

2019 ALTERNATIVE REPORT ON THE APPLICATION OF BOSNIA AND HERZEGOVINA FOR THE EUROPEAN UNION MEMBERSHIP: POLITICAL CRITERIA

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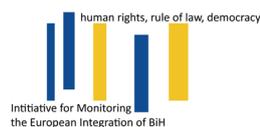
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THE INITIATIVE FOR MONITORING THE EUROPEAN INTEGRATION OF BOSNIA AND HERZEGOVINA

www.eu-monitoring.ba

Sarajevo, February, 2019

ISSN: 2303-6079



Human Rights Papers of Sarajevo Open Centre

Paper 44

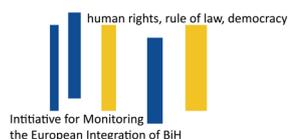
- Title: 2019 Alternative Report on the Application of Bosnia and Herzegovina for European Union Membership: Political Criteria
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- Editor: Tijana Cvjetićanin
- Proofreading: Šejla Hukara
- Translation to English: Context translation services
- Design/layout: Lejla Huremović
- Publisher: Sarajevo Open Centre (www.soc.ba) on behalf of the Initiative for Monitoring the EU Integration of Bosnia and Herzegovina (www.eu-monitoring.ba)

On behalf of the Publisher: Emina Bošnjak

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This publication is the result of the work of civil society organisations within the Initiative for Monitoring the European Integration of BiH, the Initiative “Women Citizens for Constitutional Reform” as well as associates outside this coalition. This publication is supported by the National Endowment for Democracy (NED).

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LIST OF ABBREVIATIONS

AP	Action Plan
ATV	Alternative Television
BHRT	Radio-Television of Bosnia and Herzegovina
BiH	Bosnia and Herzegovina
CEC	Central Election Commission of Bosnia and Herzegovina
CMS	Content Management System
CoE	Council of Europe
CoM	Council of Ministers
CRA	Communications Regulatory Agency of Bosnia and Herzegovina
DF	Democratic Front (political party)
DPO	Disabled People's Organisations
ECHR	European Court of Human Rights
EU	European Union
EUROSTAT	Statistical Office of the European Union
FBiH	Federation of Bosnia and Herzegovina
GDPR	General Data Protection Regulation
GRECO	Council of Europe Group of States against Corruption
HAK	Chlorine Alkaline Power House
HDZ BiH	Croatian Democratic Union of Bosnia and Herzegovina (political party)
HJPC BiH	High Judicial and Prosecutorial Council of Bosnia and Herzegovina
HNC	Herzegovina-Neretva Canton
HoR PABiH	House of Representatives of the Parliamentary Assembly of BiH
HRW	Human Rights Watch
IC	Inquiry Committee
IOM	International Organization for Migration
LGBTI	Lesbian, gay, bisexual, transgender, and intersex persons
MoI	Ministry of Interior
NATO	North Atlantic Treaty Organisation
OSA BiH	Intelligence-Security Agency of Bosnia and Herzegovina
OSCE	Organization for Security and Co-operation in Europe
PABiH	Parliamentary Assembly of Bosnia and Herzegovina
PFBiH	Parliament of the Federation of Bosnia and Herzegovina
RS	Republika Srpska
RSNA	National Assembly of the Republika Srpska
RTRS	Radio-Television of the Republika Srpska

RTV	Radio-Television
RTVFBiH	Radio- Television of the Federation of Bosnia and Herzegovina
SBB	Union for a Better Future (political party)
SCO	Civil Society Organisation
SDA	Party of Democratic Action (political party)
SDP BiH	Social Democratic Party of Bosnia and Herzegovina (political party)
SDS	Serb Democratic Party (political party)
SNSD	Alliance of Independent Social Democrats (political party)
SRNA	Republika Srpska News Agency
TI BiH	Transparency International BiH
TPP	Thermal Power Plant
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	The United Nations Children's Fund

INTRODUCTION

The 2019 Alternative Report on the Application of Bosnia and Herzegovina for European Union Membership: Political Criteria is the result of the work of an informal coalition of forty (40) civil society organisations under the Initiative for Monitoring the European Integration of Bosnia and Herzegovina. The report primarily refers to the political criteria for EU membership, but also includes Special Reports on 2018 General Elections, the situation with respect to migrants and refugees in BiH, and on citizens' protests in the Republika Srpska.

In the European integration context, Bosnia and Herzegovina is constantly lagging behind other countries of the region and the lag is becoming evidently bigger with time. By the disorderly and untimely fulfilment of fundamental obligations in the European integration process, Bosnia and Herzegovina fails to demonstrate a true commitment to reform processes on the European path and for now keeps such a commitment at a declarative level.

Three years have passed since the submission of the application for the membership of Bosnia and Herzegovina in the European Union, whereas three and a half years have passed since the Stabilisation and Association Agreement between Bosnia and Herzegovina and the European Union. From that time to the present day, Bosnia and Herzegovina did not manage to put in function all the bodies envisaged by the Agreement, as the Stabilisation and Association Parliamentary Committee has not yet adopted its Rules of Procedure. The process of answering the European Commission Questionnaire, presented to potential candidate countries, was only coming to an end in the time of the finalisation of this Report. The coordination mechanism, which was supposed to establish a functional decision-making process in the European integration, proved inefficient and remains equally non-transparent as the process of its establishment.

The preceding election year was marked by constant turmoil over the amendments to the electoral legislation and the election process itself. However, Bosnia and Herzegovina failed to resolve any of the election related open issues. There has been no attempt at all to implement the decisions of the European Court of Human Rights in cases Sejdić and Finci, Zornić, Pilav or Šlaku. Furthermore, until the election day, the issue of election of the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina has not been resolved, which called into question the implementation of election results with respect to members of the Parliament of the Federation of Bosnia and Herzegovina, but also of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina. On the other hand, the election process underwent only minor surface changes and the process has not been modernised by new technologies.



2018 was marked by an influx of migrants and refugees into Bosnia and Herzegovina. Despite it being an expected scenario, the institutions were unprepared and demonstrated the usual lack of coordination and cooperation at different governance levels. At one point, the situation resulted in a police blockage of migrants' and refugees' transport from Sarajevo Canton to Herzegovina-Neretva Canton, organised by the HNC Ministry of Interior, despite the fact that it was humanitarian.

The assembly of Banja Luka citizens which became the longest protest in Bosnia and Herzegovina after the war, started in March 2018 with the goal of revealing the truth about the death of a student, David Dragičević. His parents claim that he was murdered and that the Ministry of Interior of the Republika Srpska is involved in the cover-up of the murder. At first, the institutions in the Republika Srpska ignored the assemblies of citizens, however, they grew massive to the extent that they became a hindrance for the government in the pre-election period. On one occasion, the President of the Republika Srpska promised the group that the square where they gather will be “cleared” after the elections, as it was with the use of force and detention of citizens, including also some members of the Republika Srpska National Assembly.

Summarising the previous year, we can conclude that the political representatives again do not refrain from inflammatory nationalistic rhetoric; moreover, such a practice intensified during the election process and it characterised the reactions of officials to the arrival of refugees and migrants in BiH. Officials continue to employ mutual accusations to distract the public from unresolved political issues which keep piling up, as well as also from everyday problems of citizens – this is illustrated by the fact that the government formation process has not been finalised even five months after the elections.

1. DEMOCRACY AND THE RULE OF LAW

1.1. Constitutions

Judgements in cases *Sejdić and Finci* (2009), *Zornić* (2014), *Pilav* (2016) and *Šlaku* (2016) instructing BiH to eliminate the discriminating provisions from the Constitution have not been implemented yet.¹ A working group that was supposed to define deadlines for the implementation of judgements of the European Court of Human Rights (*Sejdić and Finci*, *Zornić*, *Pilav vs. Bosnia and Herzegovina*) has never been formed.

The issue of amendments to the BiH Constitution in the previous period was treated only through discussions about amendments to the Election Law and solving of the issue of appointment of members to the FBiH House of Peoples, following the decision of the BiH Constitutional Court upon appeal of Božo Ljubić, which finds that existing method of appointment of delegates to the House of Peoples of the FBiH Parliament is discriminatory, and that it should be changed.

After the General Elections which took place in October 2018, another application against Bosnia and Herzegovina was filed before the European Court of Human Rights, on similar grounds like in the case of Ilijaz Pilav. The application was filed by Svetozar Pudarić, after CEC refused to verify his candidacy for the Serb member of BiH Presidency because, according to the existing Election Law, he cannot run in the election for this office as a Serb with registered place of residence in the Federation of BiH. Pudarić filed an appeal to the Constitutional Court of BiH against CEC's decision, arguing that the Court cannot proclaim that it has no jurisdiction this time like it did in previous similar cases, considering that it accepted Božo Ljubić's appeal and ruled upon it, which Pudarić interprets as a legal precedent.² The Constitutional Court dismissed Pudarić's appeal as inadmissible, after which Pudarić submitted an appeal before the European Court of Human Rights in late October 2018.³

1.2. Constitutional courts

In a session held on 1.6.2017, the Constitutional Court of Bosnia and Herzegovina ruled the Decision in case U-5/16, concluding that certain provisions of the Criminal Procedure Code of Bosnia and Herzegovina were not in compliance with the provisions of the Constitution of Bosnia

1 A detailed overview of developments with the implementation of the EctHR's judgement is available in previous reports of the Initiative for Monitoring the European Integration of Bosnia and Herzegovina (<http://eu-monitoring.ba/publikacije/>) (in local language)

2 Svetozar Pudarić about candidacy rejection: CEC's decision is discriminatory, Klix, 1.6.2018, <https://bit.ly/2Eub9Vt> (in local language)

3 Pudarić sues BiH before the Court in Strasbourg, too, Istinomjer, 25.10.2018, <https://bit.ly/2Tem4dN> (in local language)



and Herzegovina and of the European Convention on Human Rights. The disputable Code provisions were related to the issues of granting immunity to witnesses, special investigative measures (which criminal offences are not subject to such measures, and the imposition and duration thereof), and duration and issuance of an indictment.

The Court ordered the Parliamentary Assembly of BiH to align these provisions and to notify the Court thereof within six months, which did not happen because the whole process was politicized in the meantime.⁴

In May 2018, the Constitutional Court decided that the implementation of the Code will continue in accordance with the previous decision, thus avoiding a dangerous legal vacuum which would additionally jeopardize functioning of judicial institutions.⁵ Only five months later, in September 2018, HoR of PABiH adopted amendments to this Code in an urgent procedure.

1.3. Parliaments

After the General Elections which took place in October 2018, the majority of parliaments in the country did not establish parliamentary majorities which would confirm the appointment of the new executive government. The usual delay in the establishment of the parliamentary majority on the levels of FBiH and BiH has been additionally complicated by the decision of the Constitutional Court based on Božo Ljubić's appeal, and by the fact that HDZ BiH posed a condition that amendments to the Election Law be adopted before the government appointment. The Central Election Commission's instruction for appointment of delegates to the House of Peoples of FBiH,⁶ according to which the cantonal assemblies were to appoint their delegates for the House of Peoples of PFBiH and to submit the lists to CEC within seven days, has been implemented by five out of ten cantons.⁷

The practice of unplanned and inefficient work of the parliaments continued in 2018. The Parliamentary Assembly of BiH was completely inactive: in this period, only three laws were adopted at PABiH, two in ordinary, and one in urgent procedures. The RS National Assembly adopted 46 laws, of which 29 (63%) in urgent procedures. FBiH Parliament adopted 14 laws, of which 2 in urgent procedures, 8 in accelerated, and only 4 in regular procedures. Altogether, 71% of adopted laws were considered in extraordinary procedures.

Parliaments do not meet transparency and data openness indicators yet.⁸

4 After 9 months of sloth, Grubeša can only rely on the Constitutional Court of BiH, Istinomjer, 20.3.2018, <https://bit.ly/2tBOUXb> (in local language)

5 Constitutional Court of BiH: Criminal Procedure Code remains in force, Oslobođenje, 31.5.2018, <https://bit.ly/2BSugGV> (in local language)

6 See the chapter on elections in this Report.

7 How long until the government in BiH gets appointed?, Istinomjer, 11.1.2019, <https://bit.ly/2BTlzfM> (in local language)

8 Good governance road map for the state institutions in Bosnia and Herzegovina,

Harmful practices of abuse of public resources by representatives of the legislative government branch were also continued. The Law on Salaries and Other Allowances in the Administrative Bodies of FBiH regulates the right of professional delegates to a separate maintenance allowance. Among other things, the separate maintenance allowance also includes a housing benefit for all professional delegates whose residence is at least 70 km far from the capital. Since the fact whether a delegate owns an apartment or not has no influence on their right to accommodation allowance, the Parliament does not check if delegates own any real estate. Although most delegates do not live in housing units paid by public money,⁹ around two million BAM was paid to delegates of the FBiH Parliament during the previous mandate based on separate maintenance allowances.¹⁰

BiH still violates the Stabilisation and Association Agreement, because even three years after establishment of the Parliamentary Committee for Stabilisation and Association in PABiH, it has not become functional due to non-adoption of the Rules of Procedure.¹¹

1.4. Executive authorities

Since the confirmation of the election results, governments of the Republika Srpska, West-Herzegovina Canton, Una-Sana Canton and Sarajevo Canton have been appointed. Directly elected officials also assumed their offices (three members of the Presidency of Bosnia and Herzegovina, and President of the Republika Srpska). Other governance levels have not been established.

Nonexistence of a ruling majority in the Parliamentary Assembly of BiH significantly affected the efficiency of the Council of Ministers, too. Adoption of work programmes of the Council of Ministers of BiH for each current year was delayed from 11 days to 4 months, which constitutes a violation of the Rules of Procedure.

During its mandate period, the Council of Ministers of BiH held 117 sessions, of which 30 extraordinary, and defined 77 laws.¹² Almost 1/3 of the proposed laws (24) came from the Ministry of Justice of BiH, while the Ministry of Foreign Affairs of BiH did not propose a single law during

UG *Zašto ne*, December 2018, <https://bit.ly/2AQLu79> (in local language)

9 False accommodation for additional income, CIN, 9.8.2017, <https://bit.ly/2NtocsT> (in local language)

10 Empty apartments burdening the budget, CIN, 27.8.2018, <https://bit.ly/2wrKIue> (in local language)

11 The Stabilisation and Association Parliamentary Committee - “no” from Brussels to Entity voting, *Istinomjer*, 9.4.2018, <https://bit.ly/2TaZ8ML> (in local language)

12 For example, during the 2006-2010 term, the Council of Ministers of BiH achieved significantly better results in legislative activities, because it defined 179 laws, which is by 102 laws more than during the 2014-2018 term, when 77 laws were defined. (Term report on monitoring of the BiH Council of Ministers’ work from 12.10.2014 to 30.6.2018, Centres for Civic Initiatives)



its mandate. Of the measures planned in the Reform Agenda, somewhat less than $\frac{3}{4}$ of measures within the competence of the Council of Minister were implemented, which gives rise to the conclusion that the Action Plan of the reform agenda on the level of BiH has not been successfully implemented.¹³ **Bosnia and Herzegovina remains the only country in the region without a law on foreign affairs.**

Members of executive governments on state and Entity levels were unsuccessful in the implementation of election programmes of the government-forming parties. Ruling coalitions in BiH and FBiH fulfilled around 3% of their promises, and the percentage is somewhat higher in the RS (4%). The total percentage of fulfilled promises in the 2014-2018 term amounts to 3.3%, which is an almost identical result to the one in the previous term, which amounted to 3.1%.¹⁴

No significant progress was made in strengthening of administrative and institutional capacities for the assessment of conformity of BiH legislation with the *acquis* during the reporting period.¹⁵ The European Commission delivered additional questions to BiH in August, and the deadline for the submission of answers was the beginning of October 2018.¹⁶ Until the finalization of this report, BiH institutions did not submit answers to the additional questions of the European Commission. At the time of delivery of the additional questions, the Initiative for Monitoring the European Integration of BiH expressed scepticism about the finalization of answers within the foreseen time limit.¹⁷

So far, the coordination mechanism has been used only for answering basic and additional questions of the European Commission, and neither was the public informed about levels of decision making on certain questions within the coordination mechanism, nor was the process transparent. The fact that more than 14 months were already spent on answers to main questions from the Questionnaire and that answers to additional questions are already four months late indicates that the coordination mechanism is inefficient.

1.5. Government openness and cooperation with civil society

The openness level of the executive government in BiH is still low. Executive government branch in BiH meets the total of 45% of openness

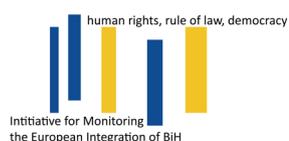
13 Ibid.

14 Report on fulfilment of pre-election promises on state and Entity levels in the 2014-2018 term, Istinomjer, September 2018, <https://bit.ly/2EwTFYy> (in local language)

15 A detailed overview of the state of affairs in this field can be found in the previous Alternative Report (<https://bit.ly/2Hq3nLc>, p. 49-51) (in local language)

16 EC expects to receive answers to the Questionnaire by early October, N1, 18.8.2018, <https://bit.ly/2Eweh31> (in local language)

17 Press release concerning the submission of additional questions by the European Commission, Initiative for Monitoring the European Integration of BiH, 21.6.2018, <https://bit.ly/2Iz2c0V> (in local language)



indicators, and ranks among the last countries in the region in that regard.¹⁸ On average, ministries in BiH only meet 27% of government openness criteria, whereas 45 administration bodies in BiH that are covered by the survey only meet 23% of openness indicators.¹⁹

The online consultation platform²⁰ which was launched in 2017 enables review of draft legislative and other documents prepared by ministries and institutions on the state level (until the end of 2018, of the total of 70 institutions, 59 have been included in the work of the platform). Experiences of the organizations using the platform are mostly positive, especially because document development plans are available beforehand, and the institutions provide feedback and explanations for accepting or rejecting the submitted proposals and suggestions. On the other hand, the consultation period does not last long enough, and consultations are rarely implemented before the development of the preliminary draft. A purposeful public consultation process should certainly include other forms of communication, such as debates, roundtables etc. More than 2,000 legal and/or natural persons are registered on the platform, and so far, they submitted more than 1,200 proposals and comments.

