has not appointed the „international" members of the Federation Human Rights Court. Although the Federation Government insists on the establishment of the Human Rights Court and has appointed the Bosnian judges, this Court has not yet become truly operational.

Since its establishment in January 1996, the Federation Constitutional Court has decided a total of 65. Out of theses, 45 cases were declared inadmissible, usually because of lack of standing of the applicants or lack of competence of the Court. 20 cases were decided on the merits.

**2.4. The Constitutional Court of the Republika Srpska**

The RS Constitutional Court is regulated in Chapter IX (Articles 115-120) of the Constitution of the RS of 1994. It consists of 7 judges elected for a period of 8 years by the National Assembly. The judges may not be re-elected. The Court has been established already in 1994 and adopted its Rules of Procedure on 12 August 1994.

The Constitutional Court has jurisdiction to decide on the constitutionality of laws; on the conformity of regulations and general enactments with the law and the Constitution; on conflicts of jurisdiction between bodies of the legislative, executive and judicial branches; on conflicts of jurisdiction between agencies of the RS, cities and municipalities (there are no Cantons in the RS); and on the conformity of programmes, statutes and other general enactments of political organizations with the Constitution and the law. In addition, the Court shall monitor events of

interest for the achievement of constitutionality and legality, offer to the highest constitutional bodies opinions and proposals for adopting laws and undertaking other measures, in particular for the protection of freedoms and rights of citizens.

Proceedings before the Constitutional Court may be initiated by the President of the RS, the National Assembly, the Government of the RS and other bodies prescribed by law. The Constitution does not provide for appellate jurisdiction or an individual complaints procedure but „anyone can give an initiative to start the proceedings for assessing the constitutionality and legality“ (Article 120). Since the Constitutional Court has the power to initiate proceedings ex officio, individual initiatives in practice often lead to review proceedings. It falls, however, into the full discretion of the Court whether to take up such an initiative or not.

When the Court assesses that a law is unconstitutional or that a regulation or general enactment is unlawful or unconstitutional, such law, regulation or general enactment shall cease to be effective.

The Constitutional Court has been established in June 1994 in Pale and was moved in mid 1998 to Banja Luka. Until 30 June 1999, it has dealt with 270 cases and passed a total of 152 decisions on procedural issues and on the merits. 118 cases are presently pending. Most decisions concern constitutional review of parliamentary statutes and political questions. In its first judgment of 15 August 1997, the Court declared the decision of the RS President of 3 July 1997 to dissolve the National Assembly and call for new elections as unconstitutional. These elections were, nevertheless, held in autumn of 1997. This case illustrates how much the RS Constitutional Court has got involved into the permanent political and constitutional crisis in the RS.

**2.5. The Human Rights Chamber for Bosnia and Herzegovina**

Article II of Annex 6 of the Dayton Peace Agreement (the „Agreement on Human Rights“) established a Human Rights Commission for BH (also mentioned in Article II (1) of the Constitution of BH) consisting of two parts: the Office of the Ombudsperson and the Human Rights Chamber. Both parts of the Commission have the power to consider alleged or apparent violations of the European Convention on Human Rights (ECHR) as well as discrimination arising in the enjoyment of any of the rights and freedoms provided for in 16 international and European treaties, including the ECHR, the two UN Covenants (CCPR and CESCR), the Racial

Discrimination Convention (CERD), the UN and European Torture Conventions (CAT and ECPT), the Convention on Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) or the European Framework Convention for the Protection of National Minorities. Human rights complaints can be lodged against the State of BH, the Federation of BH or the RS by any victim (individuals, group of individuals or non-governmental organizations) after having exhausted all effective remedies and having fulfilled the other admissibility requirements which are similar to those in the ECHR.

Although complaints should generally first be directed to the Ombudsperson who may initiate proceedings before the Chamber, they can also be directly submitted to the Chamber. While the Ombudsperson has broad investigatory and mediating powers, the Chamber is a judicial body similar to the European Court of Human Rights. Its decisions are final and binding. It has jurisdiction to decide whether the facts found indicate a human rights violation, and what steps shall be taken by the respondent Party to remedy such breach of the Agreement, including orders to cease and desist, monetary relief and provisional measures.

The Chamber consists of 6 Bosnian judges (2 Bosniaks, 2 Croats and 2 Serbs) and 8 „international“ judges appointed by the Committee of Ministers of the Council of Europe for a transitional period of 5 years pursuant to Resolution 93 (6). The Chamber was established in March 1996 and holds every month a session of one week in Sarajevo. As of 31 May 1999, it had registered 2178 cases (of which only 5% were referred by the Ombudsperson), held 20 public hearings and decided 114 cases on the merits. The vast majority of all cases concern property related matters.

