

**“General prohibition of discrimination in
International Law: *Sejdić and Finci v.
Bosnia and Herzegovina*”**

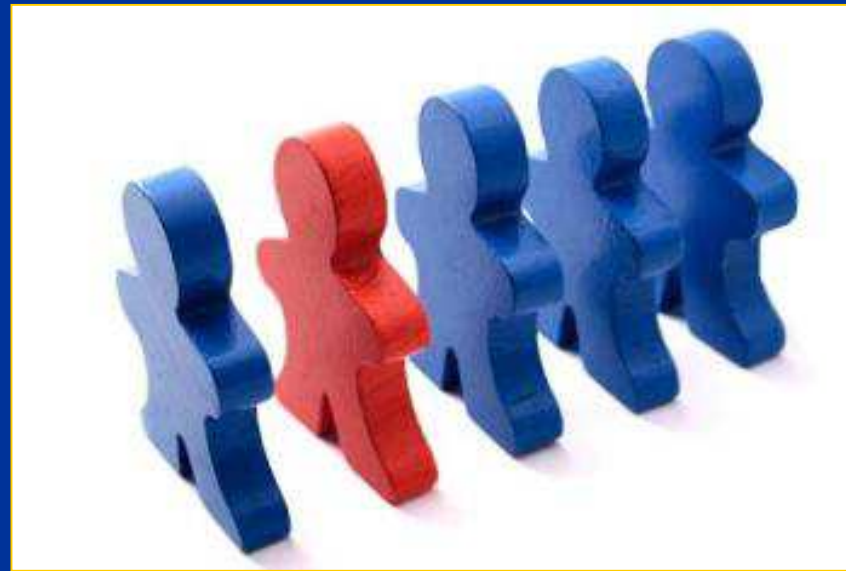


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Introduction

The *Case of Sejdić and Finci* is related to:

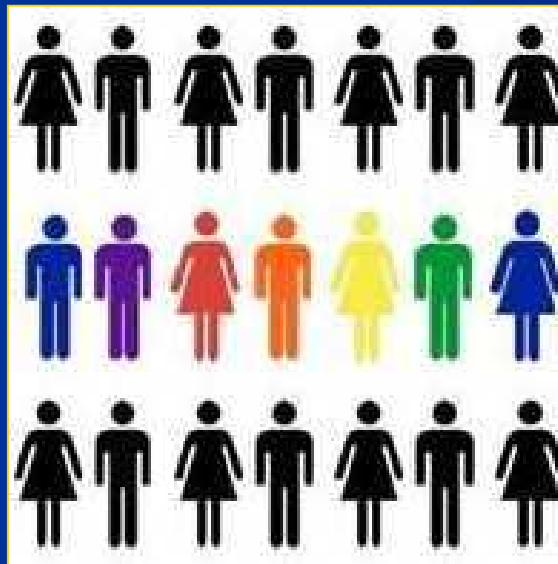
- Minority rights protection
- General prohibition of discrimination



Introduction

Historic judgement related to a violation of

- Article 1 of Protocol No. 12 – general prohibition of discrimination
- Article 14 of the ECHR– freedom from discrimination
- Article 3 of Protocol No. 1 – free elections to the legislature



Introduction

- The **precedent character** of the case has gained great publicity in the international community
- Complexity of **socio-political relations** in Bosnia and Herzegovina
- Discussed about by the highest human rights court in Europe sitting as a **Grand Chamber**



Overview of factual status

- The Judgement of **22 December 2009** found certain provisions of the **Bosnian Constitution** and **election laws** to discriminate against minorities



Overview of factual status

- **Dervo Sejdić** – the Roma Monitor of the OSCE Mission to BiH



- **Jakob Finci** – Ambassador of BiH to Switzerland



Overview of factual status

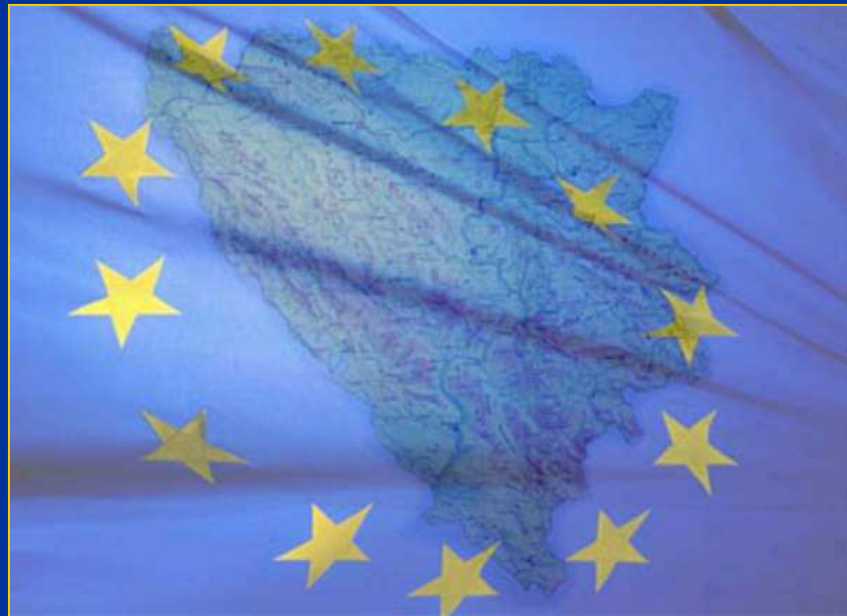
- Applicants **complained** of their ineligibility to stand for election to
 1. The House of Peoples
 2. The Presidency

- “Constituent peoples” v. “Others”



Discrimination and electoral system of BiH

- 1995 General Framework Agreement for Peace in BiH (The Dayton Agreement) – a **political compromise**
- The Constitution of BiH – Annex 4
- 2001 Election Law



The Court's Assessment

1. **House of Peoples**
 - Violation of Article 14 taken in conjunction with Article 3 of Protocol No. 1
 - Not necessary to examine separately whether there has also been a violation of Article 3 of Protocol No. 1 taken alone or under Article 1 of Protocol No. 12
2. **Presidency of BiH**
 - Violation of Article 1 of Protocol No. 12



Current situation

- Action plan for the implementation of the Judgement has been adopted:
 1. Amendments to the Constitution
 2. Amendments to the Election Law

- Parliamentary Assembly Resolutions on Urgent Need for Constitutional Reform 1701(2010) and 1725(2010)



Concluding observations

1. Solutions should not encourage new dangerous tensions among peoples in BiH
2. Need for an integrated approach to the right of equality in Europe
3. The equality principle should be perceived as a **building block of democracy**