The Agreement on Cooperation between the Council of Ministers of BiH and OCDs was adopted at the BiH Council of Ministers session held on 26.9.2017. In the first segment, apart from the establishment of the Department for legal aid and civil society development, activities were launched on the establishment of a CoM's advisory body for cooperation with NGOs²¹ which was formed in January 2019.²² A proposal for the document on transparent financing of associations is expected, as well as the beginning of the process of development of a Civil Society Strategy in BiH.

Work in NGOs registered at the state level is regulated by the Law on Civil Service in the Institutions of Bosnia and Herzegovina, which equalises employees of non-profit organisations with employees financed from the

18 BiH ranks fifth (last but one) for executive government openness, with only a few percentages more than Kosovo which ranks last. The survey was conducted in the executive government institutions in BiH and included the Council of Ministers of BiH, Entity governments, state-level and Entity-level ministries and administration bodies, and 45 institutions were included in the survey sample. (See: Results of the regional index: Lesser openness, institutions stagnating, UG *Zašto ne*, 28.12.2018, <https://bit.ly/2EwMP5b>) (in local language)

19 Good governance roadmap for the state institutions in Bosnia and Herzegovina, UG *Zašto ne*, December 2018, <https://bit.ly/2AQLu79> (in local language)

20 e-Consultation, <https://ekonsultacije.gov.ba>

21 Public call for appointment of five members to the advisory body of the Council of Ministers of BiH for cooperation with non-governmental organisations – closed, Ministry of Justice of Bosnia and Herzegovina, 18.12.2018, <https://bit.ly/2XnJOeU> (in local language)

22 Proposal for the Decision on appointment of members of the Advisory body of the Council of Ministers of BiH for cooperation with non-governmental organisations, Network for Building Peace, 31.1.2019, <https://bit.ly/2IwrigW> (in local language)



state budget. The unacceptable and non-stimulating legal framework, which has been in force since 2005, has been somewhat mitigated by the most recent amendments in July 2018, exempting the non-governmental sector from the obligations of taking the professional exam, recruitment through the Civil Service Agency, and implementation of disciplinary proceedings. However, provisions of employment contracts and contract termination methods are still disputable, as is the lack of flexibility regarding the duration and type of employment contracts.

1.6. Civilian oversight of security services

In the past year, there were no recorded cases of abuse of power of the Intelligence and Security Agency of BiH, and there were no communications of civilian managers about the Agency's work, although certain political pressure on this institution was noticed from time to time. Due to political disagreements, the Parliamentary Joint Committee on Supervision of the work of Intelligence and Security Agency of BiH did not perform its function in the course of last year.

The Chairman or members of the Council of Ministers of BiH did not come forward regarding the work of administrative organizations of the Ministry of Security of BiH in the past period, although they are nominally in charge of the development of annual work plans and budget approval. Results of a survey of citizens' viewpoints in 2018, which was published by the Centre for Security Studies, indicate that 79% of respondents believe that politicians influence the work of the police. Such a high percentage certainly points to inadequate civilian oversight, and to the need for better-quality relations for the purpose of establishing a more professional, more independent and more efficient police structure serving the citizens.

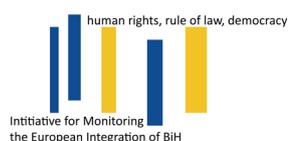
Recent promotion of the highest Armed Force officers to Generals was subject to a political turmoil. The appointments, which were established by the BiH Presidency, did not receive approval of members of the BiH Parliamentary Assembly. These promotions were almost a year late following the expiry of mandates of existing Generals.²³

1.7. Public administration

No progress was recorded in key public administration reform areas. Data relating to transparency of the public administration's work²⁴ indicate that the institutions still do not publish the same types of information; contracts

23 For a more detailed analysis of civil oversight of security services, see: Denis Hadžović, Civil oversight of security sector in Bosnia and Herzegovina, Initiative for Monitoring the European Integration of BiH, 5.12.2018, <http://bit.ly/2IzVR5i> (in local language)

24 Monitoring of the public administration reform in BiH: Analysis of results in the fields of transparency, accountability and integrity in public administration in 2017, Transparency International BiH, April 2018, <https://bit.ly/2Vj39Mi> (in local language)



for services are still not planned beforehand, and there are no indications that procedures for this kind of engagement have been improved. Many weaknesses or shortfalls in public administration's work reoccur, such as frequent changes of job classifications indicating that personnel policies are mostly random, and that they are not created on mid-term or long-term basis.

Some progress was achieved with regard to the integrity. The number of institutions that adopted integrity plans or plan to develop them in the period ahead has increased. In the course of 2016, development of the new Public Administration Reform Strategy for Bosnia and Herzegovina commenced. The draft strategic framework for public administration reform was finalised in 2017, and the public consultation process was conducted. In March 2018, representatives of the Joint Working Group for the development of 2018-2022 Public Administration Reform Strategic Framework agreed on the sixth revised Draft strategic framework which was sent to the Council of Ministers of BiH, Government of the Republika Srpska, Government of the Federation of BiH and Government of Brčko District of BiH for consideration. The Council of Ministers adopted the new Strategic Framework in September 2018, and the Public Administration Reform Coordinator's Office is to submit an Action Plan for the implementation of this strategy to the Council of Ministers.

In February 2018, a TAIEX seminar for representatives of ministries of justice in BiH was organised, focusing on the Law on Free Access to Information, and on the need for alignment with proactive transparency principles. The seminar resulted in a series of recommendations for improvement of the legal framework, such as the adoption of a new umbrella state-level law, with a special focus on the proactive transparency principle and digital forms of submission, i.e. publication and delivery of information. Also, the recommendations define more clearly the exemptions, and the public interest test which has been disputable so far. The Personal Data Protection Agency announced alignment of the Law on Personal Data Protection with the GDPR regulation on the EU level, although BiH is not obligated to align with this regulation.

In late 2017, the Council of Ministers established a working group for drafting of a law on amendments to the Law on Public Procurement and, in the meetings that followed in the current year, it also considered proposals of civil society organisations focused on the increase of transparency and prevention of corruption in public procurement: alignment of legislation with more recent EU directives; development of a system towards better planning; linking of procurement plans with annual and multiannual budgets; development of the concept of procurement purposefulness; strengthening of the provisions governing conflict of interest; revision of the legal protection model; mandatory division to lots in order to stimulate participation of small and medium enterprises, etc.



Monitoring of the public procurement process in 2018 shows that problems are still present, such as carrying out of unplanned public procurement procedures, incorrect application of the BiH Law on Public Procurement, and significantly increased spending of public resources. By the end of September 2018, the monitoring covered 3,580 individual procurement procedures of the total value of BAM 1,645,189,461.70 including VAT. Increased number of notices has been published on the e-portal, and the number and total value of monitored public procurement procedures have also gone up by around 30% in the election year of 2018, compared to the previous, non-election year.²⁵

1.8. Anti-corruption

Monitoring report on the implementation for the Anti-Corruption Strategy of BiH indicates that many activities have not been implemented, or were implemented only partially.²⁶ The Law on Prevention of Conflict of Interest in the institutions of Bosnia and Herzegovina has not been adopted yet, although it was sent to the parliamentary procedure as early as in October 2017. The issue of the conflict of interest in the judiciary has been regulated by the Rulebook on conflict of interest in the High Judicial and Prosecutorial Council, which was supposed to be the initial step towards broader and clearer regulation of conflict of interest in the entire justice sector. The Rulebook only applies to the HJPC, and it has not been expanded to other judicial institutions yet.

According to available data on prosecution of corruption before courts and prosecutor's offices for 2017, the achieved results are not satisfying. Negative trends are visible in the decreased number of reports, number of investigations, and number of issued indictments. The number of prosecutorial decisions relating to orders on non-conducting of an investigation is extremely high and accounts for over 50% of reported corruptive crimes, which points to inadequate work of law enforcement agencies. In 2017, prosecutor's offices in Bosnia and Herzegovina received 19.5% less reports than in 2015, and 7.6% less than in 2016. Suspended sentences dominate the structure of convictions for corruption crimes, which points to a lenient sentencing policy. Such data are worrying, especially if one keeps in mind that human and material capacities of prosecutor's offices continuously increase.²⁷

²⁵ The public procurement monitoring was conducted jointly by the Open Society Fund of BiH, EDA Development Agency, Transparency International BiH, Centre for Investigative Reporting of BiH, and Citizens' Association "Tender."

²⁶ The second Monitoring Report of TI BiH on the implementation of the 2015-19 Anti-Corruption Strategy, Transparency International BiH, December 2017, <https://bit.ly/2SZrw5f> (in local language)

²⁷ Monitoring report on processing of corruption before courts and prosecutor's offices in Bosnia and Herzegovina 2017, Transparency International BiH, December 2018, <https://bit.ly/2SpN711> (in local language)

At its 28th special session of 4.7.2018, the National Assembly of the Republika Srpska adopted the new Anti-corruption Strategic Framework. Government of the Republika Srpska adopted the Action Plan for implementation of the 2018-2022 Anti-Corruption Strategy at its 195th session in mid-September. Within the preparation of the new Strategy, the Ministry of Justice of the Republika Srpska as the coordinator of this activity also consulted non-governmental organisations. The new strategic framework sets the following objectives: strengthening of the institutional and legal framework for anti-corruption, more effective use of existing capacities and improvement of cooperation on the detection, prosecution and sanctioning of corruption crimes, increase of transparency and integrity of the public sector, adequate use of information-communication technologies, etc. The main drawback of the Action Plan is related to vague deadlines and activities, the time period for foreseen activities is not closely defined, or it is only stated that activities will be continuously implemented.

During the first year of implementation of the new Law on Protection of Whistle-Blowers in the Republika Srpska,²⁸ Transparency International in BiH (TI BiH) was approached by two persons who sought legal protection pursuant to this Law. Both persons requested initiation of court protection, but one of them did not obtain the status of a protected whistle-blower because of the overly short time limit foreseen for the court protection.²⁹ Too short deadlines for initiation of court proceedings should be taken into account when considering amendments to the Law. Data that other organisations and the RS Ministry of Justice dispose with³⁰ indicate that, despite the new legal solution, only a few people decided to report corruption and seek legal protection. According to the Ministry's data, only two charges were brought before competent courts in the first year of implementation.³¹

The practice of political appointments in the institutions on all governance levels continued. The Human Rights Ombudsmen Institution issued a release regarding this issue, emphasizing the omnipresent practice in the appointment of managers of public companies, institutions and bodies in the whole country to select candidates based on their partisan affiliation, instead of quality and competency.³²

28 The first part of the 19th regular session completed, the new Criminal Code and the Law on Whistle-Blower Protection adopted, National Assembly of the Republika Srpska, 15.6.2017, <https://bit.ly/2H1tuuu> (in local language)

29 Whistle-blowers increasingly report corruption, the largest amount of reports related to public administration, Transparency International BiH, 9.8.2018, <https://bit.ly/2EvkAE0> (in local language)

30 Corruption in the RS; Whistle-blowers become increasingly quiet, Big portal, 20.9.2018, <https://bit.ly/2SqCATM> (in local language.)

31 Two civil actions filed to competent courts, SRNA, 10.7.2018, <https://bit.ly/2U-6Vh0n> (in local language.)

32 Press release on political appointments of public officials, the BiH Human Rights



There has been no significant progress in financing of political parties. Amendments to the Law on Financing of Political Parties which were adopted in May 2016 missed the opportunity to improve the measures and strengthen mechanisms for prevention of the abuse of public resources for election campaign purposes and of the pressure on voters and other forms of abuse that are frequent due to insufficiently clear provisions. Monitoring of the election campaign which was implemented by TI BiH for the 2018 general elections illustrated this and recorded numerous abuses of public functions and public resources for election campaign purposes.³³

GRECO recommendation from 2015 urging for publication of asset declarations of appointed officials was implemented in April 2018.³⁴ In April this year, CEC published consolidated asset declarations for public officials on all administrative levels in BiH, respecting provisions of the Personal Data Protection Law, but the declared items are still not verified. Non-verification of the information provided in asset declarations is still a problem, because candidates do not declare all of their assets, and especially assets of close relatives, and financial information is often incomplete.

Ombudsmen Institution, 19.2.2018, <https://bit.ly/2BQu8b4> (in local language.)

33 See the chapter on elections in this Report.

34 Namely, upon recommendations of the Personal Data Protection Agency of BiH, asset declarations of officials were removed from the website of the Central Election Commission (CEC), public access to the declarations was prohibited, and they became available only upon request, but not in the electronic format.

2. HUMAN RIGHTS AND PROTECTION OF MINORITIES

2.1. Fight against discrimination

The Ministry of Human Rights and Refugees of BiH has been planning for years to develop a medium-term plan for combating discrimination but there are still no results in this regard. According to the 2018 Work Programme of the Council of Ministers,³⁵ the Ministry was supposed to make a draft of the 2017-2020 Medium-term plan for combating discrimination with the 2017-2022 Training programme for promotion and protection of human rights in BiH. The purpose of this document is to ensure the systemic combating of discrimination and to envisage a harmonised system of measures, requirements and public policy instruments which BiH should implement with the goal of preventing and reducing all forms of discrimination, particularly those against vulnerable persons or groups. This obligation has been postponed again for the end of next year by the Work Programme of the Ministry of Human Rights and Refugees,³⁶ equally as in the previous years. It can therefore be concluded that this process is in a permanent standstill without a solution in sight.

The obligation to establish a database of cases of discrimination and human rights violation, which has been introduced as early as 2009, has not been met yet but there have been recent activities to that end.³⁷ This year, the Ministry of Human Rights and Refugees implemented, with assistance from the EU and the Council of Europe, a series of trainings for civil servants in collecting, analysing, interpreting and inputting data on discrimination in BiH, and a future database software manual has been finalised.³⁸

In cooperation with the Human Rights Ombudsmen Institution and the Ministry of Human Rights and Refugees of BiH, Save the Children launched an internet platform for reporting discrimination,³⁹ which forwards the reports directly to the Ombudsmen Institutions and the Ministry.

35 2018 Work Programme of the Council of Ministers BiH, Council of Ministers BiH, January 2018, <https://bit.ly/2Vm5DK7> (in local language)

36 Preliminary draft of the 2019 Work Programme of the Ministry of Human Rights and Refugees, eKonsultacije, 18.12.2018, <https://bit.ly/2VleCLv> (in local language)

37 Law on Prohibition of Discrimination, Article 8(5) – Official Gazette, 59/09

38 Promotion of the anti-discrimination manual for civil servants, judiciary, civil society organisations and media and presentation of the anti-discrimination database by Ministry of human rights and refugees in Sarajevo and Tuzla, Council of Europe, 6.2.2018, <https://bit.ly/2Vm64UL>

39 Online platform for reporting discrimination, Save the Children, <http://prijava-diskriminaciju.ba/> (in local language)



2.2. Status and rights of the Roma people

There has been no progress in the improvement of the position of Roma in BiH in the recent period.

The 2015 Law on Permanent and Temporary Residence of Citizens of Bosnia and Herzegovina remains one of the biggest obstacles for Roma population to exercise their rights.⁴⁰ Bearing in mind that there are many persons of Roma nationality who do not own property and/or live in improvised or illegal housing, they are denied the possibility to report their residence and therefore the possibility of obtaining identification documents, by which their right to freedom of movement as well as many other rights are restricted. All of this increases the danger that a growing number of children will fall under the risk of statelessness because they cannot be entered into registers within a regular time limit. The direct consequence of such legislative solutions is also the violation of numerous economic and social rights, including the right to education.⁴¹ Association *Vaša prava BiH* identified in their fieldwork a number of children who have not been registered, as well as children not having a unique citizen's number or registered residence, which constitutes an obstacle for school enrolment.

In September 2018, the Council of Ministers adopted the 2018–2022 Framework Action Plan on the Educational Needs of Roma in BiH. According to the information of CoM BiH, funds amounting to BAM 590,000 have been ensured in the state budget for the implementation of specific measures of the Action Plan.⁴²

In addition to other problems created by the Law on Residence, an increasing problem is its interpretation by social institutions in practice. Specifically, Article 8(7) of this Law stipulates that the competent social welfare body may allow a person not having an address or means to settle housing needs to register residence at the address of the social welfare institution if the person provides his/her contact address to the competent authority. Competent social welfare centres often verbally refuse the request of a person to approve the registration at their address. Since recently, the beneficiaries also get written refusals with explanations that the institutions “may” proceed in that manner but the law does not bind them to, i.e. it does not stipulate that they must provide approval.

Access to healthcare for Roma in the Federation BiH is much more difficult.

⁴⁰ See more in previous reports of the Initiative for Monitoring the European Integration of BiH (<http://eu-monitoring.ba/publikacije/>)

⁴¹ 2017 Analysis of the field of residence registration in BiH, Association *Vaša prava BiH*

⁴² Conclusions of the 155th session of the Council of Ministers of Bosnia and Herzegovina held on 25.9.2018, Council of Ministers of BiH, 5.11.2018, <https://bit.ly/2NtiLtU> (in local language)

Article 12 of the Law on Health Protection of FBiH⁴³ singles out persons of Roma nationality not having a permanent residence in FBiH as a special category of population with access to healthcare.⁴⁴ However, this does not resolve the problem of healthcare for persons of Roma nationality who have an orderly registered residence and they don't fall under the category of insured persons under the Law on Health Insurance of FBiH.⁴⁵ Often, rights to healthcare are lost due to lack of knowledge about the regulations.