## 3. Conclusions

It is not easy to draw conclusions from comparing the system of constitutional control in Austria and BH. **Austria** has a highly developed system of a fairly comprehensive constitutional review by the oldest special Constitutional Court in the world. Its main functions are to decide about human rights complaints against individual administrative acts and the judicial review of the constitutionality of parliamentary statutes and general administrative ordinances. After a period of fairly strict judicial self-restraint, the Court, in particular since the early eighties, has exercised its broad competences in a truly independent and effective manner. Some critics even speak about „judicial activism“ but this in my opinion only underlines that the Constitutional Court established itself within the Austrian system of checks and balances as a powerful institution which effectively controls the legislative and administrative power in relation to the federal Constitution. There are no problems with the implementation and enforcement of the decisions of the Court but sometimes the Federal Parliament „overruled“ a decision by simply adopting a quashed legal provision again at the level of constitutional law, i.e. by a qualified majority of two thirds.

Problems and shortcomings can be identified in the following areas. The justices are in fact appointed only by the two leading political parties, and the selection process is not based on the legal qualifications of the candidates only. The Court has no jurisdiction to review the constitutionality of judgments of the ordinary courts (which are only subject to review by the European Court of Human Rights and other international human rights treaty monitoring bodies). The Court has no jurisdiction to decide whether the laws and administrative acts of the Länder are in conformity with the constitutions of the 9 Länder, and there are no constitutional or administrative courts of the Länder (there are, however, proposals to transform the present independent administrative tribunals in the Länder into truly independent administrative courts as, for instance, in Germany). Finally, the heavy work-load of the Constitutional Court has led to constitutional amendments during the eighties which empower the Constitutional Court to deny the consideration of less important individual human rights complaints. This discretionary power which is widely used by the Court seriously undermines the right of individuals to an effective remedy against human rights violations by administrative authorities before an independent court and increases the number of applications submitted to the European Court of Human Rights. In my opinion, this shortcoming could only be resolved by either transforming the Constitutional Court into a permanent court or by transforming the independent administrative tribunals into

truly independent administrative courts with full jurisdiction to review the constitutionality of all individual decisions of administrative authorities at the level of the Federal Government, the Länder, the municipalities and other self-governing public authorities.

The problems in **Bosnia and Herzegovina** are of a totally different nature and much more complex. First of all, the State of BH is still in the difficult and slow process of recovering from its Socialist past as well as from four years of war and genocide. There was never a genuine culture of the rule of law, a pluralist democracy and respect of human rights, and the earlier minimum of rule of law and Socialist legality was effectively destroyed during the recent war. Secondly, owing to the policy of racial and religious hatred and the „successful" „ethnic cleansing" operations during (and partly after) the war, BH is a country which in fact is divided according to ethnic and religious criteria. Despite many efforts by the international community to encourage minority returns of more than two million refugees and internally displaced persons and to diminish the power of the nationalistic political parties, actual achievements are far from satisfactory.

Thirdly, the present constitutional system, which was imposed by the international community in order to stop the war and genocide, in fact legitimizes the ethnic/religious division of the country. The central State of BH, as laid down by the „Dayton Constitution", is extremely weak and lacks a major prerequisite of statehood, i.e. the possibility of exercising effective power and constitutional control. The real power rests with the two „Entities", and in the Federation de facto with the two ethnic communities. The so-called common institutions of the State of BH are more or less ineffective and can easily be blocked by any of the three ethnic/religious communities as the recent constitutional crisis in the RS after the dismissal of its President and the Brcko arbitration decision on 5 March 1999 has again underlined.

The State of BH, therefore, presently functions only thanks to a de facto transitional administration by the international community in the framework of a huge and highly complex international peace-keeping and peace-building operation. It would go far beyond the limits of this paper to describe and analyse the structure, achievements and problems of this operation or even only its civilian components. Suffice to say that in my opinion, which is shared by many experts on BH, the fragile peace in BH will break down as soon as the international community will withdraw. The admission to the Council of Europe, which is envisaged for the beginning of the year 2000, is, therefore highly premature and not at all in accordance with the Statute and

other admission requirements of the Council of Europe. It is a pure illusion to think that the mere membership of such a fragile and divided State in the Council of Europe could prevent the break-up of BH, another war or new gross and systematic human rights violations after the withdrawal of the international community. But even during the presence of the international transitional administration I cannot see how the State of BH could take the responsibility of implementing and enforcing any judgment of the European Court of Human Rights or any other decision or recommendation by the Committee of Ministers.

