

## 2019-2020 Alternative Report on the Application of Bosnia and Herzegovina for the European Union Membership: Political Criteria

### CONTENTS

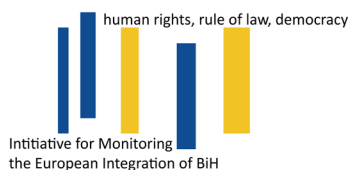
INITIATIVE FOR MONITORING  
THE EU INTEGRATION OF  
BOSNIA AND HERZEGOVINA

[www.eu-monitoring.ba](http://www.eu-monitoring.ba)

Sarajevo, May 2021

ISSN: 2303-6079

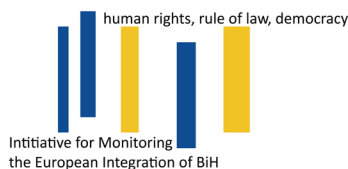
ABBREVIATIONS AND ACRONYMS	3
INTRODUCTION	5
1. DEMOCRACY AND THE RULE OF LAW	7
1.1. Constitutions	7
1.2. Constitutional Courts	9
1.3. Parliaments	11
1.4. Executive Power	13
1.5. Government Openness	15
1.6. Public Administration	16
1.7. Fighting Corruption	17
1.8. Judiciary	21
2. HUMAN RIGHTS AND PROTECTION OF MINORITY RIGHTS	26
2.1. Protection against Discrimination	26
2.2. Position and Rights of Roma	27
2.3. Persons with Disabilities	29
2.4. Returnees and Displaced Persons	31
2.5. Gender Equality	33
2.6. LGBTIQ Rights	35
2.7. Rights to Education	36
2.8. Freedom of Assembly	39
2.9. Free Legal Aid	40
2.10. Persons on the Move	42
3. TRANSITIONAL JUSTICE	48
3.1. War Crimes Trials	48
3.2. Rights of Torture Victims	49
3.3. Wartime Sexual Violence	50
3.4. Missing Persons	52
3.5. Transitional Justice Strategy and Remembrance Policies	52
3.6. Denial of Genocide and War Crimes	55
4. REGIONAL COOPERATION	58
4.1. Bilateral Relations	58
5. INFORMATION SOCIETY AND THE MEDIA	60
6. SOCIAL POLICIES AND EMPLOYMENT	67
7. ENVIRONMENTAL PROTECTION	71
7.1. Air	73
7.2. Water	75
7.3. Waste	76
8. SPECIAL REPORT: LOCAL ELECTIONS IN MOSTAR	77
9. SPECIAL REPORT: COVID-19 RESTRICTIONS	81
9.1. Public Procurement in BiH – COVID-19 Pandemic	82
9.2. COVID-19 Pandemic Impact on the Media in BiH	84
9.3. COVID-19 Pandemic Impact on Environmental Protection Activities	86
ABOUT THE INITIATIVE	88



*Human Rights Papers* of Sarajevo Open Centre  
Paper 60

<b>Title:</b>	2019-2020 Alternative Report on the Application of Bosnia and Herzegovina for the European Union Membership: Political Criteria
<b>Authors:</b>	Ahmet Salčin, Amina Dizdar, Amina Hujdur, Amra Kadrić, Anida Šabanović, Azra Berbić, Bakir Mrkonja, Borka Rudić, Branko Čulibrk, Dalio Sijah, Danijela Milešević Plavšić, Danira Karović, Darko Pandurević, Denis Čarkadžić, Dijana Marjanović, Dragana Dardić, Emina Kuhinja, Emsad Dizdarević, Gordana Katana, Haris Čutahija, Ivana Korajlić, Katarina Zrinjski, Mahir Sijamija, Medina Mujić, Milena Maštalo, Milica Pralica, Mladen Lakić, Nataša Maroš, Peđa Đurasović, Redžib Skomorac, Sabina Lizde, Samir Lemeš, Snježana Ivandić Ninković, Sunita Dautbegović Bošnjaković, Svjetlana Ramić Marković, Uglješa Vuković, Vedrana Frašto, Vildana Džekman, Željka Umićević
<b>Editor:</b>	Dajana Čelebić
<b>Language Editing:</b>	Mirnes Sokolović
<b>Translation to English:</b>	Translation Services Context o.d.
<b>Design/Layout:</b>	Lejla Huremović
<b>Publisher:</b>	Sarajevo Open Centre ( <a href="http://www.soc.ba">www.soc.ba</a> ) on behalf of the Initiative for Monitoring the EU Integration of Bosnia and Herzegovina ( <a href="http://www.eu-monitoring.ba">www.eu-monitoring.ba</a> )
<b>On behalf of the Publisher:</b>	Emina Bošnjak