2.3. Persons with disabilities

In comparison with the situation described in the previous Report⁴⁶ there have been no significant changes in either the legislation or practice with respect to ensuring the rights of persons with disabilities in line with the UN Convention on the Rights of Persons with Disabilities and recommendations which BiH received through the Universal Periodic Report and from the Committee on the Rights of Persons with Disabilities.

A positive step forward, and a result of long-term advocacy of disabled persons' organisations in the RS, is that persons who have been born with or have acquired disability before the age of 18 which is not war-related, are entitled to disability allowance as of mid 2018.⁴⁷ Despite the fact that the allowance is small (BAM 100) it is of help for persons with disabilities living in rural areas in the RS and without access to various support services that exist in larger RS towns. For now, the funds are allocated in accordance with a Decision but it is expected that this right of persons with disabilities will be integrated into the law.

In 2018, the Union of Disabled Persons' Organisations of BiH was established and it gathers associations and organisations of persons with disabilities from both entities. One of its goals is to harmonise the fundamental rights of persons with disabilities based exclusively on the consequences of disability, irrespective of the circumstances of its occurrence.

43 Official Gazette of the Federation BiH, 46/10, 75/13

44 The solution for the implementation of this provision has been partly found in the approval of special funds for healthcare of the Roma population with respect to which the Government of the Federation BiH adopts a decision every year (See: Decision on the adoption of the programme of expenditure of funds with the funds allocation criteria *Current transfer to other levels of governance and funds – Health protection of Roma in the Federation of Bosnia and Herzegovina* defined by the budget of the Federation of Bosnia and Herzegovina for 2018 to the Federation Ministry of Health – Official Gazette of FBiH, 21/18)

45 Official Gazette of the Federation BiH, 30/97, 7/02, 70/08, 48/11, 36/18

46 2018 Alternative Analytical Report on the Application of Bosnia and Herzegovina for European Union Membership: Political Criteria, Initiative for Monitoring the European Integration of BiH, February 2018, <https://bit.ly/2R2qj8v>, p. 75.

47 Decision on the approval to allocate funds for the improvement the position of persons with disabilities by providing personal disability allowances, 181st session of the RS Government of 14.6.2018.



The Coalitions of Disabled Persons' Organisations⁴⁸ will focus in the next four years on advocacy for inclusive education, in accordance with the General Comment on Article 24 of the Convention of the Rights of Persons with Disabilities issued by the Committee on the Rights of Persons with Disabilities in 2016. This year, MyRight organised a series of seminars for the representatives of the coalitions based on the above comment in order for persons with disabilities to acquire sufficient knowledge and have equal access to advocacy for inclusive education, but also for them to be included in the consultations that preceded the drafting of the voluntary national review. In 2019, BiH will draft a review to report on progress in the implementation of sustainable development goals, particularly Goal 4 (ensure inclusive and just quality education).

2.4. Returnees and displaced persons

Returnees and displaced persons continue, due to their specific status, to face the problem of access to rights in fields of healthcare, social protection, as well as right to access to justice, i.e. free legal aid.

Due to Entity competences with respect to the exercise of these rights, many returnees have fictitious registered residence especially in the municipalities “on the borders” of Entities and Cantons. The 2015 Amendments to the Law on Temporary and Permanent Residence of Citizens of Bosnia and Herzegovina affected also the internally displaced persons, especially those who lease their apartments, as some lessors refuse to register them at the residence address. This leads to the inability to register temporary residence, obtain valid documents, and by that limits access to other rights.⁴⁹ Finally, despite the fact that Entity laws guarantee the right to alternative housing to displaced person,⁵⁰ the practical implementation of the right to housing is insecure as it is not clearly defined who is competent to enable the right to housing for this population.

48 Coalitions of Disabled Persons' Organisations (DPOs), which are part of the MyRight capacity building programme and include over 60 DPOs: Kolosi Bijeljina (RS), Informal Coalition of Disabled Persons' Organisations Doboj (RS and FBiH), Coalition of Disabled Persons' Organisations of Tuzla Canton (FBiH), Coordination Board of Coalitions of Disabled Persons' Organisations of Sarajevo Canton (FBiH), Coalition *Stronger Together* of Herzegovina-Neretva Canton (FBiH).

49 Article 8(2) of the Law on Temporary and Permanent Residence of Citizens of Bosnia and Herzegovina (Official Gazette of BiH, 32/01, 56/08, 58/15) stipulates that a valid ground for temporary residence is, inter alia, *verified lease agreement or certified contract of tenancy with verified proof of ownership or co-ownership or ownership of the landlord*.

50 Article 11 of the Law on Displaced Persons and Returnees in FBiH (Official Gazette of FBiH, 15/05) and Article 14 of the Law on Displaced Persons, Returnees and Refugees in the Republika Srpska (Official Gazette of RS, 42/05).

2.5. Gender equality

There has been no significant progress in the gender equality field in the recent period in comparison with the situation described in the previous Report.⁵¹

Certain steps forward have been noted in the Republika Srpska where in March 2018 the implementation of a law started which introduces the right to maternity allowance for all unemployed new mothers in the amount of BAM 405 for a period of 12 months, and in case of twins and every third and subsequent child for a period of 18 months. The aim of this measure is to reduce the difference between employed and unemployed mothers and to ensure that unemployed mothers receive certain financial assistance during the period in which employed mothers are entitled to a paid maternity leave. It was announced that a child support fund will be established in the Republika Srpska, however, it has not happened yet.

The Law on Infertility Treatment with Bio-Medically Assisted Fertilisation was adopted in the Federation of BiH aimed at providing equal treatment to women in the entire Federation of BiH and co-financing of bio-medical fertilisation, and Brčko District of BiH finally adopted a Law on Protection from Domestic Violence. Although this Law introduces urgent protective measures, certain forms of domestic violence are defined as infringements – similarly to the Law of the Republika Srpska – which creates space for more lenient sanctions for perpetrators of violence and twofold regulation of this offence. The new, third Gender Action Plan was adopted for the period 2018-2022.

The financing of safe houses remains inadequately resolved. Furthermore, in May 2018, the House of Peoples of the Parliamentary Assembly of BiH refused to approve the Agreement on the grant between the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the Ministry of Foreign Affairs of the Kingdom of Norway to improve the safety of women and respond to gender based discrimination and violence in BiH, which was supposed to also include financing of safe houses.

The results of 2018 General Elections show that a total of 27.53% women⁵² were elected on all levels in BiH (state, entity, cantonal), which constitutes

51 2018 Alternative Analytical Report on the Application of Bosnia and Herzegovina for European Union Membership: Political Criteria, Initiative for Monitoring the European Integration of BiH, February 2018, <https://bit.ly/2R2qj8v>, p. 28.

52 Information on convocations of the observed bodies for the 2018-2022 mandate refers to the official confirmed results of the Central Election Commission and is available at: <https://bit.ly/2H1W2nS>, accessed on 28.11.2018. It is possible that the information will not reflect the situation in the observed bodies after the formal start of the mandate (some elected members will not take over the mandate, some elected members may be appointed to the executive branch during the mandate, some may withdraw...).



an increase of 7.63%⁵³ in comparison with the previous mandate.⁵⁴

According to official CEC results, of the 42 members 7 women (16.66%) were elected to the House of Representatives of the Parliamentary Assembly, which is a decrease of 7.15% in comparison with the previous mandate when there were 10 women (23.81%) elected to this body.⁵⁵ Of 98 members in the House of Representatives of the Parliament of the Federation BiH, 26 women were elected (26.35%), which is an increase of 4.92% in comparison with the previous mandate when there were 21 women elected. Of 83 members of the RS National Assembly, 15 women were elected (18.07%),⁵⁶ which is an increase of 2.03% in comparison with the previous mandate when there were 13 women elected.⁵⁷ For the second time, a woman will serve as president of the RS.

Almost all cantonal assemblies have seen an increase in the number of elected women, and three cantonal assemblies meet the legally stipulated minimum quota of 40% of the less represented sex in governance bodies.⁵⁸

With respect to women's labour rights, a 2018 research⁵⁹ showed that gender based discrimination in employment is present in all its segments: from the vacancy notice (searching for women workers, young, good looking), through the interview (with questions about the marital status of women, family planning, pregnancy) to the most severe forms of discrimination in employment – less pay for equal work than for male colleagues, dismissals due to pregnancy, sexual harassment, inability to

53 Information on convocations of previous mandates refers to the official confirmed results of the Central Election Commission. During the course of the four-year mandate, the representation of women in men in some of the observed bodies changed significantly, but the first official CEC data were used for the purpose of comparison in order to obtain a clear picture whether the situation truly changed and to what extent.

54 Edita Miftari (2015), *Political participation of women in Bosnia and Herzegovina: Analysis of the participation of women on party lists and the final results of the general elections 2014*, Sarajevo: Sarajevo Open Centre and CURE Foundation, p. 55.

55 *Orange Report 2016 – Annual Report on the State of Women's Rights in Bosnia and Herzegovina*, p. 28, Sarajevo, Sarajevo Open Centre, 2016.

56 2018 General Elections – Confirmed results, CEC BiH, <https://bit.ly/2H1dloX>, accessed on 28.11.2018.

57 Edita Miftari (2015), *Political participation of women in Bosnia and Herzegovina: Analysis of the participation of women on party lists and the final results of the general elections 2014*, Sarajevo: Sarajevo Open Centre and CURE Foundation, p. 51.

58 The highest number of women was elected in Herzegovina-Neretva Canton (46,66%) and the quota was met also by the assemblies of Zenica-Doboj Canton and Central Bosnia Canton – 40% of women members each.

59 A research on discrimination on the labour market was conducted as part of the regional EU funded project “Empowering civil society organisations to combat discrimination and improve women's labour rights”. Helsinki Citizens' Assembly Banja Luka, as one of project's partner organisations, was in charge of carrying out the BiH research which included: analysis of the legal framework, analysis of responses received from more than 100 institutions, interviews with discrimination victims and an online survey.

get promoted, mobbing. The research also showed that BiH does not have a confidential and secure system to file complaints about gender based discrimination and sexual harassment at the workplace, that data on discrimination at the workplace are not recorded, that there is no judicial practice of prosecuting discrimination cases, and that the legal framework on gender based discrimination in employment and labour in BiH is fragmented in inconsistent in practice.

In addition to being exposed to discrimination, women in BiH are affected by poverty to a larger extent. According to available data, 19.5% of households in BiH live below the poverty line, and most numerous among the poor are women headed households.⁶⁰ Social Inclusion Strategy, drafted as early as 2009, has never been adopted on the state level, and the last in a range of key documents, the Reform Agenda, was assessed as declarative and lacking measurable social objectives and gender perspective.

2.6. Rights of LGBTI persons

Sarajevo Open Centre's 2017 research on the problems and needs of the LGBTI community showed that every third LGBTI person in BiH experienced some form of discrimination.⁶¹ The Special Report of the Human Rights Ombudsmen Institution on the Rights of LGBT persons in BiH of December 2016 presented 12 recommendations to institutions and authorities on different governance levels.⁶² Eight recommendations have not been implemented and four have been only partially implemented.

The FBiH Government adopted a conclusion tasking the Federation Ministry of Justice to establish a working group to analyse legislation which is to regulate mutual rights and obligations of same-sex couples.⁶³

The FBiH Government provided a positive opinion on the draft 2018-2020 Action Plan for the Equality of LGBTI persons in Bosnia and Herzegovina.⁶⁴ The Action Plan was submitted to the Government of the Republika Srpska for opinion but their response is still pending and it is required for adoption by the Council of Ministers.

There have been no changes with respect to the procedure for the change

- 60 Women and Poverty in Acts of EU and BiH, Helsinki Citizens' Assembly Banja Luka, October 2018, <http://bit.ly/2XpOhxE> (in local language)
- 61 Numbers of Equality, Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 - Analysis of Findings, Sarajevo Open Centre, October 2017, <https://bit.ly/2IDhOR5> (in local language), p. 25.
- 62 2018 Pink Report, Annual Report on the State of the Human Rights of LGBTI People in Bosnia and Herzegovina, Sarajevo Open Centre, May 2018, <https://bit.ly/2R12mkY> (in local language), str. 20.
- 63 The Government of the Federation of BiH adopted a conclusion to establish a working group to draft the Law on Same-Sex Partnership, Sarajevo Open Centre, 19. 10. 2018, <https://bit.ly/2GK25xZ> (in local language)
- 64 Opinion of the Government on the draft LGBT AP, Gender Centre of the Government of the Federation BiH, 28.9.2018, <https://bit.ly/2NseneV> (in local language)



of sex marker on personal documents to enable such change of documents without requesting complete medical sex reassignment.⁶⁵

CURE Foundation and Sarajevo Open Centre (SOC) launched an initiative in 2016/2017 to amend textbooks and eliminate stereotypes about LGBTI persons which was supported by the Gender Equality Agency of BiH. The initiative was submitted to the Federation Ministry of Education and Science which sent it to publishing houses but they failed to express any interest to resolve this issue.⁶⁶ The results of a 2013 research showed that “19.58% of secondary school students think that verbal violence against persons of homosexual orientation is justified, and as many as 18.90% think that even physical violence against persons of homosexual orientation is justified”.⁶⁷ Sarajevo Open Centre’s research showed that LGBTI persons most often experience discrimination in education institutions (including harassment and sexual harassment). As many as 41.2% of such cases referred to schools and 19.1% to university faculties; at the same time, only 9.1% of these cases are reported to managements of educational institutions. There is no specific institutional plan to combat peer violence and develop inclusive and tolerant educational environment which would include also the LGBTI perspective.

2.7. Right to education

Two schools under one roof remain an unresolved issue. The Supreme Court of the Federation BiH dismissed the application of the Association *Vaša prava BiH* to review the judgment of the Cantonal Court in Travnik in the proceedings against the Ministry of Education of the Central Bosnia Canton, but also eight schools in Vitez, Bugojno, Busovača, Uskoplje, Jajce and Gromiljak near Kiseljak. The Supreme Court of the Federation BiH concluded that education under special national curricula does not constitute discrimination and segregation of children. In its decision, the Supreme Court referred to the Report of the Human Rights Committee, adopted at a session of the Council of Ministers of Bosnia and Herzegovina, which reads “there have been improvements in education, 70% of contents in the curricula fall under the common core” by which, in their interpretation, “the elements of segregation have been eliminated”.

The Association *Vaša prava BiH* filed an appeal against the judgment

65 2018 Pink Report, Annual Report on the State of the Human Rights of LGBTI People in Bosnia and Herzegovina, Sarajevo Open Centre, May 2018, <https://bit.ly/2R12mkY> (in local language), p. 34.

66 In the same year, CURE Foundation launched an initiative to amend the contents of school textbooks in BiH in order to eliminate violent and discriminatory stereotypes based on gender and gender roles. The Gender Equality Agency of BiH provided its support to the initiative in 2018 and it was submitted for consideration to the Federation Ministry of Education and Science which has not yet responded.

67 Aleksandar Božić, Selma Mustaćević, Aida Vrabac Trnačević, Memnuna Zvizdić, Dragana Miljković, Enisa Raković, Jovanka Popović. Prevention of Gender Based Violence in Schools – Manual for Teaching and Professional Support Staff in Primary and Secondary Schools, In fondacija, Banja Luka, 2016, p. 6.

of the FBiH Supreme Court.

In the Republika Srpska, without any supporting public debate or consultations with the academic and professional community, religious teaching was introduced in secondary schools. A few years earlier, the curriculum was amended to exclude computer science from secondary school grade 4 and Latin from grade 2 under the excuse that students are overburdened.⁶⁸ The public found out about the plans to introduce religion after the meeting held by Milorad Dodik, the then president of the RS, with the Banja Luka bishop Jefrem in 2017.⁶⁹

According to data available on the website of the Republika Srpska Pedagogical Institute, Orthodox Christian and Islamic religious classes are available.⁷⁰ The annual number of classes of Orthodox Christian and Islamic religious teaching is 36 for first grades of secondary schools.⁷¹ The Institute published information on subject contents but not on staff employed to teach religion, the method of their selection, the sources for payment or its amounts, or on how many students in the RS decided to take religious classes so that it can be assessed whether the number justifies the introduction of this subject in secondary schools.

The Academic Council of the Faculty of Philosophy in Banja Luka found this move unacceptable, primarily because the curriculum amendment procedure was circumvented, there has been no public debate or consultation with the academic and professional community. On the other hand, the president of the Council of Secondary School Principals of Banja Luka Region, Kristina Mrđa, expressed her support for this decision.⁷² Questions about the secular nature of institutions were raised in the public, i.e. the obligation to separate the religious from the institutional, as well as questions about the nature of the study of the subject, potential religion based segregation of students etc.⁷³

Religious teaching was introduced in the RS primary schools in 1990s by the Law on Primary Education and Care and is still being studied from grade 1 to grade 9 in primary schools, unless parents decide that their child will not attend religion. In the Federation BiH, religion is studied in

68 A claim by Ivana Berić, teacher of English language and literature in the Mrkonjić Grad Gymnasium.

69 Dodik and Bishop Jefrem: Bring religion closer to youth, RTRS, 2.4.2017, <https://bit.ly/2H0g41P> (in local language)

70 Curriculum for the first grade of all courses, new, Republika Srpska Pedagogical Institute, <https://bit.ly/2GYHCVm> (in local language)

71 Curriculum for the first grade of all courses, new, Republika Srpska Pedagogical Institute, <https://bit.ly/2BRn7X8> (in local language)

72 Religious teaching to enter secondary schools, Glas Srpske, 4.4.2017, <https://bit.ly/2Iz5d1f> (in local language)

73 Cassocks in the RS classrooms, Novi Plamen, 11.4.2017, <https://bit.ly/2U85iKH> (in local language)



both primary and secondary schools. The Framework FBiH Curriculum⁷⁴ stipulates that the subject of religion will be regulated by cantonal education legislation and is differently conceived in cantons. For example, in Tuzla Canton religion is not taken into account for average grade, whereas in Zenica-Doboj Canton it is treated like any other subject.

