

TRANSLATION

TO:

The State Council of Prosecutors

Zagorka Dolovac, President

MINISTRY OF JUSTICE OF REPUBLIC OF SERBIA

The Minister Nikola Selakovic

President of the Republic of Serbia

Tomislav Nikolic

Government of Republic of Serbia

Aleksandar Vucic, the President

National Assembly

Maja Gojkovic, the President

National Assembly

Board for judiciary, state administration and local self-government

Petar Petrovic, the President

CASE: Request for ensuring representation of Bosniaks in the selection of public prosecutors in areas which are territorially in jurisdiction by Senior Public Prosecutor's Offices in Novi Pazar and Uzice, in accordance with the Constitution and laws of the Republic of Serbia.

Respected,

Bearing in mind that the rule of law is the basic premise of the Constitution, which is achieved among other things with complying of authorities to the Constitution and the law, we are concerned by the fact that the authorities of Serbia constantly ignore the rights of Bosniak citizens of the Republic of Serbia, stems from the established legal order. This applies particularly to the right of Bosniaks to come to public functions and participate in the management of public affairs within the legislative, executive and judicial powers.

The absence of the rule of law and the absence of its accomplishment, best illustrates the example of representation of Bosniaks in the performance of judicial and public prosecution functions in areas where Bosniaks traditionally live in large numbers, therefore in the region of Sandzak.

Knowing that sovereignty derives from the citizens and that Bosniak citizens of the Republic of Serbia, are among others, the holders of its sovereignty, therefore, any disrespect, ignoring and preventing the realization of the rights of the Bosniaks, is destruction of the legal order of the Republic of Serbia and making it senseless.

The effective participation of minority communities in the work of the public authorities is guaranteed by the Constitution, law and international binding documents.

Constitution of the Republic of Serbia, namely Article 77, paragraph 1, guarantees the right of persons belonging to national minorities to participate in public affairs and coming to public functions.

By the paragraph 2, of the same article of Constitution it is stated that: **“In the employment in the state bodies, public services, bodies of autonomous province and local self-government, it is taken into account the ethnic composition of the population and adequate representation of persons belonging to national minorities.”**

By the article 82, paragraph 5 of the Law on Public Prosecution ("Official Gazette of RS", no. 116/2008, 104/2009, 101/2010, 78/2011 – other law. 101/2011, 38/2012 decision-CC, 121/2012 and 101/2013) provides that: **"In selecting and recommending the appointment of public prosecutors it is taken into account the ethnic composition of the population, adequate representation of national minorities and knowledge of professional legal terminology in the minority language which is in official use in court. "**

By the article 21 of the Law on Protection of Rights and Freedoms of National Minorities it is stated that: **"In public employment, including the police, it is taken into account the ethnic composition of the population, adequate representation and the knowledge of the languages spoken in the area of the body or service."**

By the article 15 of the Framework Convention for the Protection of National Minorities of the Council of Europe it is stated that: **"The Parties shall create the conditions necessary for the effective participation of national minorities in cultural, social and economic life and public affairs, particularly those affecting them."**

The representation of the Bosniaks in the exercise of judicial functions in the area which is territorially in jurisdiction of Senior Public Prosecutor's Offices in Novi Pazar, Uzice and Basic Prosecutor's Office in Prijepolje, is not compatible with the national structure of the population in these areas, and with the principles of effective participation of minorities in the work of state bodies, proclaimed by the Constitution, laws and international law.

During the last election of holders of judicial functions it was roughly violated the Constitution, the mentioned laws and accepted rules of international law to the harm of the Bosniak citizens of the Republic of Serbia, who were deprived of the right to entry the public office within the judicial authorities to the extent prescribed by the Constitution, laws and international law.

In its third report on the implementation of the Framework Convention for the Protection of National Minorities in the Republic of Serbia, the Advisory Committee of the Council of Europe emphasizes the problem of insufficient presence of Bosniaks and Albanians in the judicial system: **"the Advisory Committee again calls on the Serbian authorities to take decisive measures in order to address the underrepresentation of national minorities in public administration, especially at the state level. Such measures should be undertaken in the judiciary especially when it comes to the Albanian and Bosniak national minorities ... "**

In the annual report of the European Commission on Serbia's progress in 2015, in the report on Chapter 23 "Judiciary and Fundamental Rights", it was noted in the part related to Sandzak **"... The Bosniak community is still underrepresented in local government, the judiciary and the police... "**

In accordance with the above, in order to establish the rule of law and respect for and implementation of the Constitution, laws and binding international documents, we ask that you observe this and accept our request, and in accordance with your powers ensure that:

- a) Suspension of the procedure of choice of public prosecution office at the Higher Public Prosecutor's Office in Novi Pazar, Uzice, as well as prosecutors' offices that are located in their composition;
- b) In accordance with the Constitution and the law it is made the selection of the holder of public prosecution office at the Higher Public Prosecutor's Office in Novi Pazar, Uzice, as well as prosecutors' offices that are located in their composition, which will reflect the ethnic structure of the population and ensure adequate representation of the Bosniaks.

With respect,

Place: Novi Pazar

President of the
Council

Date: 17.12.2015.
No: 1223-01/2015

Dr. Sulejman Ugljanin