On paper, the Washington and Dayton Peace Agreements have established the most impressive and complex system of constitutional control and the protection of human rights with three constitutional courts, three supreme courts, two special human rights courts (in the Federation and the Human Rights Chamber at the level of the State), the Office of the Ombudsperson for BH and three Federation Ombudsmen (a similar institution is envisaged in the RS), a special property commission, election monitoring commissions and many other human rights monitoring institutions of the UN, the OSCE, the EU, the High Representative and other organisations and institutions. The ECHR is directly applicable at the level of or even above the Constitution, and 15 other international and European human rights treaties (whether or not ratified by BH) have to be respected. In practice, this system is far too complicated and simply does not work.

As far as the three constitutional courts are concerned, there is a fairly clear division of labour. The BH Constitutional Court has jurisdiction to control the legislative, administrative and judicial powers of the State and both Entities with respect to the BH Constitution. Since it also has appellate jurisdiction over constitutional issues arising out of a judgment of any other court in BH (including the constitutional courts of the two Entities), it can be considered as a true „guardian“ of the BH Constitution. There is, however, a conflict of competence in relation to the Human Rights Chamber as far as human rights, and in particular the ECHR, is concerned. So far it has been decided only that judgments of the Chamber cannot be reviewed by the Constitutional Court. Whether judgments of the Constitutional Court can be reviewed by the Chamber is still an open and highly controversial question which will have to be decided as soon as a human rights case in the framework of its appellate jurisdiction will be decided by the Constitutional Court and thereafter appealed to the Chamber.

The constitutional courts of the two Entities are the „guardians“ of their respective constitutions with the primary task of resolving disputes between the different authorities and reviewing the

constitutionality of parliamentary statutes and administrative regulations. They have no appellate jurisdiction and, in particular, no competence to decide about individual human rights complaints. In the Federation, this task was entrusted to the Human Rights Court which, however, is not yet functioning. That is why human rights complaints against administrative or court decisions of the Federation are usually directly addressed to the Human Rights Chamber (or the Ombudsperson for BH or the Federation Ombudsmen) but, in principle, they could as well be submitted to the BH Constitutional Court. In the RS, individual „initiatives“ in relation to the constitutionality (including human rights conformity) of administrative and judicial decisions can be taken up by the RS Constitutional Court ex officio according to its discretionary power. This system, which of course is no substitute for a genuine individual constitutional complaints system, has been taken over from the old Socialist Yugoslav system. In practice, human rights complaints against RS authorities are, however, usually addressed directly to the Human Rights Chamber or the Ombudsperson for BH.

Finally, one should stress that the court system, including the supreme and constitutional courts, still lacks the necessary independence and impartiality required in a genuine system based on the rule of law. Judges are usually appointed by the ruling parties according to political considerations on the basis of strict ethnic and religious proportionality. This system is partly laid down in the constitutions and laws of the country and partly simply reflects the present political practice. This lack of independence also applies to the Bosnian judges and justices of the three constitutional courts and the Human Rights Chamber. All of them are appointed according to political and ethnic/religious criteria for a limited period of 5 years (in the RS for 8 years) and are subject to more or less heavy political pressure from their respective political parties or ethnic communities. In the Human Rights Chamber, this lack of independence is balanced by the fact that the „international“ judges are in a majority and in fact have so far dominated the proceedings. In the BH and Federation Constitutional Courts the „international“ judges are in a minority and do their best to depoliticize the proceedings but are only partly successful in these endeavours. The RS Constitutional Court, which has no „international“ judges because the RS Constitution was not drawn up by the international community, is definitely the least independent one. All constitutional courts as well as the Human Rights Chamber struggle with the common problem of lack of financial resources, adequate office space, staff etc.

To sum up: There is still a long way to go in order to build up a truly functional, effective and somewhat less complicated system of constitutional control and human rights protection in Bosnia and Herzegovina. Some deficiencies could be eliminated by means of international financial assistance, training and other institution-building measures but the main problems are rooted in the present political and constitutional system and structures and can only be effectively addressed by a radical reform of these structures and a strengthening of the central State of BH. This requires, however, a change of the Dayton (and Washington) constitutional system. Let us hope that the overall activities of the international community aimed at developing a sustainable peace for the Balkan region in the aftermath of the Kosovo crisis, and in particular the Stability Pact for South Eastern Europe, will contribute also to a more stable system in BH based on the rule of law, pluralist democracy and respect for human rights.