2.8. Freedom of assembly

In 2018, protests of women from Kruščica near Vitez against the construction of mini hydro power plant continued.⁷⁵ The Ministry of Interior of Central Bosnia Canton filed infringement reports against five women and a criminal report against one person for preventing investor's machines to pass.⁷⁶

The members of the veteran population also held several large protests⁷⁷ some followed by road blocks due to the failure to meet three requirements: publication of register of veterans, granting veterans' allowance for demobilised soldiers, and termination of financing for veterans' associations.⁷⁸

The Constitutional Court of BiH accepted the appeal of Sarajevo Open Centre and others and confirmed that the authorities of Sarajevo Canton violated the fundamental right to freedom of assembly of LGBTI persons by failing to secure the safety of participants of the Merlinka Festival in 2014. The Constitutional Court confirmed that, by failing to secure the safety of participants but also to conduct a thorough investigation and sanction the perpetrators of violence, the public authorities have also violated the prohibition of subjecting one to torture or inhuman or degrading treatment, specifically they made possible the homophobic and transphobic violence on the Festival.⁷⁹

The attempts to harmonise the areas of freedom of assembly in the Federation BiH and to prepare a preliminary draft of the law on freedom of assembly at the Entity level stopped once the working group of the FBiH Government and the Federation Ministry of Interior received comments to

- 74 Framework curriculum for nine-year primary education in the Federation of Bosnia and Herzegovina, Federation Ministry of Education and Science, <https://bit.ly/2BSFfQz> (in local language)
- 75 Kruščica inhabitants protested in the centre of Travnik: Belief in the judiciary is all we have left, Klix, 15.11.2018, <https://bit.ly/2Thd6g6> (in local language)
- 76 With an applause and exclamations "thieves", citizens of Kruščica sent the machines off, Oslobođenje, 17.8.2018, <https://bit.ly/2GYGIYS> (in local language)
- 77 Protest in Sarajevo: Representatives of veterans will attend the session of the FBiH Parliament, Radio Sarajevo, 10.7.2018, <https://bit.ly/2BQrcec> (in local language)
- 78 Veterans' protests: "Neither Bosnia nor Herzegovina will be at peace", N1, 26. 7. 2019, <https://bit.ly/2Th6a2p> (in local language)
- 79 Competent institutions violated the freedom of assembly of the LGBTI community failing to protect the Merlinka Festival, Sarajevo Open Centre, 16.1.2019. <https://bit.ly/2RuATsB> (in local language)

the preliminary draft from international experts. The comments went in the direction of improving the legislation on the right to freedom of assembly and removing the restrictions that the working group envisaged.

The most massive and the longest protest in the previous period took place in Banja Luka, prompted by inappropriate actions of the police in the case of death of David Dragičević which has not been resolved yet. Protest took place every day on Krajina Square in Banja Luka until December 2018 when they were prevented with the use of force (see Special Report on “Justice for David” protests in this Paper).

3. TRANSITIONAL JUSTICE

3.1. War crimes trials

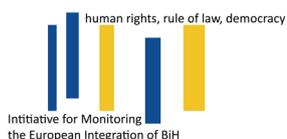
After the closing of the Hague Tribunal in December 2017, the International Residual Mechanism for Criminal Tribunals took over appellate procedures against Radovan Karadžić and Ratko Mladić, and a renewed trial of Jovica Stanišić and Franko Simatović started. Pronouncement of the final judgement in Karadžić case is expected soon. Trial chamber members in Mladić case, some of whom worked in the Tribunal as judges, were replaced. It is unknown when the judgement against Mladić will be imposed, because new judges have to get familiar with the case first. Existing cooperation of countries from the region with the Mechanism has been estimated as incomplete, and described as technical more than substantial, which was repeatedly emphasized by the chief prosecutor Serge Brammertz before the UN. There are over 40 confirmed indictments for war crimes before the Court of BiH. Indicted persons are unavailable, and it is suspected that they are in Serbia or Croatia. This is another indicator of the nonexistence of regional cooperation.

The Mechanism also oversees the execution of sanctions imposed against convicts. In that regard, imposition of prohibitive measures (public appearances, possibilities of running for election and political engagement, contacts with witnesses etc.) that were not imposed by the Tribunal is a novelty. The measures were imposed against Valentin Ćorić in “Prlić and others” case, who was released after serving two-thirds of the sentence.

According to the Human Rights Watch data, 114 cases involving 296 defendants were ongoing before the Court of BiH until September 2018. From the beginning of the year until September 2018, the Court of BiH pronounced 29 judgements, of which 14 convictions, 12 acquittals, and three partial acquittals. The Court ruled seven judgements in sexual violence cases, of which five were convictions.

According to HRW, between January and September 2018, seven cases were initiated before the Supreme Court of the Republika Srpska which tries war crimes cases in that Entity, four of which resulted in convictions, and the remaining three procedures were still ongoing at the time of writing this report. One of the four convictions was related to wartime sexual violence. Statistics of cantonal courts in the Federation of BiH were not available at the time of writing this report. In January 2018, the Court of BiH confirmed the genocide indictment against the former Minister of Interior of the Republika Srpska, Tomislav Kovač.

The total of 73 persons were indicted last year, which is almost twice as many as in the previous year. Acquittals of Naser Orić and Sabahudin



Muhić, former members of BiH Army who were indicted for war crimes against Serbs attracted public attention the most.

Last year, the Prosecutor's Office of BiH reopened the investigation of the crime in Dobrovoljačka Street. Recently, the Prosecutor's Office of BiH issued several indictments against command personnel, including Atif Dudaković and others for crimes in Krajina, and Ramiz Dreković for shelling of Kalinovik, which is the first case so far focusing on shelling.

With regard to the 2008 War Crimes Processing Strategy which expired, a working group was established, which agreed on the Revised strategy last year. According to the proposed Revised strategy, the time limit for resolution of all war crimes cases is five years. As specified in the document, the Prosecutor's Office of BiH holds over 550 unresolved war crimes cases involving 4,500 known perpetrators, and the same number of cases involving unknown perpetrators. There are around 200 cases before the Entity and Brčko District courts involving known war crimes perpetrators.

The Ministry of Justice of BiH sent the Revised strategy to the Council of Ministers of BiH, and amendments to the proposed strategy were requested afterwards. The amended proposal has not been submitted to the Council of Ministers yet.

There are still unaligned practices and non-compliance with the HJPC's guidelines on publicly confirmed indictments and judgements in war crimes cases, and they are published with full names and surnames of defendants. Indictments of the Prosecutor's Office of BiH are still publicly unavailable, i.e. they are not published. The Court of BiH publishes first instance and second instance judgements, whereas the Supreme Court of the Federation as the second instance body of cantonal courts does not publish war crimes judgements. The Supreme Court of the Republika Srpska, as the second instance body above district courts publishes second instance judgements, but they are fully anonymised.

Earlier proposal of the Ministry of Justice of BiH to allow amnesty of convicted war criminals who served three-fifths of their prison sentence was raised again at the RS National Assembly, and its re-initiation at the Parliamentary Assembly of BiH is expected. The Ministry of Justice of BiH recently issued a decision allowing war criminal Marko Radić, who was finally convicted before the Court of BiH, to serve the prison sentence in Croatia, where it was reduced significantly. Such decision violates the bilateral agreement between BiH and Croatia on mutual enforcement of court decisions in criminal matters, which explicitly prohibits transfer of own citizens to serve prison sentences in another country.⁸⁰

⁸⁰ The purpose of transfer of convicts to serve prison sentences in the country of origin, Marko Radić is a citizen of BiH, the Initiative for Monitoring the European Integration of BiH, 12.11.2018, <https://bit.ly/2JWKDFf> (in local language)



The problem which was created by Article 43a of the Criminal Code of FBiH also remained unsolved in 2018. It foresees that a prison sentence of 12 months or fewer will be automatically converted to a fine upon the petition of the convict,⁸¹ which additionally undermines public confidence in the justice system when applied in practice.

3.2. Rights of torture victims

In June 2018, the RS National Assembly adopted the Law on the Protection of Victims of Wartime Torture. Although significantly improved from the original preliminary draft, the adopted version of the Law includes a few solutions that could prevent full exercise of rights of some victims during their implementation. TRIAL International and Amnesty International, among other things, expressed concern about Article 16(3). It restricts the list of evidence establishing the suffered torture only to those issued by the official institutions and bodies of the RS. They are also concerned about Article 16(7) which lays down that the competent body conducting the procedure for establishment of the status of a torture victim will also request the opinion of the RS Association of Camp Detainees and/or of the RS Association of Women Victims of War, and of other associations of civilian victims of war who obtained the status of associations of public interest.⁸² Considering that cases of some victims currently residing in the RS have been documented only by associations and bodies outside of this Entity, such evidence could be excluded. Also, the five-year time limit for submission of an application for the status of a torture victim, pursuant to Article 38(1) of the Law on the Protection of Victims of Wartime Torture, is still restrictive.

3.3. Wartime sexual violence

Court treatment of sexual violence victims is still inadequate. Judicial actors in criminal proceedings express viewpoints that lead to marginalisation and re-traumatisation of sexual violence victims: that the victims brought violence upon themselves with promiscuous behaviour, that they agreed to the sexual violence crime because they did not resist, that they lied about sexual violence, and that the victims, and not the perpetrators, should be ashamed of the committed sexual violence.⁸³ Existing criminal procedure codes on all governance levels in BiH do not include a provision which would

81 Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014–2016, OSCE Mission in BiH, 20.6.2017, <https://bit.ly/2T1xXkC> (in local language)

82 Adoption of the Law on the Protection of Victims of Wartime Torture of the Republika Srpska, TRIAL International and Amnesty International, June 2018, <https://bit.ly/2Kbaf4I> (in local language)

83 The report of TRIAL International defined four myths that often surface in court proceedings, re-traumatising and re-stigmatising the victims: promiscuity myth, consent myth, credibility myth, and shame myth (See: Rape Myths In Wartime Sexual Violence Trials, Transferring the Burden from Survivor to Perpetrator, TRIAL International, 2017, <https://bit.ly/2NDnRa>, p. 6)

prohibit presentation of evidence or asking questions about sexual behaviour of war crimes survivors after they were raped with the intention to present the injured party as promiscuous and responsible for what had happened to her. Nonexistence of this provision constitutes violation of international standards.⁸⁴ Organisations TRIAL International, SOC and United Women submitted an initiative for amendment to this Law to relevant institutions, in order to prohibit asking of such questions on all governance levels in BiH.

Prison sentences imposed for sexual violence are short and unaligned between different governance levels in BiH. Average duration of prison sentence for this crime is only 4.77 years, which is below the minimum prescribed by the Criminal Code.⁸⁵

Persons intending to file damage claims, especially sexual violence victims, are still referred to civil proceedings without ensured witness identity protection.⁸⁶ Since 2015, apart from establishing criminal liability, perpetrators in twelve cases in BiH were ordered to pay damage compensation to wartime sexual violence survivors ranging between BAM 15,000 and 60,000. Although most of these judgements were adopted before the Court of BiH, there are two positive examples from lower instances.⁸⁷ However, there is no progress in the enforcement of these decisions, because perpetrators are mostly unable to fulfil their obligations.⁸⁸

Statutes of limitations still apply to non-material damage compensation claims against the Entity or the state, and war crimes victims whose claims were rejected are ordered to pay enormous amounts of costs to the respondent Entities. In March 2018, the Constitutional Court of BiH issued a decision for the first time establishing that imposition of the obligation on a wartime rape victim to pay the court expenses poses an excessive burden on the victim.⁸⁹ The Court emphasized that this decision was based on concrete facts of the case, and it is still questionable whether this decision will influence other cases, and to what extent.

Nevertheless, there are signs of positive progress in this domain. In June 2018, TRIAL International and the OSCE Mission to BiH held a meeting with representatives of the Ministry of Justice of FBiH, Ministry of Justice

84 Rules of procedure and evidence, International criminal tribunal, rule 71.

85 The 2018 Alternative Analytical Report on the Application of Bosnia and Herzegovina for EU Membership: Political criteria, the Initiative for Monitoring the European Integration of BiH, February 2018, <https://bit.ly/2R2qj8v>, p. 57 (in local language).

86 Ibid, p. 60.

87 Judgement of the District Court in Doboje (13 0 K 003666 16 K2, of 25 January 2017) and Judgement of the Cantonal Court in Novi Travnik (06 0 K 009862 16 K, of 22 May 2017).

88 The 2018 Alternative Analytical Report on the Application of Bosnia and Herzegovina for EU Membership: Political criteria, the Initiative for Monitoring the European Integration of BiH, February 2018, <https://bit.ly/2R2qj8v>, p. 60 (in local language).

89 Strategic judgement of the Constitutional Court of BiH, TRIAL International, April 2018, <https://bit.ly/2PLfJov> (in local language)



of the RS and the Judicial Commission of Brčko District of BiH, within the joint initiative for alignment of amendments to civil procedure codes on all governance levels, with the purpose of ensuring identity protection to victims in the civil proceedings. In September 2018, the Ministry of Justice of BiH established a working group with the task to align the text of amendments to the civil procedure codes on all governance levels, in accordance with guidelines of the expert working group which had prepared the amendments.⁹⁰ The Ministry of Justice of BiH recently provided free legal aid to a few wartime sexual violence victims for the first time in a criminal proceeding before the Court of BiH, relating to damage compensation claims, on the basis of the 2016 Law on the Provision of Free Legal Aid.⁹¹

3.4. Missing persons

In 2018, no significant progress was recorded in resolving the issues of missing persons and of rights of their families arising from the 2004 Law on Missing Persons. Recommendations of the UN Committee on Missing Persons relating to amendments to criminal codes are still not implemented.⁹²

The Missing Persons Institute is still administratively incomplete. The audit report on the Institute's work in 2017 draws the attention to the issues of expired mandate of the supervisory board, and to the mandate of the temporary management board, the lack of a rulebook on job classification, nonexistence of a comprehensive financial management and control system, and to omissions in public procurement (e.g. purchase of equipment, cars etc.)⁹³ There is some progress with regard to transparency of the Institute's work, considering that there is a functional website providing basic information about the Institute's work.⁹⁴

3.5. Transitional justice strategy and remembrance policies

Bosnia and Herzegovina has not adopted the strategy of transitional justice yet.⁹⁵ No progress was recorded with regard to remembrance policies since the previous report.⁹⁶ Practices of historical revisionism, glorification of

90 Among other things, this is foreseen in the Draft action plan for the implementation of the amended War Crimes Processing Strategy.

91 Another victory against impunity for wartime sexual violence, TRIAL International, 12.10.2018, <https://trial.ba/?p=4> (in local language)

92 The 2018 Alternative Analytical Report on the Application of Bosnia and Herzegovina for EU Membership: Political criterion, the Initiative for Monitoring the European Integration of BiH, February 2018, <https://bit.ly/2R2qj8v>, p. 57 (in local language).

93 Report on the performed financial audit of the Missing Persons Institute of Bosnia and Herzegovina for 2017, Audit Office of the Institutions of BiH, July 2018, <https://bit.ly/2tEBQk2>, p. 18.

94 The Missing Persons Institute of Bosnia and Herzegovina, www.ino.ba

95 A detailed overview of developments relating to the Strategy is available in previous reports of the Initiative for Monitoring the European Integration of BiH (<http://eu-monitoring.ba/publikacije/>) (in local language).

96 The 2018 Alternative Analytical Report on the Application of Bosnia and Herze-

war criminals, public gatherings of fascist organisations⁹⁷ and all other forms of a symbolical “marking of territory” by the ethnic and religious majorities have continued countrywide. Election campaigns contributed to the escalation of nationalist and agitation rhetoric, and spurred fear and distrust between different ethnic groups, while public officials still glorify war crimes and/or publicly negate war crimes established in court sentences.⁹⁸ Institutional facing with the past is still far from a realistic and feasible objective, as long as public highlighting of criminal policies is treated as a legitimate political strategy, and is not subject to any sanctions.

This year, a meeting was held with the mayor of Prijedor, and it was concluded that a memorial to children killed in the Second World War and to children killed in the most recent war should be built in that town. Discussions are still ongoing.⁹⁹

According to amendments to the Election Law, a person serving a sentence for serious violations of humanitarian law, or who refused to comply with the order to appear before the International Criminal Tribunal for the former Yugoslavia or before national courts for such offences cannot be put on the Central Candidate List, run in the election, or hold any public appointment or office on the territory of Bosnia and Herzegovina (Articles 1.6 and 1.7. of the Election Law). However, the Election Law does not prohibit persons who served their sentences for these offences to run in elections, which is the case with the current mayor of Velika Kladuša, Fikret Abdić. Also, Dragomir Vasić,¹⁰⁰ SDS delegate in RSNA at the time, ran in the 2018 General Elections, although a trial against him started in 2016 for planning and carrying out mass executions of Bosniaks from Srebrenica in July 1995.¹⁰¹

govina for EU Membership: Political criterion, the Initiative for Monitoring the European Integration of BiH, February 2018, <https://bit.ly/2R2qj8v>, p. 62 (in local language).

97 An example of a gathering of members of the Ravna Gora chetnik movement in Višegrad in March this year (See: Chetniks in Višegrad: the Ravna Gora movement bows down to Draža Mihajlović), Radio Sarajevo, 13.3.2018, <https://bit.ly/2BRMd-Fw> (in local language).

98 Some of the examples include placement of posters with the picture of the war criminal, the RS Army general Ratko Mladić on the building of the Municipality of Istočno Novo Sarajevo; placement of posters of “Jurišnici” unit in Vlasenica, showing the Municipality mayor and Ratko Mladić; statements of Vukota Govedarica, candidate for president of the Republika Srpska from Alliance for Victory party, who emphasized in his campaign that he would “look like Radovan Karadžić” if he won the elections; putting up the flag of the so-called Herceg-Bosna, which made journalist Štefica Galić file a criminal report to the Prosecutor’s Office of Herzegovina-Neretva Canton against unknown persons (the report was not accepted), etc.

