



BROCHURE

of the Office of the Disciplinary Counsel

Guide for the procedure of
submitting complaints against
judges and/or prosecutors and
legal associates in Bosnia and
Herzegovina

Contact information:

High Judicial and Prosecutorial Council of BiH
Office of the Disciplinary Counsel
Kraljice Jelene 88
71000 Sarajevo
<https://udt.pravosudje.ba>
Tel: 033 707 543 (You can contact ODC by
phone every working day from 10:00 to 12:00
hours)

Briefly about the Council and ODC

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina (hereinafter: the Council) is an independent body of Bosnia and Herzegovina, established by the law that entered into force on 1st June 2004 (hereinafter: the Law), which has numerous functions, and one of them is the protection of the public and the judicial system from those judges and prosecutors who commit disciplinary offenses prescribed by the Law. The Council performs this function through the Office of the Disciplinary Counsel (hereinafter: ODC) and disciplinary commissions that conduct disciplinary proceedings.

ODC acts on complaints or on the basis of information obtained by other means. The **Council and ODC do not have the authority to correct wrong decisions of judges or prosecutors, nor can they order the court or the prosecutor's office to take cases into work.**

For this reason, the ODC does not investigate, for example, complaints that the judge could have imposed a lighter or heavier sanction, accepted or refused to present a certain piece of evidence, that he should have believed another witness, that he should have ordered the prosecutor to take the case to work, etc., unless there is evidence that the judge's/prosecutor's decision is motivated by some inappropriate reasons.

If you believe that the judge's or the prosecutor's decision is wrong, then you should use appeals and other prescribed legal remedies to correct wrong decisions.

Who can file a complaint?

A complaint can be submitted by any natural or legal person.

Who can I file a complaint against?

Complaints to the ODC can be filed against judges and prosecutors in all courts and prosecutor's offices in BiH, **except judges of constitutional courts**, and legal associates in municipal courts in the Federation of BiH (hereinafter: NPF).

For which behaviours and omissions should I file a complaint?

Disciplinary offenses are prescribed in Articles 56 and 57 of the Law on the HJPC of BiH, and some of these offenses are:

- dealing with bias and prejudice;
- violation of the obligation to treat the parties correctly;
- accepting gifts or rewards intended to influence decisions or actions in any way;
- use of duty to obtain unjustified benefits for oneself or other persons;
- failure to seek exemption from dealing with cases when there is a conflict of interest;
- engaging in activities incompatible with duties.

Can ODC help me in a case that is being handled in court or the prosecutor's office?

No. ODC does not have the authority to influence the course or outcome of the proceedings, nor can it change the judge's/prosecutor's decisions.

Can the ODC help me if I am dissatisfied with court or prosecutor's office officials who perform administrative duties?

NO. ODC does not have jurisdiction over the issue of disciplinary liability of employed personnel who are not holders of judicial functions. In the event that you are dissatisfied, for example, with the behaviour of the court driver, then you should file a complaint to the president of that court.

Can ODC give me a legal advice?

No. ODC cannot provide legal assistance to the parties.

How to file a complaint?

Before filing a complaint, you should keep in mind that the disciplinary procedure cannot be initiated after the expiration of five (5) years from the day when the offense was committed.

The complaint is submitted in writing to the address of the ODC. You can find the complaint form on the Council's website <https://udt.pravosudje.ba>.

The complaint should contain **as many concrete facts (details) and circumstances** describing the violation of the duty of the judge/prosecutor as possible. It is desirable to state the dates, places, names, addresses and phone numbers of the witnesses. If you have copies of letters, contracts, court decisions or other documents that confirm your claims about a disciplinary offense committed, attach them to the complaint. Copies of documents do not need to be certified. **Do not send original documentation**, because ODC has no obligation to return received documentation.

How my complaint is handled?

Upon receipt, the ODC conducts an initial review of the complaint, and if necessary, obtains additional information to clarify certain allegations. If it is determined that there is a reasonable basis to believe that the judge/prosecutor has committed a disciplinary offense, a detailed investigation will be initiated.

Investigation

The investigation includes the collection of detailed relevant information related to the allegedly committed disciplinary offense.

If sufficient evidence is gathered that a disciplinary offense has been committed, the ODC:

- may offer the judge/prosecutor to resign before filing a disciplinary complaint, if one or more disciplinary offenses have been committed that require the termination of the judge/prosecutor function;
- will initiate disciplinary proceedings before the Council by filing a disciplinary complaint.

Rejection of complaint and objection

ODC will reject the complaint and close the case:

- after the initial inspection or preliminary check if the complaints do not constitute an offense;
- if the investigation shows that the complaint is not founded or the allegations of the complaint cannot be proved.

ODC delivers a notification letter about the rejection of the complaint. There is no right of objection or appeal against the decision of the ODC. If the complainant submits new or additional information, it will be considered.

Duration of the procedure

The review, preliminary check and investigation of the complaint should be completed within two (2) years from the date of receipt of the complaint.

Disciplinary proceedings are initiated by filing a disciplinary complaint. It is conducted before the Council's disciplinary commissions and can last up to one year, but the Council can extend that period for justified reasons.

Who makes the final decision?

The final decision on whether a disciplinary offense has been committed is made by the members of the Council.

What measures can be imposed on the judge/prosecutor?

Measures ranging from a written warning, which is not made public, to permanent dismissal from duty can be imposed.

Is the information I provide confidential?

ODC strives to preserve confidentiality and secrecy before initiating disciplinary proceedings, and in case of initiating disciplinary proceedings after an investigation, ODC is obliged to exchange relevant information with the judge/prosecutor.

ODC receives anonymous complaints, but in these cases, it is difficult or impossible for it to obtain additional evidence, which may lead to rejection of the complaint due to insufficient evidence.

Remark

If you have already filed a complaint with the ODC, this brochure is sent to you to confirm receipt of the complaint and to inform you that we are investigating your complaint, and that you will be informed in writing of the final outcome of our investigation.

We also ask you not to contact the ODC to find out at what stage the complaint is being processed, because the ODC cannot provide parties with such information over the phone. If you have additional information, please contact ODC in WRITING, so that we can take it into consideration.