99 Bačić: A step closer to construction of monument to the killed children of Prijedor made, Faktor, 5.8.2018, <https://bit.ly/2SILJwV> (in local language)

100 Verified candidate lists, Central Election Commission of BiH, 14.8.2018, <https://bit.ly/2Tgvaa2> (in local language)

101 Persons accused of genocide in PABiH?, Oslobođenje, 3.7.2018, <https://bit.ly/2B-PSNwa> (in local language)



4. REGIONAL COOPERATION

There have been several summits in 2018 aimed at strengthening the links between the Western Balkans and the European Union, as well as the cooperation between the countries of the region.

The summit of the European Union and the Western Balkans held in May 2018 in Sofia was the first summit of this kind after the Thessaloniki one in 2003 when the countries of the Western Balkans were promised an unambiguous European perspective. The enlargement issues, however, were not the main topic of the summit, whereas the adopted Declaration¹⁰² does not reaffirm the position that 2025 will be the key year for the region's EU integration process as was stated by the EU Enlargement Strategy in the beginning of 2018.¹⁰³

In July 2018, a summit of Western Balkans countries took place in London. It was the fifth summit of the kind and is part of the so-called Berlin Process. It focused on economy, security and political cooperation. During the summit, BiH signed a declaration on missing persons, a declaration on good neighbourly relations and a statement of anti-corruption.¹⁰⁴

An informal summit was held in Durres where there were talks about the creation of a common vision, the European Integration Strategy, implementation and strengthening of the regional economic zone and the Roaming Agreement. Bosnia and Herzegovina took part in this summit which was also attended by the EU Commissioner for Enlargement, Johannes Hahn.¹⁰⁵

4.1. Bilateral relations

There has been no progress in 2018 with respect to resolution of bilateral problems between BiH and Kosovo. The rigid visa regime between the two countries remains¹⁰⁶ and continues to restrict freedom of movement in the region.¹⁰⁷ Bearing in mind that Kosovo is achieving progress in the EU visa liberalisation process, travelling of citizens of BiH and Kosovo will be easier to EU countries than between them.¹⁰⁸ Failure to recognise

102 Sofia Declaration, European Western Balkans, 17.5.2018, <https://bit.ly/2tBTNiZ>

103 Presentation of the EU Enlargement Strategy: Where does BiH stand?, N1, 6.2.2018, <https://bit.ly/2Eg799s> (in local language)

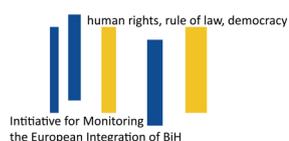
104 UK hosts Western Balkans Summit, Government of the United Kingdom of Great Britain and Northern Ireland, 11.7.2018, <https://bit.ly/2VpgTp9>

105 Western Balkans summit in Durres ends, Al Jazeera Balkans, 27.8.2018, <https://bit.ly/2tASW23> (in local language)

106 The Balkan absurd – visa regime between Kosovo and BiH, Al Jazeera Balkans, 19.2.2016, <https://bit.ly/2H1M3Pl> (in local language)

107 Young Kosovo basketball players get visas to come to BiH, Al Jazeera Balkans, 10.8.2018, <https://bit.ly/2BRTS6B> (in local language)

108 European Parliament approves visa liberalisation for Kosovo, Al Jazeera Balkans,



Kosovo documents and the rigid visa regime are the main reasons for the introduction of a 100% duty on imports of products from BiH to Kosovo – which puts BiH importers in an unfavourable position and damages the BiH economy on a daily basis.¹⁰⁹

Progress has been achieved in relations between BiH and Macedonia in many areas.¹¹⁰ As of 1 December 2018, citizens of BiH and Macedonia can cross the borders of these countries with an ID card.¹¹¹

The commenced construction of the Pelješac bridge remains a point of dispute between BiH and Croatia. A member of the BiH Presidency, Željko Komšić, announced the possibility of filing a lawsuit against Croatia for the delineation of the border at sea that may potentially jeopardise the right of BiH to open sea,¹¹² but another BiH Presidency member, Milorad Dodik, refused to support such a possibility.¹¹³

In May 2018, the Croatian Parliament adopted the Law on State Property Management applicable also to property to which various legal entities from BiH (state, trade unions, enterprises, etc.) have been claiming rights for years now and the value of which is estimated at EUR 10 billion.¹¹⁴ In addition to the fact that BiH does not have a bilateral agreement with Croatia on property relations, there is no agency or institution in BiH which focuses on these issues.¹¹⁵

In 2018, EU MPs from Croatia were actively engaged in the promotion of the principle of so-called legitimate representation of peoples¹¹⁶ and the need to federalise BiH.¹¹⁷ In this context, the European Parliament was abused for the purpose of promoting partisan interests of HDZ BiH.¹¹⁸

13.9.2018., <https://bit.ly/2NshSlz> (in local language)

109 BiH-Kosovo meeting: duties to be temporarily abolished, *Oslobođenje*, 24.1.2019, <https://bit.ly/2NtvcWH>; Šarović: BiH damaged for BAM 4.5 million since Kosovo introduced duties on our products, *Klix*, 27.12.2018, <https://bit.ly/2Vj8UcS> (in local language)

110 Macedonia and BiH agreed on border crossing with ID cards, *Al Jazeera Balkans*, 12.3.2018, <https://bit.ly/2IOU6Sf> (in local language)

111 Citizens of BiH and Macedonia: Crossing borders with ID cards, *N1*, 30.11.2018, <https://bit.ly/2Xmar3P> (in local language)

112 Komšić: Lawsuit possible if Croatia is reckless and arrogant, *N1*, 11.10.2018, <https://bit.ly/2U392wR> (in local language)

113 Dodik: I will not support a lawsuit against Croatia over the Pelješac bridge, *Radio Sarajevo*, 13.10.2018, <https://bit.ly/2EwbhUe> (in local language)

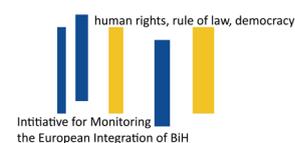
114 Croatia adopts a law on state property management: BiH to be stripped of real estate worth EUR 10 billion, *Oslobođenje*, 25.5.2018, <https://bit.ly/2Eak64L> (in local language)

115 Ines Tanović Sijerčić, Stuck in a dialogue: BiH property in Croatia, *Impuls portal*, 9.2.2018, <https://bit.ly/2U9rZOE> (in local language)

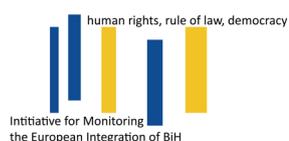
116 EP Committee request legitimate representation of constituent peoples and citizens in BiH, *FENA*, 6.12.2018, <https://bit.ly/2U1Wnue> (in local language)

117 Komšić: European Parliament dismisses the so-called federalisation of BiH in its report, *Oslobođenje*, 14.2.2019, <https://bit.ly/2SmsLWQ> (in local language)

118 Abuse of the European Parliament for HDZ partisan activities, the Initiative for



In the recent period, the main open issue in the relation between BiH and Serbia was about state borders.¹¹⁹ The two countries have not signed the State Border Agreement because of some disputable 40 km² of territory: area of Hydropower Plant Zvornik (1.4 km²), area of Hydropower Plant Bajina Bašta (1,6 km²), area of railroad tracks Beograd – Bar (16,15 km²) and area of Priboj and Rudo Municipalities (21,3 km²).¹²⁰ The BiH Presidency does not have a consensus on the exchange of territory between BiH and Serbia¹²¹ and Serbia's position remains that state border issues should be resolved by territorial exchange. This dilemma remains an open issue between the two countries.



Monitoring the European Integration of BiH, 6.12.2018, <https://bit.ly/2Nu0BID> (in local language)

119 Disputable issues in delineation of BiH and Serbia, N1, 8.2.2018, <https://bit.ly/2E-e8Qo9> (in local language)

120 Miloš Stanojković, Defining the borders of BiH and resolving open border related issues: Relations with Serbia and Montenegro, the Initiative for Monitoring the European Integration of BiH, October 2018, <https://bit.ly/2IBEVvv> (in local language)

121 What is relevant in case of exchange of territory between Serbia and BiH, N1, 13.5.2018, <https://bit.ly/2Evpi4E> (in local language)

5. INFORMATION SOCIETY AND MEDIA

Bosnia and Herzegovina is the only country in Europe that has not introduced the 4G network. The Council of Ministers of BiH announced several times that the necessary implementing regulations for the introduction of this network would be adopted by the end of its mandate, but this never happened. In July 2018, the Council of Ministers of BiH allocated more than BAM 19 million for completion of the digitisation project, and announced that BiH would complete the digitisation process by the end of the year. In November 2018, the Council of Ministers decided to return the Proposal on the award of licences for the 4G network to the Ministry of Transport and Communications for further elaboration. According to available information, ministers deemed the licence prices and annual concessions for the use of frequency spectrum disputable.¹²²

SOS line for journalists who are active in the Association *BH novinari* (BH journalists), recorded the total of 57 cases of violation of journalists' rights in 2018, of which 7 physical attacks, 16 threats and 9 political pressures. In August 2018, somebody attempted to kill a journalist, and the case has not been entirely clarified yet.¹²³ One of the attackers was arrested, while the second attacker left BiH under unexplained circumstances but,¹²⁴ according to information available to the SOS line for journalists, there is no investigation about who ordered the murder attempt.¹²⁵

After *BH novinari* officially requested that the attack on journalists be treated as a criminal offence,¹²⁶ the Human Rights Ombudsmen Institution noted in the recommendations in the Special Report on situation and cases of threats to journalists in BiH¹²⁷ that the attack on journalists should be defined in the criminal code as a separate criminal offence,¹²⁸ or as a more severe form of the criminal offence of attack on an official

122 Bosna and Hercegovina enters 2019 without the 4G network, Istinomjer, 4.1.2019, <https://bit.ly/2Tb4U0T> (in local language)

123 Press release after beating up of Vladimir Kovačević, journalist of BNTV, BH novinari, 27.8.2018, <http://bit.ly/2H66mv4> (in local language); Ombudspersons of Bosnia and Herzegovina condemn attempts on journalists, the BiH BiH, 27.8.2018, <https://bit.ly/2TlwYyq> (in local language)

124 Three months after the attack on Vladimir Kovačević - no international arrest warrant against Dukić on websites of RS Ministry of Interior and Interpol!, Gerila.info, 27. 11. 2018, <http://bit.ly/2UdskA2>(in local language)

125 We demand that the BiH state assume responsibility for impunity of attacks on journalists, BH novinari, 2.11.2018, <http://bit.ly/2H5xk5P>(in local language)

126 Attack on journalists is (not) becoming a criminal offence, N1, 16.1.2018, <http://bit.ly/2NvTVd9> (in local language)

127 Special Report on situation and cases of threats to journalists in BiH, the BiH Human Rights Ombudsmen Institution, June 2017, <https://bit.ly/2NrDv5q> (in local language)

128 Borovac: Define the criminal offence of – attack on journalists, SRNA, 9.3.2018, <https://bit.ly/2XkOyBW>



while performing official duty. Due to a large number of unprosecuted criminal offences against journalists, it was also requested that the CMS system update be considered, in order to ensure the introduction of data on the victim, witness and parties in the proceeding, and that trainings be developed for police officers for the purposes of more efficient implementation of investigations in cases of threats to safety of journalists and other media professionals. The Ministry of Justice of BiH organised a series of meetings with representatives of the media community, journalists and relevant representatives of civil servants, where they discussed these recommendations and possibilities for their adoption.

According to the scale of the Reporters Without Borders,¹²⁹ Bosnia and Herzegovina advanced by three positions in 2018 compared to the previous year, by ranking 62nd. However, it is noted that the environment is not favourable for media freedom due to existing political climate, marked by constant verbal attacks on journalists, threats and unallowed interference with editorial policy, and censorship, especially in the public media. TVSA¹³⁰ and RTV USK are striking examples of the above.¹³¹ Editorial policy of media in BiH also reflects ethnic differences, and hate speech is increasingly obvious.¹³² In 2018, the Press Council received the total of 80 complaints about hate speech, which accounts for 26.5% of all received complaints for 2018.¹³³

Defamation lawsuits, which are mostly filed by politicians, often serve to intimidate journalists and deter them from doing their job. According to information of the SOS line for journalists, there were 109 pending defamation lawsuits against media owners, editors and journalists at the end of 2018. Media ownership concentration is problematic, because ownership is not transparent. In 2018, courts in BiH issued two (first instance) acquittals in favour of journalists who were sued for defamation, directly referring to the caselaw of the European Court of Human Rights.¹³⁴

129 Bosnia and Herzegovina: Return to past rhetoric, Reporters without Borders, 2018, <https://bit.ly/2tCI044>

130 Work report of TVSA not adopted: Biased reporting and censorship as the main problem, Klix, 31.1.2018, <http://bit.ly/2Sx399P> (in local language); *BH Novinari*, CRA and journalists of TVSA condemned pressures due to publishing of Andronik's caricatures, Mediacentar, 7.12.2018, <http://bit.ly/2H9ATrJ> (in local language)

131 Press release of the editorial board of RTV USK, RTV USK, 12.6.2018, <http://bit.ly/2BYq2NS> (in local language); Regional platform of the Western Balkans strongly condemns threats and pressures against journalists and management of RTV USK, Tačno.net, 2.7.2018, <http://bit.ly/2NyouyN> (in local language)

132 Hate speech is by far the most represented in comments of visitors of internet portals in BiH, and this problem was addressed under the project "STOP! Hate Speech 2018", with the support of selected online media (klix.ba, nezavisne.com, oslobodjenje.ba, radiosarajevo.ba, dnevnik.ba and vijesti.ba); See: Press Council in BiH implements campaign "Stop! Hate Speech 2018" in online media, Oslobodjenje, 17.8.2018, <https://bit.ly/2Xqif4q> (in local language)

133 Press Council in Bosnia and Herzegovina, <http://www.vzs.ba/>

134 "Dejan Jazvić" vs. "Emir Felic" and "Marinko Umičević" vs. "Srđan Puhalo"

Pressures on the media are also manifested through financing from public budgets, especially in local communities where the survival of public radio and TV stations depends on funding from municipal and cantonal budgets.¹³⁵ On the other hand, the political influence on media in the RS was additionally intensified when the Alternative TV Banja Luka was bought by *Integral inženjering*, the owner of which, Slobodan Stanković is closely connected with the ruling political party in this Entity, both through personal and business ties. The ATV ownership change was followed by replacement of the editor in chief and newsroom chief, who left this television after almost 15 years of work.¹³⁶

135 Velida Kulenović, Monthly tranche as a tool for pressure, BH novinari, 2018, <https://bit.ly/2SpJEzS> (in local language); Rea Adilagić, Bosnia and Herzegovina: Indicators of levels of media freedoms and safety of journalists, BH novinari, 2018, <https://bit.ly/2EbkBM1> (in local language)

136 ATV changes course and gets rid of unsuitable journalists!, Istinito, 10.4.2018, <https://bit.ly/2SZBW4R> (in local language)



6. SOCIAL POLICIES AND EMPLOYMENT

Bosnia and Herzegovina remains a country of high unemployment rate and pronounced discrimination in the exercise of labour rights on different grounds, including political affiliation, place of residence, gender, employment in public or private sector, nationality, etc. The new labour laws have been adopted in both Entities three years ago,¹³⁷ however, there are still no indications of any real reform process in this field. Outflow of labour force made possible employment of job seekers and/or forced the employers to increase salaries in the real sector to retain workers. Despite the fact that there are no official statistics on the outflow of labour force,¹³⁸ there are strong indications of the growing trend of people leaving to work in the EU countries. According to data published last year by the Union for Sustainable Return and Integrations in BiH, 151,101 persons left Bosnia and Herzegovina over the last four years.¹³⁹ A growing number of people who had jobs in BiH left for Western European countries, including also those from the public sector, the reflections of which are now seen in the lack of staff in educational and healthcare institutions. The problem of labour force outflow has not yet been addressed in any public policy or strategy.

The social dialogue between trade unions, employers and governments remains inadequate. The General Collective Agreement currently does not exist in either Entity.

In the Republika Srpska, eight branch agreements have been concluded to guarantee the rights of employees in the public sector and public enterprises. The status of representative trade unions was granted only to the RS Trade Unions Confederation and 4 branch trade unions, with a total of 24,575 members – less than 10% of the total number of employed persons and only one fourth of employees previously covered by representative trade unions.¹⁴⁰ The Government of the Republika Srpska adopted a Decision on the determination of increase of salaries, work based income amount

137 A detailed overview of events in relation to the adoption of the Labour Law can be found in previous reports of the Initiative for Monitoring of European Integration of BiH (<http://eu-monitoring.ba/publikacije/>).

138 Only in 2017, over 20,000 people left BiH for Germany (See: 2018 Elections – a reason for praises or fear?, Tijana Cvjetičanin, 22.8.2018, <https://bit.ly/2SqUAgC>)

139 A total of 68,278 people left the Republika Srpska and 68,068 inhabitants left the Federation BiH. 14,755 persons left Brčko District. (See: Bosnia and Herzegovina lost 151,101 persons in five years, *Oslobođenje*, 30.11.2017, <https://bit.ly/2T8eZf5>) (in local language)

140 In the course of implementation of the previous Labour Law, the status of representative trade unions was granted to the RS Trade Union Confederation and 12 branch trade unions with approximately 100.000 employees (See: List of trade unions and employers' associations granted representativeness on the level of the RS, in a field or branch, Government of the Republika Srpska, 16.3.2018, <https://bit.ly/2Te4d72>) (in local language)

and worker assistance amount¹⁴¹ based on the previous law and General Collective Agreement, thus assuming the part of the role of trade unions and investing into loyalty of a significant part of the constituency (those employed in administration and public services). The role of the business sector as a social partner has also been degraded (for instance, employers' associations are not among the "representative associations"). The problem of denial of the right to trade union organisation in private companies has not been addressed in any way.

The General Collective Agreement signed in 2016 in the Federation BiH expired and has been extended for 6 months.¹⁴² The Law leaves it up to the trade unions and employers to agree on the lowest price of work and other benefits. According to the Law, the lowest hourly rate in the Republika Srpska is around BAM 2.44, whereas in the FBiH, according to the expired General Collective Agreement, it amounted to BAM 2.31 (in some fields it was allowed to pay the worker as low as BAM 1.62 per hour). Bearing in mind that these are nett amounts, the practice of failing to report workers for the sake of a higher hourly rate continued. The new labour laws did not address this problem, especially because dismissal of workers has been made easier.

141 Official Gazette of the Republika Srpska, 53/16

142 General Collective Agreement, Confederation of Independent Trade Unions of BiH, 12.12.2016, <https://bit.ly/2H0r53m> (in local language)

7. ENVIRONMENT

The reporting period did not record any progress in ensuring air quality, which is one of the biggest problems in the environmental protection sector.

In FBiH, there is still no regular monitoring of all air quality parameters, which is performed by a large number of operators within the FBiH network of stations. Automatic stations in Kakanj, which were managed by TE Kakanj, stopped functioning. In late 2017, an air quality monitoring station started working in Ilijaš. Most cantons do not have a regular and complete measurement, and in cantons that are able to monitor measurement results (Tuzla and Sarajevo cantons), results of previous measurements indicate that a large number of citizens are exposed to pollution that may cause serious harm on their health.

In June 2016, the *Coalition for the protection of rivers in BiH* was founded, which gathers around 20 organisations and individual members and warns about consequences of the construction of over 300 small hydro power plants on 244 rivers in BiH. Electricity production in thermal power plants increased in the past years (2.9% increase compared to 2016).

In the 2008-2018 Environmental Protection Strategy of FBiH and 2012-2017 Waste Management Plan, the FBiH authorities defined several hazardous waste management objectives: construction of sites for temporary and permanent disposal of hazardous waste, establishment of a registry of types and quantities of hazardous waste, enabling the function of industrial incinerators, introduction of fees to stimulate companies to generate less waste, and rehabilitation of half of locations where waste is disposed inadequately. Objectives of the Strategy have not been implemented, which can be seen on the example of the chemical (chlorine alkaline) factory (HAK) in Tuzla, which did not get a crux disposal site that the local authorities have requested for years. When the inspection prohibited disposal of crux at the city dump, a pit was dug in the area of around one thousand square meters, with water drainage canals, and above 2.3 thousands of cubic metres of crux were stored there. Competent institutions cannot establish if anybody runs the disposal site, or who the owner of the land is, and the problem remains unsolved while municipal, cantonal and FBiH institutions mutually transfer the responsibility for its resolution.

8. SPECIAL REPORT: 2018 GENERAL ELECTIONS

General elections in Bosnia and Herzegovina were held on 7 October 2018.

The elections were announced on 8 May 2018, and the deadline for candidate list applications was 9 July. The BiH Central Election Commission has verified 642 candidate lists that met legally prescribed conditions. A total of 7,488 candidates participated in the elections running for 518 positions. 67 parties, 34 independent candidates, and 34 coalitions were reported. On 6 November, the Central Election Commission passed the Decision on confirming and publishing the results of the General Elections in 2018, which officially confirmed the results of the elections held.

The Coalition *Pod lupom*, which deals with direct monitoring of the electoral process in BiH, assessed that the General Elections were mainly conducted in accordance with the Election Law of BiH and the CEC's implementing acts. Nevertheless, a large number of incidents and irregularities were noted, both during the election campaign and on the election day, indicating the need to improve the electoral process in BiH.

On the election day, the Coalition *Pod lupom* received a total of 383 reports¹⁴³ on critical situations, of which 75 were related to the voting process. The emergence of the so-called Bulgarian train was noticed in 14 polling stations, while citizens reported 189 irregularities mainly related to violation of the election silence, pressure and voter bribery. Various types of irregularities¹⁴⁴ during the election campaign were recorded in 227 cases.

According to the Rulebook on media coverage of political entities, prior to the official start of the election campaign, as well as on the day of election silence, political subjects are prohibited to conduct paid political advertising through the media or any other type of paid advertising except for advertising on internal meetings of authorities and statutory bodies of political subjects. These provisions have been violated especially on social networks and their regulation is considered a "grey zone" by the institutions.¹⁴⁵ Political subjects often used paid ads on Facebook before the campaign began (13 out of 24 political subjects monitored had paid election posts on Facebook before the official commencement of the

143 Press release: By 20:00h a total of 383 reports on critical situations, Coalition *Pod lupom*, 7.10.2018, <https://bit.ly/2BU3k9A> (in local language)

144 Second preliminary report on long-term monitoring of 2018 Elections and electoral campaign, Coalition *Pod lupom*, October 2018, <https://bit.ly/2UbDEg4> (in local language)

145 Social networks as the "grey zone" of pre-election political promotion, Istinomjer, 3.9.2018, <https://bit.ly/2SpBdo7> (in local language)



campaign)¹⁴⁶ as well as during the election silence period.¹⁴⁷

There have been cases of unauthorised pressures on voters, buying votes, conditioning job dismissals or offering new recruitment in return for a vote, misuse of public resources for campaign purposes, out-of-date voters' registers in certain municipalities, illegal trade of positions in polling committees, record number of cases of prohibited paid political advertising before the start of the campaign (three times more than in the same period for the 2016 Local Elections), and other types of irregularities. The monitoring of the election campaign conducted by Transparency International BiH has recorded numerous abuses of public functions and public funds for the purpose of conducting an election campaign, including direct reallocation of funds from institutions and authorities for the political party promotion.¹⁴⁸ During the election campaign, several criminal charges¹⁴⁹ and reports to the Central Election Commission were filed for abuse of personal information, as well as statements in appearances at public gatherings that directly threaten pensioners, health and other workers with the goal of bribing the voters and having inappropriate influence on voters.¹⁵⁰

In these elections, there has been a significant increase in number of voters from abroad, as many as 30,000 more registered compared to the 2014 elections,¹⁵¹ as well as a disturbingly high number of reported identity thefts when registering voters, with over 400 reports of such cases mainly related to voting from abroad.¹⁵² In addition to out-of-date voters' registers and the on-going issue of deceased persons who had been appearing in voters' registers, these events further undermined confidence in the regularity of the electoral process.

146 Parties and candidate on Facebook: who started the campaign before its official commencement?, Raskrinkavanje, 7.9.2018, <https://bit.ly/2QsmQzY> (in local language)

147 Breach of electoral silence: winners are PDP with 9 and Senad Šepić with 5 adds on Facebook, Raskrinkavanje, 7.9.2018, <https://bit.ly/2yeCUxy> (in local language)

148 Parties have spent more than BAM 8 million on TV ads, public meetings and billboards so far, TI BiH, 4.10.2018, <https://bit.ly/2S0Flew> (in local language)

149 TI BiH filed 4 criminal charges against Milorad Dodik for violating the electoral process, against which the District Prosecutor's Office Banja Luka decided not to conduct any investigation. (See: District Public Prosecutor's Office Banja Luka will not conduct an investigation against Dodik, TI BiH, 26.10.2018, <https://bit.ly/2H1NFIT>) (in local language)

150 TI BiH filed reports for the abuse of personal data of patients for the purpose of elections campaign of candidate Vlado Đajić, TI BiH, 5.10.2018, <https://bit.ly/2Sq08b8> (in local language)

151 CIK REFUSED, ŽURNAL REVEALED: We publish the entire voters' list for postal voting, Žurnal, 22.9.2018, <https://bit.ly/2H28cNe> (in local language)

152 Progress assessment of Bosnia and Herzegovina in meeting the political criteria in negotiations with the EU: Elections legitimacy and integrity – a necessary step towards European values, UG Zašto ne, October 2018, <https://bit.ly/2XIMols>, pg. 15. (in local language)

8.1. Election of the House of Peoples of the Parliament of the Federation of BiH

The 2018 General Elections were held without clearly defined rules for implementing election results when it comes to filling the seats in the House of Peoples of the Parliament of the Federation of BiH, and therefore the House of Peoples of the Parliamentary Assembly of BiH, leaving room for this matter to be resolved by the Central Election Commission. This is a decision of the Constitutional Court of BiH at the appellation of Božo Ljubić which was not implemented before the elections,¹⁵³ so the articles have been repealed, therefore it puts the implementation of election results into question, both in the FBiH and at the state level.

In December 2018, the Central Election Commission passed a Decision on the Instructions for the implementation of election results according to the 2013 Census, which prescribes the implementation of the Principle 1/1/1, meaning that at least one Bosniak, one Serb and one Croat from each canton shall be in the House of Peoples of the Parliament of the FBiH, if elected. The Instructions only refer to the implementation of the indirect part of the 2018 General Elections, and the task of the Parliamentary Assembly of BiH remains to be resolving this issue in the long-term through amendments to the Election Law of BiH.

The review of the constitutionality of the Decision on the Instructions for the implementation of election results was requested by 27 representatives of the FBiH Parliament. As a legal ground for the claim that the CEC Instructions are unconstitutional, Amendment LI to the Constitution of the Federation of Bosnia and Herzegovina states that the published results of the 1991 Census shall be appropriately used “in making any calculations requiring population data” until Annex 7 of the Dayton Agreement is fully implemented, that is, until safe and unimpeded return is ensured for all refugees and displaced persons.

The second request for review of the constitutionality of the CEC Decision was submitted by Borjana Krišto (HDZ BiH), with respect to the implementation of the Principle 1/1/1. According to HDZ BiH arguments, this Principle is inconsistent with the verdict of the Constitutional Court

¹⁵³ In December 2016, the Constitutional Court of BiH partially adopted an appellation to review the constitutionality of certain provisions of the Election Law of BiH, submitted by Božo Ljubić at the time when he chaired the House of Representatives of the PABiH. By this Decision, the Court found that the provision of Subchapter B, Article 10.12, paragraph 2, in the part that reads: “Each constituent people shall be allocated one seat in every canton” and the provisions of Chapter 20 - Transitional and Final Provisions of Article 20.16.A paragraph 2, point a-j of the Election Law of Bosnia and Herzegovina are not in accordance with Article 1/2 of the Constitution of Bosnia and Herzegovina. The Parliamentary Assembly of BiH was instructed to harmonise these provisions with a Decision of the Constitutional Court within six months, which has not been done so far, and the contested provisions of the Election Law have ceased to apply.

of BiH upon the appellaton of Božo Ljubić, and the resolution of the issue of delegates in the House of Peoples cannot be addressed by the CEC Decision, but only by amending the Election Law.

At the end of January 2019, the Constitutional Court of BiH declared itself incompetent to rule on this appeal, while the request of the Chairwoman of the House of Representatives of the PABiH Borjana Krišto to review the constitutionality of the CEC's Instructions shall be considered in March 2019.¹⁵⁴

In addition to the appellations addressed to the Constitutional Court of BiH, the CEC Decision was also contested before the Court of BiH. The current Prime Minister of Sarajevo Canton, Edin Forto, filed a lawsuit against the CEC on behalf of the Canton in which, in addition to the violation of Annex 7 as the basis of the lawsuit, it was also alleged that this body had unlawfully assumed the role of legislator and that it had decided on matters that fall within the competence of the Federation of BiH, and not BiH, thus acted contrary to the norms of the BiH Election Law.¹⁵⁵ The parties of the BH bloc have also addressed the Court of BiH, seeking annulment of the CEC decision.¹⁵⁶

It is clear from the above that the relevant political entities in the Federation of BiH contest the CEC Instructions in a completely different manner. Thus, for parties with headquarters in Sarajevo, the controversial part is using the 2013 Census, while for HDZ BiH this part is acceptable, but not the Principle 1/1/1. In addition, all parties agree that this issue is not within the competence of the CEC but the Parliamentary Assembly of BiH, although all these political entities participated in the work of the same Parliamentary Assembly of BiH that did not fulfil its constitutional obligation and did not solve this issue within the legally prescribed deadline.

Although there were more attempts to amend the Election Law through the negotiations of political parties, they all ended unsuccessfully. In the beginning of 2018, there were two different proposals in the procedure for amendments to the Election Law of BiH, primarily related to resolving the problem of constituting the House of Peoples of the FBiH Parliament, but none of these proposals were adopted.¹⁵⁷ In June 2018, the House of Representatives of the FBiH Parliament adopted the Proposal of the Law on Electoral Units and the number of FBiH Parliament's mandates, which were submitted into a procedure by the parliamentary caucuses of SDA,

154 BiH Constitutional Court claims it is not competent to assess constitutionality of CEC instructions, *Oslobođenje*, 31 January 2019, <https://bit.ly/2Ee7x8D> (in local language)

155 Forto: Unlawfully decreased number of Sarajevo Canton members in the House of Peoples of the FBiH Parliament, *Oslobođenje*, 14.1.2019, <http://bit.ly/2Te81VL> (in local language)

156 What is the fate of lawsuits filed by Željko Komšić, Sarajevo Canton and BiH Bloc on CEC instructions, *Klix*, 4.2.2019, <http://bit.ly/2T8hz4L> (in local language)

157 Amendments to the Election Law not adopted, *N1*, 31.1.2018, <https://bit.ly/2X-jRXBb> (in local language)

SBB, DF, SDP and a delegate in the House of Peoples Predrag Kojović. The law was supposed to be considered in the House of Peoples of the FBiH Parliament at a session held on 19 July 2018, but Deputy Chairman of the House of Peoples of the FBiH Parliament Drago Puzigaća (SNSD) with the Chairwoman Lidija Bradar, declared it destructive for a vital national interest.

At this moment, all of these problems are “swept under the carpet”. After the appointment of the houses of peoples at the Federation and state level, the activities of political parties and public attention in Bosnia and Herzegovina are directed to negotiations regarding the establishment of new parliamentary majority; however, decisions of the competent judicial instances have to be issued in each case. Until that moment, the legal question of establishing a part of the legislative, and consequently executive power, will continue to exist regardless of the fact that it is currently ignored by political parties focused on the negotiations on the establishment of power.¹⁵⁸

8.2. Elimination of ethnic discrimination

When it comes to amendments to the Election Law of BiH that would concern the elimination of ethnic discrimination or the introduction of affirmative measures for the participation of members of national minorities in political life, there have been no serious attempts by political parties in the past to make legal changes in this direction.

In the beginning of 2018, the Council of National Minorities of Sarajevo Canton sent the Ministry of Human Rights and Refugees of BiH a proposal for amendments to the Election Law in order to ensure the guaranteed representation of national minorities in the Sarajevo Canton Assembly in accordance with the Constitution of the Canton.¹⁵⁹

The Ministry of Human Rights and Refugees of BiH forwarded this act to the Joint Committee on Human Rights of the Parliamentary Assembly of BiH for further action in March 2018.¹⁶⁰ Although the Joint Committee included this Proposal in the agenda of the 51st session, which was held in

¹⁵⁸ For detailed analysis of the processes related to the implementation of the Decision of the Constitutional Court and the adoption of the Decision of the CEC, see: Denis Ćarkadžić, Reflection on CEC Instructions on the implementation of direct elections for governing bodies in BiH, the Initiative for Monitoring the European Integration of BiH, 22.2.2019, <http://bit.ly/2T3gI5V> (in local language)

¹⁵⁹ The Assembly of Sarajevo Canton adopted the Amendment XLIV in January 2013, which guarantees members of national minorities one seat in the Assembly (See: Amendments XLIII-XLIX to the Constitution of Sarajevo Canton, 30.1.2013, <https://bit.ly/2GKY78q>) (in local language)

¹⁶⁰ Forwarding of the act of National Minority Council of the Sarajevo Canton Assembly no, 01-05.34932-2/18 of 10.1.2018. for further action, Ministry of Human Rights and Refugees of BiH, 6.3.2018, <https://bit.ly/2GYLuWi>



April 2018,¹⁶¹ this item on the agenda list was not considered because the session was suspended. The continuation of the session was scheduled for September 2018,¹⁶² but it has not been held to date.

8.3. Improvement of the election process

During the course of 2018, proposals aimed at technical improvement of the electoral process were also put forward in the procedure, but were rejected in the State Parliament.¹⁶³ At the beginning of March 2018, the House of Representatives of the Parliamentary Assembly of BiH adopted the Draft Law on Amendments to the Election Law of BiH, proposing the introduction of scanning of ballot papers in order to eliminate possible irregularities, then the introduction of video surveillance in the premises where voting is held in BiH and the introduction of biometric fingerprint readers. The proposal was forwarded by a group of representatives of the SBB, SDP and DF to the parliamentary procedure, and a proposal for urgent procedure was submitted for consideration to the House of Peoples.¹⁶⁴ Such a proposal came in for approval in the civil sector, primarily the Coalition *Pod lupom*, which also came forward with its proposals for amendments to the BiH Election Law.¹⁶⁵

The House of Peoples of the Parliamentary Assembly of BiH rejected this proposal, i.e. accepted the negative opinion of the Constitutional-Legal Committee of that House. Although there were no negative opinions of the institutions regarding electronic voting and scanning of ballot papers, there was not enough will to accept at least this part of the electoral process improvement.¹⁶⁶

The only innovations introduced by the CEC in this election cycle are transparent ballot boxes, and the rules to use pens of different colours during voting and vote counting.¹⁶⁷ In general, Bosnia and Herzegovina has not recorded good results in implementing recommendations of international

161 Agenda for the 51st session of the Joint Human Rights Committee of the Parliamentary Assembly of BiH, 16.4.2018, <https://bit.ly/2TdLpom> (in local language)

162 Agenda for the continuation of the 51st session of the Joint Human Rights Committee of the Parliamentary Assembly of BiH, 3.9.2018, <https://bit.ly/2EuXQUq> (in local language)

163 Law stipulating introduction of modern technologies in the electoral process in BiH rejected, Klix, 5.6.2018, <https://bit.ly/2NpAoEn> (in local language)

164 House of Representatives adopts a law: introduction of scanning of ballot papers and video surveillance of elections, Radiosarajevo, 7.3.2018, <https://bit.ly/2Sr6bwe>; House of Representatives adopts a law: scanning of ballot papers and video surveillance of elections introduced in BiH, Klix, 7.3.2018, <https://bit.ly/2tCAO8b> (in local language)

165 Coalition *Pod lupom* urged politicians to improve the BiH Election Law, Oslobođenje, 4.4.2018, <https://bit.ly/2TlzFjw> (in local language)

166 Law on ballot scanning rejected, N1, 5 June 2018, <https://bit.ly/2GG2ykA> (in local language)

167 New technologies in BiH style: plastic boxes and red pens to guarantee fair elections, Klix, 31.8.2018, <https://bit.ly/2GY0bZU> (in local language)

organisations for improving the electoral process and their incorporation into electoral legislation.¹⁶⁸

8.4. The media and elections

The work of the media during the election campaign is regulated by the BiH Election Law and the Rulebook on Media Coverage of Political Entities.¹⁶⁹ In August 2018, the Communications Regulatory Agency warned about the obligation to monitor the General Elections in BiH and the obligation to comply with Chapter 16 of the Election Law of BiH and the Rulebook on media coverage of political entities.¹⁷⁰ In 2018, according to the CRA, 234 media were obliged to monitor the pre-election campaign. CRA monitored 7 electronic media and issued several decisions on sanctioning RTV stations during the election campaign for violating the provisions on paid political advertising, non-compliance with the principles of proportionality, fairness and impartiality, reporting on officials who are candidates in the elections, the manner of publishing public polling results, and broadcasting of false and misleading material.¹⁷¹

The extreme bias in media coverage of elections and candidates is recorded in the least regulated media space, that is, on online portals, which was again particularly expressed on local portals that openly promoted certain political entities during the campaign.¹⁷² There have also been cases of creating anonymous portals in the pre-election period, which then served as party newsletters in the campaign.¹⁷³ Monitoring conducted by the Association of *BH Novinari* showed that the media in the campaign favoured holders of public functions which was particularly the case with public services, with emphasis on RTRS.¹⁷⁴

168 Progress assessment of Bosnia and Herzegovina in meeting the political criteria in negotiations with the EU: Elections legitimacy and integrity – a necessary step towards European values, UG Zašto ne, October 2018. (in local language)

169 Official Gazette of BiH, No. 29/18

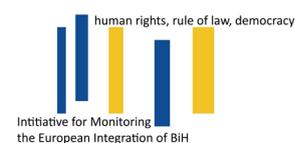
170 The Agency reminds of the obligation to monitor BH General Elections, Communications Regulatory Agency, 28.8.2018, <https://bit.ly/2EuZDJ8> (in local language)

171 Media and election: unregulated online space, Mediacentar, 18.12.2018, <https://bit.ly/2NtqpV8> (in local language)

172 Reporting analyses of multiple local online portals are available on <https://bit.ly/2Ev0Xf4>. (in local language)

173 An example that attracted the most attention of the public is the anonymous portal *Infosrpska*, launched in mid-2018, which served as the source of a whole series of unverified or inaccurate news that was later transmitted by the public broadcasting service RTRS, public news agency SRNA, *Alternativna televizija Banja Luka* and many others. All such news was aimed at discrediting political opponent Milorad Dodik, often using open hate speech on a national basis.

174 Most of media space in the first two weeks of the campaign was given to current public officials, *BH novinari*, 26 September 2018, <https://bit.ly/2U8oyaO> (in local language)



9. SPECIAL REPORT: FREEDOM OF ASSEMBLY AND “JUSTICE FOR DAVID” PROTESTS

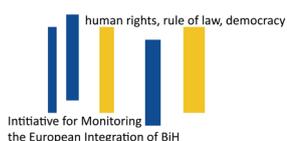
In March 2018, Banja Luka faced the beginning of the largest and the longest protests ever recorded in that city, as a reaction to the steps taken by authorities in case of David Dragičević’s (21) death. The protests were organised almost on a daily basis until the end of 2018, when the government’s reaction to the protests turned into open repression, unprecedented in the post-war history of BiH, followed by the prohibition of assembly, police violence and protesters’ arrests, including David Dragičević’s parents.

9.1. Chronology of the case

David Dragičević’s disappearance was reported to the police on 18.3.2018. The search lasted six days with intense media coverage. On 24.3.2018, his body was found near Crkvena river in Banja Luka. The Ministry of Interior of the Republika Srpska then organised a press conference, and Darko Ilić, chief of the Office for Organised and Serious Crimes of the Ministry and pathologist Željko Karan addressed the public. They said at the conference that David Dragičević’s death was “equivocal”, meaning that it was an accident; that he died in the night of disappearance, that he was under the influence of narcotics, and that he drowned in the Crkvena river bed after he had perpetrated a robbery and participated in a fight.

Explanations provided by representatives of the RS Ministry of Interior did not sound convincing to family and friends of the unfortunate young man, or to the general public.¹⁷⁵ Soon afterwards, David’s family and friends gathered at Trg Krajine square for the first time, under the slogan “STOP unpunished killings in Banja Luka – Justice for Davida.” Protests of the informal group “Justice for David” have continued until present day.

Upon request of Suzana Radanović and Davor Dragičević, David’s parents, an independent team conducted another autopsy and found that David’s death was not *equivocal*, and that it did not occur in the night of his disappearance, but several days later.¹⁷⁶ In April 2018, the case was transferred from the Office for Organised and Serious Crimes of the RS Ministry of Interior to the Criminal Police Administration, based on one of the requests of David’s father. According to publicly available information, the RS president at the time, Milorad Dodik mediates in the case transfer



¹⁷⁵ Vanja Stokić, Citizens do not believe that the provided time of David Dragičević’s death is true, Etrafika, 10.4.2018, <https://bit.ly/2KKrYg0> (in local language)

¹⁷⁶ The second autopsy findings: David Dragičević was alive while other citizens searched for him, Klix, 12.4.2018, <https://bit.ly/2TZq27B> (in local language)

and appointment of a new investigation team.¹⁷⁷

Due to pressures from the public and opposition political parties that were particularly dissatisfied with the work of police bodies, a special session of the RS National Assembly took place in May 2018, in order to discuss David Dragičević's case. RSNA established the Inquiry Committee with a task to examine all relevant facts related to David Dragičević's death.¹⁷⁸ The Inquiry Committee is a parliamentary body which is established in order to examine and establish facts about phenomena or events relating to the exercise of control over the work of the RS administration bodies or organisations, or of public officials. In the concrete case, the committee comprised representatives of ruling and opposition political parties, but also representatives of the "Justice for David" group, an informal citizen's initiative which demands that all circumstances of the case be explained. In June, the Inquiry Committee adopted the Report and conclusions establishing, among other things,¹⁷⁹ that there were grounds for suspicion that David Dragičević was killed, and requesting that the Prosecutor's Office express their opinion in this issue urgently.

The conclusions called upon the establishment of responsibility of the Minister of Interior, head of the police, and of the director of the Institute for Forensic Medicine, and requested that the RS National Assembly submit an initiative to the High Judicial and Prosecutorial Council for initiation of disciplinary proceedings in order to establish liability of prosecutors on the case. One of the conclusions was related to the need for amendments to the Criminal Procedure Code of the Republika Srpska and the Law on Public Prosecutor's Office of the Republika Srpska in emergency procedure, in order to enable the injured party to continue criminal prosecution in court proceedings. The Inquiry Committee's report was not supported by delegates of the ruling coalition, and it was not adopted at the Assembly session eventually.¹⁸⁰ The head of the SNSD delegates' club at the time who is currently the prime minister of the Republika Srpska, Radovan Višković, especially criticised the Inquiry Committee for "engaging in the endeavour to qualify the offence", thus exceeding its competences.¹⁸¹

In July 2018, the District Prosecutor's Office of Banja Luka issued the order to conduct investigation of David Dragičević's death, due to

177 Dodik talked to Dragičević, David's case to be taken over by Kostrešević, *Nezavisne*, 19.4.2018, <https://bit.ly/2EtL88s> (in local language)

178 The Inquiry Committee was established with a task to examine all relevant facts related to David Dragičević's death, National Assembly of the Republika Srpska, 15.5.2018, <https://bit.ly/2Ex3ohw> (in local language)

179 Report and Conclusions of the Inquiry Committee adopted, National Assembly of the Republika Srpska, 5.6.2018, <https://bit.ly/2H1Yr1z> (in local language)

180 The RS Assembly rejects the Committee's report on Dragičević's death, N1, 4.7.2018, <https://bit.ly/2tzM9Wv> (in local language)

181 RSNA: The ruling coalition opposes the Inquiry Committee's report, N1, 2.7.2018, <https://bit.ly/2SZMGjp> (in local language)



suspicion that he was attacked by unknown perpetrators on 18 March, and that he drowned trying to escape from them, or because they had pushed him in the water.¹⁸² The order cited a statement of the witness who said that she had heard sounds in the night of 18 March, which could confirm the incident described in the document. The RS Minister of Interior, Dragan Lukač commented the press release of the Prosecutor's Office by saying that it "undermines all allegations" about revealing of facts in this case.¹⁸³ The Prosecutor's Office also noted that additional investigative actions confirmed the finding that David Dragičević drowned in Crkvena river on 18.3.2018, but that the claim about presence of narcotics in his body was false. The Prosecutor's Office qualified this case as homicide only in July, which would not have happened without constant public pressure and presentation of pieces of information by David's parents and friends that were contrary to the original finding and information published at the press conference.

This one and other contradictory findings and public statements of representatives of the RS Ministry of Interior increased suspicions about hidden motives behind actions of the police in this case, i.e. attempts to cover up facts about the murder of David Dragičević. An investigation was launched against pathologist Željko Karan, which was forwarded to the RS Prosecutor's Office – Special Department for the Prevention of Corruption, Organised Crime and the Most Severe Forms of Organised Economic Crimes.¹⁸⁴ The investigation was suspended in October 2018.

In September 2018, indictments were issued against two police officers, crime scene technicians from the Police Administration of Banja Luka, for destroying evidence in this case.¹⁸⁵ Alen Kukić was the first and the only arrested person in Dragičević case, for removing parts of recordings of surveillance cameras from 18.3.2018; according to his testimony, he did this upon request of Đorđe Rađen (person who claimed that David had robbed his house), who again demanded this upon request of the police.¹⁸⁶

Apart from these persons who are not accused of the murder itself, nobody

182 Read the Prosecutor's Office order on conducting of an investigation of David Dragičević's death, *Nezavisne*, 4.7.2018, <https://bit.ly/2IBqjw6> (in local language)

183 Lukač: Ministry of Interior receives order from the Prosecutor's Office – It undermines all allegations about David Dragičević's death, *RTRS*, 4.7.2018, <https://bit.ly/2Eax1Ud> (in local language)

184 Pathologist who performed autopsy on David Dragičević: Željko Karan extorted money for reports, convicted and amnestied, *Index*, 29.3.2018, <https://bit.ly/2r-lUMD3> (in local language)

185 They threw away David's boxers in order to CONCEAL EVIDENCE: Srpska info reveals DETAILS OF THE INDICTMENT against police officers, *Srpska info*, 8.9.2018, <https://bit.ly/2H0DRim> (in local language)

186 Record of Kukić's interrogation: Ilić's inspectors made Rađen seize video surveillance recordings from "MK" and "Vesto" apartment buildings, and to "investigate" who had allegedly robbed his house (documents), *Slobodan Vasković blog*, 21. 9. 2018, <https://bit.ly/2GKDHfp> (in local language)

has been indicted or prosecuted for the murder of David Dragičević yet. Despite of the protests and the huge interest of domestic and international public, the case has not been finalised at court yet. David's father filed criminal reports against Dragan Lukač, Darko Ćulum, Darko Ilić, Nedeljko Lubura, Đorđe Rađen and other police and other officials, for working together to conceal evidence in the case of David Dragičević's murder.

On the other hand, several protesters were arrested during protests late in 2018, some of them repeatedly, including Suzana Radanović and Davor Dragičević. Moreover, Davor Dragičević was accused of posing "safety threat" for the Minister of Interior Dragan Lukač and Darko Ilić because of the statements he gave during the protest.¹⁸⁷ Dragičević left Banja Luka after the December protests, and his whereabouts were unknown at the time of finalising this report. Other persons who participated in protests were also accused of different offences, and one can say that the work of the police and prosecutor's offices is focused on ungrounded persecution of members of the "Justice for David" movement, and not on the murder which triggered the movement.

9.2. "Justice for David" protests

The group "Justice for David" was created with the aim to explain the disappearance and murder of David Dragičević. The initiative for gathering of the group at Trg Krajine square was originally launched by a few of David's friends, and David's parents supported it and joined them. Gatherings of the group have been organised since 26 March, and they turned into the longest and largest protests in Banja Luka which managed to mobilise the whole of Bosnia and Herzegovina, where public statements of David's father Davor Dragičević played the decisive role. It should be noted that David's father continuously spent almost one whole month at Trg Krajine square. He took the decision on the day-and-night protest after threats and a verbal attack of the former police officer Đorđe Marinković, after which Davor Dragičević spent the night in front of the Police Administration Banja Luka on 19.9.2018, and then he stayed at Trg Krajine until 15.10.2018 incessantly.

Social networks played a big role in mobilising of citizens around this case, which spread the news about David Dragičević's death throughout Bosnia and Herzegovina, the region and the whole world. Facebook group "Justice for David" currently includes almost 300 thousand people,¹⁸⁸ and it is the place where David's parents published all information they obtained during their search, but also criticisms of the police investigation.

Materials that the parents shared on social networks were decisive for some

187 Vanja Stokić, 250 days of battle for truth about David: When will the system start functioning in both directions?, Analiziraj.ba, 30.11.2018, <https://bit.ly/2Q4spaV> (in local language)

188 Group "Justice for David," Facebook, <https://bit.ly/2AxBnTx>



of the steps in the additional investigation, after they explained that some exhibits were lost during the investigation, surveillance camera recordings were deleted by police officers, and that false toxicology findings were presented.¹⁸⁹ All these allegations were confirmed through additional investigative actions.

Apart from daily gatherings, group “Justice for David” organised several mass protests in Banja Luka with tens of thousands of participants, without any incidents. One of those gatherings was organised on the eve of the elections, on 5 October, parallel to the ¹⁹⁰main pre-election event of SNSD. The significantly higher number of gathering participants indicates that, in the meantime, the protests have become the way of expressing general dissatisfaction and distrust of citizens in the government institutions in this Entity. Although members of the “Justice for David” group were exposed to pressures almost from the very beginning of the protests, the pressures got significantly stronger before this assembly; the government tried to prevent it. The police directly prevented citizens from coming to Banja Luka on 5 October, by stopping cars and buses at the entrance to the city, which made some individuals continue their journey to the city on foot. The protests were secured by police forces deployed throughout the city, although no incidents had been recorded during previous gatherings. A police cordon was deployed in front of the RTRS building, where the final pre-election gathering of SNSD was taking place.

The group members and supporters of the protests witnessed pressures such as following, wiretapping, requesting people to present their IDs for wearing clothes with protest slogans in different towns in the RS etc.¹⁹¹ In July, in the eve of the second large assembly, cameras were placed on Trg Krajine square which recorded everything from that day on, and there are grounds for suspicion that the recordings were used to identify the protest participants, and to put pressure on them. Thus, for example, RTRS published a list with names, surnames, personal numbers and addresses of some thirty participants of the protests. No doubt, the list came from police sources, even more so because some of the persons whose data were published had criminal or minor offence police “files”, which was used for presenting the protests as “criminal.” Following the public condemnation of such a call for lynch, RTRS removed the article from its website, but it remained accessible on the portal of “Srna” news agency and other media that re-published it, with all illegally published personal data.¹⁹²

189 Replaced police officers, lost underpants, manipulation with video recordings, a false finding: Here is who “went down” in Dragičević case so far, Buka, 29.9.2018, <https://bit.ly/2E4qltf> (in local language)

190 Justice for David: 40,000 people gathered on the Square, Etrafika, 5.10.2018, <https://bit.ly/2Q4Es8b> (in local language)

191 The police controlled ID documents of Vanja Slijepčević from Trebinje because she was wearing Justice for David T-shirt, Moja Hercegovina, 29.11.2018, <https://bit.ly/2FZhuuS> (in local language)

192 RTRS, for how much longer?, Raskrinkavanje, 10.7.2018, <https://bit.ly/2UeQidS>

During the months of ongoing protests, numerous executive government officials in the RS kept publicly accusing protesters, labelling them as “foreign mercenaries”, “Soros supporters”, “secret service agents” who want to cause unrests, undemocratic subversion, or destabilisation of the Republika Srpska. Such language was accompanied by threats of highest officials, which escalated during the pre-election campaign.¹⁹³ In that regard, the statement of the RS President, Milorad Dodik will be remembered; namely, he conveyed a message to Dragičević that “he will no longer be there (at the square) on the eighth (of October).” Due to the public threats to Davor Dragičević, the Central Election Commission fined Milorad Dodik with BAM 5,000, and SNSD with BAM 7,000.¹⁹⁴

Apart from public intimidation, the pressure was also put on employees of public institutions who participated in the protests. Around fifteen people, including several single mothers, received sudden and unfounded decisions on transfer to institutions outside of Banja Luka, because of their participation in the protests.¹⁹⁵ Daniela Ratešić, one of the active and publicly exposed participants of the protests quit her job because of pressures she experienced due to her participation in the protests.¹⁹⁶

In December 2018, after the elections and the appointment of the government for the new mandate, with the same composition, communal police received order to remove from the square the improvised memorial to David, around which the protesters were gathering. For this purpose, a police cordon was sent to Trg Krajine square on 25.12.2018, which prevented the gathered citizens from “protecting” the memorial. Very soon, it became clear that the Entity government intended to completely prevent further gatherings – numerous gathered citizens were arrested on the same day, including some representatives of opposition parties, and David’s parents. Cases of police brutality were also recorded, which caused reactions of different international actors, including the EU delegation to BiH. The police attack on protests after the appointment of the government also includes prior arrests of persons who protested during the inauguration of the former prime minister and current president of the RS, Željka Cvijanović.¹⁹⁷

(in local language)

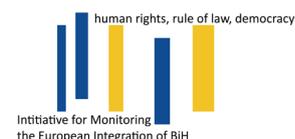
193 The full statement reads: “...They say that the only way to stop Milorad Dodik from winning is if that guy in Banja Luka does something. What’s he gonna do? He took out a bed on the square, and he thinks he is tough. On the eighth, he will not be there any longer.”

194 Central Election Commission punished Dodik for threatening Dragičević, Radio Free Europe, 4.10.2018, <https://bit.ly/2U01YUX> (in local language)

195 RS Government continues its revenge: Single mothers as the first victims of support to the group “Justice for David,” Žurnal, 19.11.2018, <https://bit.ly/2reJFLR> (in local language)

196 As Dodik announced: RS authorities get even with activists of “Justice for David” movement, Žurnal, 22.10.2018, <https://bit.ly/2P8ljgx> (in local language)

197 RTRS about the arrest of David Krneta – no picture, no words, Raskrinkavanje, 23.11.2018, <https://bit.ly/2Eu8PNV> (in local language)



9.3. Media reporting on the protests

The role of the media in satanisation of protesters, and especially of public RTV service and the Entity news agency, causes particular concern. The RTRS, Srna, Alternative TV and several online media, both in the Republika Srpska and in Serbia,¹⁹⁸ openly sided with SNSD officials and entirely shaped their reporting on the protests in accordance with the narrative on “enemies of the Republika Srpska”, which was built by government representatives in the RS. From publishing of personal data, through directly targeting persons who supported protests, to publishing of completely fabricated stories about “protesters from the Federation who were recruited by fighters of the BiH Army”, “buses full of football fans coming from Sarajevo to Banja Luka”¹⁹⁹, and alleged “documents of intelligence services uncovering the real leaders of the protests,” one can say that there is no professional standard that has not been broken by these media as they treated the Banja Luka protests.

On the other hand, cases of actual violence against protesters were censored, and it was even recorded that a case of a car rushing into Davor Dragičević during the large protest was described by these media as follows: “Davor Dragičević and supporters of the group *Justice for David* were stopping traffic participants and hitting the cars in the centre of Banja Luka” (RTRS).²⁰⁰ The majority of such “reports” were originally published on the anonymous portal “Infosrpska”,²⁰¹ and re-broadcast by Srna, RTRS, ATV and tabloids from Serbia, sometimes within a few minutes only.²⁰²

Apart from members of the group “Justice for David”, opposition parties and a few civil society organisations, this aggressive propaganda particularly targeted persons whose national or ethnic identity was “convenient” for creating stories about foreign conspiracies or attacks on the Republika Srpska from the²⁰³ Federation.²⁰⁴ This was especially contributed to by the

198 Tabloid “Alo!”: When even the human death is not sacred, Raskrinkavanje, 5.5.2018, <https://bit.ly/2SpGQ5J> (in local language)

199 Alo: “50-60 buses for paid protesters in Sarajevo”, Raskrinkavanje, 04.10.2018, <https://bit.ly/2GYM8TI>; Lie factories in full function, Raskrinkavanje, 5.10.2018, <https://bit.ly/2VjPcxA> (in local language)

200 RTRS and “attack on the car”, Raskrinkavanje, 5.10.2018, <https://bit.ly/2TgsOrN> (in local language)

201 The Infosrpska portal attracted public attention by publishing agitation texts, uncorroborated by evidence, about the father of the killed young man, Davor Dragičević, which were regularly re-broadcast by the public RTV broadcaster of the Republika Srpska and Srna news agency (see: INFOSRPSKA.BA: A HERO BY EXPLOITING HIS SON’S DEATH – Who is Davor Dragičević, RTRS, 16.9.2018, <https://bit.ly/2U75J87>) (in local language)

202 “Crisis PR” of Dodik and Lukač: Same target, same distance, Raskrinkavanje, 27.12.2018, <https://bit.ly/2EvtEsw> (in local language)

203 After the “executioner”, we have an “agent”, too: How did the long-term “Banja Luka son in law” become a scary intelligence agent, Raskrinkavanje, 27.12.2018, <https://bit.ly/2XkSiDu> (in local language)

204 Media lynch in two pictures, Raskrinkavanje, 22.9.2018, <http://bit.ly/2NsARMN>

fact that the family of Dženan Memić from Sarajevo expressed solidarity with “Justice for David” protests and vice versa.²⁰⁵ Solidarity protests under the slogan “Justice for David and Dženan” were organised both in Banja Luka and in Sarajevo, but SNSD-controlled media were still using it to present Dragičević and “Justice for David” as the “enemies of the Republika Srpska.”

The government’s reaction to the murder of David Dragičević, and especially to “Justice for David” protests, indicates that the media, security structures and the judiciary in the Republika Srpska are under full political control of one party, and that the *de facto* authoritarian regime has been established in this Entity, which openly resorts to anti-democratic mechanisms in getting even with critics or political opponents. From inadequate processing of the murder, which caused reasonable suspicions about the motives of investigative bodies, through persecution of the family and friends of the killed young man, carried out by representatives of the government, media, “intellectuals” close to the regime and different public institutions, to abuse of investigative and judicial bodies and open police repression, all developments around the “Justice for David” protests point to the climate of general legal uncertainty and deep problems in functioning of democratic institutions and mechanisms in this Entity.

(in local language)

- 205 Dženan Memić is a young man who was killed in 2016, and the case remains unsolved, with similar suspicions about deliberate concealing of evidence and sabotaging of the investigation by police and judicial bodies, which was also the cause for a series of protests that have been organised in Sarajevo since, demanding that perpetrators be found and punished.



10. SPECIAL REPORT: MIGRANTS AND REFUGEES IN BIH

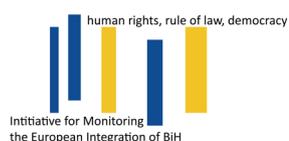
During 2018, there was a significant increase of the number of refugees and migrants who found themselves in Bosnia and Herzegovina, in their attempts to reach the EU Member States. According to official data, more than 23,000 entries across illegal border crossings were registered in 2018. At first, the state institutions mostly ignored the newly arisen situation, then they mostly tried to transfer the responsibility from one governance level to another, while an adequate structure for the provision of administrative and humanitarian aid to refugees and migrants is still lacking.

Almost all registered migrants (over 95%) expressed the intention to seek asylum in BiH, but only 1,567 persons managed to submit the request, and only two of them were granted subsidiary protection.²⁰⁶ Access to the asylum system, medical protection and education system, and the lack of information are only but a few of the problems pointing to the neglect of basic human rights of this category, but also to the non-compliance with existing laws and obligations of BiH, arising from various international documents the state has signed.

Preventing access to the asylum system constitutes a drastic example of violation of human rights of refugees and migrants who are currently in BiH, because only 7% of them managed to go through complicated and fairly unclear procedures and to seek protection. Namely, the majority of people who entered BiH intended to seek asylum. This intention lasts for 14 days, during which period a person is to find an address where they can register, in order to be able to seek asylum. However, during the most part of the year, accommodation capacities in BiH could only accept around 300 people, which means that only the rare were able to fulfil the address requirement as the first precondition for asylum seeking.

With the prevention of asylum access, practically all of them were denied their rights arising from the law and international conventions, including the right to health care. Migrants with chronic and serious diseases such as cancer or HIV mostly do not have adequate protection; cases of doctors trying to illegally charge for their services were recorded, as well as cases when competent ministries and institutions refused to vaccinate children who were not staying in the state-organised camps, although it is their legal obligation.²⁰⁷

In the second half of the year, the EU approved EUR 7.2 million of assistance to BiH, but it was decided that all the money would be paid



²⁰⁶ Nidžara Ahmetašević, Refugees and migrants without human rights in BiH, Helsinki Citizens' Assembly (hCa) Banja Luka, 24.1.2019, <http://bit.ly/2GK03xW> (in local language)

²⁰⁷ Ibid.

through international organisations IOM, UNHCR and UNICEF, which undertook the obligation to provide accommodation and protection to migrants. Donations that reached the state were mostly used to enhance border security, instead of creating better living conditions for migrants. Other than in the state camps, conditions in other (semi)improvised camps and tent settlements are inhumane (wetland, technically unsafe water, showers without hot water, seizure of documents, limited access to mobile phone use) and very problematic from the aspect of the respect of human rights.

Women's safety in the centres that have been open in BiH is another serious issue. Women do not feel safe in all centres, and they are forced to move around with an escort; e.g. over 600 persons stayed in the Miral centre at the end of the year, of whom only 5 were women.

The government adopted an unlawful decree restricting the migrants' freedom of movement, and migrants' children who were allowed to start school do not participate in classes with children from BiH, but in separate classes that have been established for them, which is contrary to existing recommendations of the UN bodies.

10.1. Media reporting on refugees and migrants

From the very beginning, certain governance levels and public officials treated migrants as a security threat only,²⁰⁸ and not as a vulnerable category towards which BiH has obligations pursuant to the signed international conventions. Migrants and refugees from Near East countries were presented to the public as disguised terrorists, abusers, criminals, and "infectious disease carriers." Such viewpoints could be heard from many public officials from the majority of political parties from both entities.

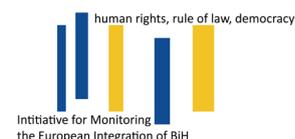
Many domestic media soon accepted such rhetoric,²⁰⁹ and some of them continuously and intensely published inaccurate, unverified or incomplete information, thus presenting migrants in a very negative light to the public, using inappropriate language, xenophobic and racist terms, often with the aim of targeted spreading of fear and hatred among local population, and dehumanisation of migrants.²¹⁰

Some of the first such examples include texts published by Dnevni Avaz

208 Zvizdić: Institutions of BiH have the exclusive competence for migrant issues, Radio Free Europe, 22.5.2018, <http://bit.ly/2BRTfKq>; RS Government Coordination Body for monitoring of movement of illegal migrants appointed, Istinomjer, 5.8.2018, <http://bit.ly/2Ew5ttR> (in local language)

209 Media help the institutions spread xenophobia against refugees and migrants, Mediacentar, 9.5.2018, <http://bit.ly/2Sq1O4q> (in local language)

210 Are there any humans among refugees and migrants?, Analiziraj, 8.11.2018, <http://bit.ly/2Thd6wt> (in local language)



(“Dramatic at the centre of Sarajevo: Migrants beat and rob people”²¹¹) and Al Jazeera Balkans (“Migrants in Sarajevo increasingly ask the BiH institutions for help”²¹²), published in the beginning of May 2018. In a text published by “Avaz”, which includes discriminatory stereotypes, subtitles such as “Shadowy affairs” and “There are narcotics, too” indicate that refugees pose a threat to BiH citizens, and they are based on biased statements of citizens who are given more space in the article than the statement by a representative of the Sarajevo Canton Ministry of Interior, confirming that no serious crimes or violations of public peace and order were recorded by patrols next to the park where migrants and refugees were staying.²¹³ The text by Al Jazeera also leads to the conclusion that migrants and refugees pose a threat to citizens of BiH, but also that those are “false” migrants (“there are only a few people from war affected areas among migrants”), that they are affected by “serious diseases”, and that there are many users of “opiates and narcotics” among them.

At the time when these texts were published, similar “reports” on migrants were not so frequent; this situation changed soon, and media space of Bosnia and Herzegovina literally became flooded with false information and false news presenting migrants as terrorists,²¹⁴ robbers,²¹⁵ rapists, addicts etc. In some cases, media reports even presented violence perpetrated against migrants as violence perpetrated by migrants.²¹⁶ Similar contents were intensively shared on social networks, and a case of a minor offence report filed by the police for false alarming of citizens by a similar post was recorded.²¹⁷ There was a sudden increase in the number of false news taken from international media sources, which similarly created the picture of migrants and refugees as “hordes” of abusers who “invaded” Europe. In the past, such contents could be seen mostly in the media from Serbia and Croatia,²¹⁸ but BiH media started publishing them more intensively in recent

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- 211 Drama at the centre of Sarajevo: Migrants beat and rob people, 6.5.2018, <http://bit.ly/2BPYnyC> (in local language)
- 212 Increasing number of migrants, assistance of BiH institutions sought, Al Jazeera/Agencies, 14.5.2018, <http://bit.ly/2NqUiWc> (in local language)
- 213 Avaz spreads false news about migrants, Raskrinkavanje, <http://bit.ly/2H2fqAU> (in local language)
- 214 Refugee hunt continues, Raskrinkavanje, 23.5.2018, <http://bit.ly/2tGkCm1>; RTRS and “Defter hefte” on the same mission, Raskrinkavanje, 2.8.2018, <http://bit.ly/2T-4FC5q> (in local language)
- 215 Criminalisation of immigrants and refugees, the “Bihać” episode, Raskrinkavanje, 27.5.2018, <http://bit.ly/2ExVgxj> (in local language)
- 216 Attack on migrants, not migrant attack, Raskrinkavanje, 15.11.2018, <http://bit.ly/2tEeOcO>; Shameful reporting of “TV1”: Migrant victim turned into attacker, Raskrinkavanje, <http://bit.ly/2IBEDVt> (in local language)
- 217 Unjustified spreading of panic due to migrants resulted in - minor offence report, Raskrinkavanje, 10.8.2018, <http://bit.ly/2GKbrtx> (in local language)
- 218 From false report to “genetic code interpretation”: Confrontation with migrants which never happened, Raskrinkavanje, 22.2.2018, <http://bit.ly/2XgwV6e> (in local language)

months, including one entity public broadcaster.²¹⁹

In May 2018, the Association BH novinari (BiH journalists), Press Council and the Coalition against Hate Crime and Hate Speech reacted to the unethical and unprofessional media reporting on migrants.²²⁰ It was emphasized that sensationalism in media reporting, agitation, xenophobia, discrimination and violation of human dignity and rights constitute serious violations of the values of journalist profession. They appealed on editors and journalists to write about problems of migrants and refugees, difficulties they face or requests from the state authorities of BiH in a truthful and credible manner, respecting their personal integrity.²²¹

BH novinari organised two workshops on media reporting on migrants. The most important recommendations and conclusions of these workshops are that journalists should provide impartial and accurate facts to the public, they should know the law and declarations in order to properly understand and use the definitions, that journalists should have a humane approach and avoid victimisation, they should convey migrants' viewpoints and always check if a text includes agitating contents that may result in hatred against others and the different.

219 How did the “news” from YouTube end up with the RS public broadcaster, Raskrinkavanje, 1.8.2018, <http://bit.ly/2Edfevw> (in local language)

220 Refugees and migrants have the right to have their voices heard, BH novinari, 13.7.2018, <http://bit.ly/2IzI9PT> (in local language)

221 Appeal on journalists and editors, Press Council, Complaints Commission of the Press Council, 21.5.2018, <http://bit.ly/2BPKUXO> (in local language)



ABOUT THE INITIATIVE

The Initiative for Monitoring the European Integration of Bosnia and Herzegovina is an informal coalition of forty civil society organisations which contributes to monitoring the reforms and oversees the implementation of policies, rights and standards of the European Union, focusing on the issues of democratisation, rule of law, and human and minority rights. Learn more about the Initiative at: <http://eu-monitoring.ba/o-inicijativi/>.

Active member organisations:

Aarhus Centre in BiH, Sarajevo
 Association for Democratic Initiatives, Sarajevo
 Association Transitional Justice, Accountability and Remembrance, Sarajevo
 Balkan Investigative Reporting Network in Bosnia and Herzegovina, Sarajevo
 BH Journalists, Sarajevo
 Centre for Investigative Reporting, Sarajevo
 Centre for Political Studies, Sarajevo
 Civil Society Promotion Centre, Sarajevo
 Forum ZDF, Sarajevo
 Foundation 787, Sarajevo
 Foundation Cure, Sarajevo
 Helsinki Citizens' Assembly, Banja Luka
 Hope and Homes for Children, Sarajevo
 Kali Sara – Roma Information Centre, Sarajevo
 Land of Children, Tuzla
 MyRight – Empowers People with Disabilities, Sarajevo
 Oštra Nula, Banja Luka
 Sarajevo Open Centre, Sarajevo
 Transparency International in BiH, Banja Luka/Sarajevo
 TRIAL International, Sarajevo
 Vaša prava BiH (Your Rights BiH), Sarajevo
 Women to Women, Sarajevo
 Youth Centre Kwart, Prijedor
 Youth Initiative for Human Rights in BiH, Sarajevo
 Zašto ne (Why Not), Sarajevo

Coordinators of the Initiative:

Sarajevo Open Centre
info@eu-monitoring.ba

Supporting organisations:

ACIPS, Sarajevo; Association of Students of Tuzla University's Faculty of Law; Banja Luka Association of Queer Activists (BUKA), Banja Luka; Centre for Socio-Ecological Development, Banja Luka; Human Rights Centre of the University of Sarajevo; Crvena (Red), Sarajevo; European Research Centre, Sarajevo; Green Council, Sarajevo; Infohouse, Sarajevo; OKC Abrašević, Mostar; Perpetuum mobile, Banja Luka; Association PEKS, Tuzla; Vesta, Tuzla; Foreign Policy Initiative BiH, Sarajevo; Green Neretva, Konjic.