© Sarajevo Open Centre



*This publication is the result of the work of civil society organisations within the Initiative for Monitoring the European Integration of BiH and associates outside this coalition. This publication is supported by the National Endowment for Democracy (NED).*

*Non-commercial copying, photocopying or any other reproduction of this publication or parts of it is desirable, with the prior written notification to the publisher at: [office@soc.ba](mailto:office@soc.ba).*

## ABBREVIATIONS AND ACRONYMS

AC – Association of Citizens  
APIK – BiH Agency for the Prevention of Corruption and Coordination of the Fight against Corruption  
BD BiH – Brčko District of Bosnia and Herzegovina  
BHRT – Radio-Television of Bosnia and Herzegovina  
BiH – Bosnia and Herzegovina  
CBC – Central Bosnia Canton  
CEC BiH – Central Election Commission of  
CEDAW – Convention on the Elimination of All Forms of Discrimination against Women  
CEFTA – Central European Free Trade Agreement  
CMS – Case Management System  
CoM BiH – Council of Ministers of Bosnia and Herzegovina  
COVID-19 – Coronavirus 2019  
CSO – Civil Society Organisation  
DF – Democratic Front  
EC – European Commission  
ECHR – European Convention on Human Rights  
ECtHR – European Court of Human Rights  
EU – European Union  
FBiH – Federation of Bosnia and Herzegovina  
FLA – Free Legal Aid  
FMHL – Free Media Help Line  
FŠCZ - FBiH Civil Protection Headquarters  
FTV – Federation Television  
FUCZ - FBiH Administration of Civil Protection  
HDZ – Croatian Democratic Union  
HJPC – High Judicial and Prosecutorial Council of Bosnia and Herzegovina  
HNC – Herzegovina-Neretva Canton  
HVO – Croatian Defence Council  
ICRC – International Committee of the Red Cross  
INO – Missing Persons Institute  
IOM – International Organization for Migration  
KM – Convertible Mark  
LBGTIQ – Lesbians, Gays, Bisexual, Transgender, Intersex and Queer Persons  
MHRR BiH – BiH Ministry of Human Rights and Refugees  
MoI RS – Ministry of the Interior of the Republika Srpska  
MoI SC – Ministry of the Interior of Sarajevo Canton  
MoI TC – Ministry of the Interior of Tuzla Canton  
MoI USC – Ministry of the Interior of Una-Sana Canton  
NA RS – National Assembly of the Republika Srpska  
NATO – North Atlantic Treaty Organization  
NECP – National Energy and Climate Plan  
NERP – National Emission Reduction Plan

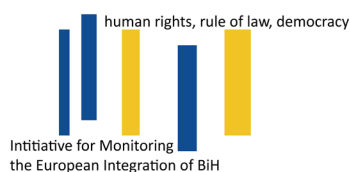
OECD – Organisation for Economic Cooperation and Development  
OHR – Office of the High Representative  
OSA – Intelligence-Security Agency of Bosnia and Herzegovina  
OSCE – Organization for Security and Cooperation in Europe  
OSCE/ODIHR – OSCE Office for Democratic Institutions and Human Rights  
PA BiH – Parliamentary Assembly of Bosnia and Herzegovina  
PBS – Public Broadcasting Service  
PRTR – European Pollutant Release and Transfer Register  
PWD – Person with Disability  
RC – Republic of Croatia  
RCC – Regional Cooperation Council  
RS – Republika Srpska  
RTRS – Radio-Television of the Republika Srpska  
SAA – Stabilisation and Association Agreement  
SAPC – Stabilisation and Association Parliamentary Committee  
SBB – Union for a Better Future of Bosnia and Herzegovina  
SBIH – Party for Bosnia and Herzegovina  
SC – Sarajevo Canton  
SDA – Party of Democratic Action  
SDP – Social Democratic Party of Bosnia and Herzegovina  
SNSD – Alliance of Independent Social Democrats  
TC – Tuzla Canton  
TRC – Temporary Reception Centre  
UN – United Nations  
UNCAT – United Nations Committee against Torture  
UNCEDAW - United Nations Committee on the Elimination of Discrimination  
against Women  
UNHCR – United Nations High Commissioner for Refugees  
USC – Una-Sana Canton  
VC – Venice Commission  
WA – Women's Association  
ZDC – Zenica-Doboj Canton

## INTRODUCTION

For Bosnia and Herzegovina, as well as other Western Balkan countries, integration and membership in the European Union (EU) is a key strategic, political and economic priority. Bearing in mind the importance of the EU integration process, the members of the Initiative for Monitoring the European Integration of Bosnia and Herzegovina<sup>1</sup> have been monitoring the European integration process since 2013 in a transparent, professional and non-partisan manner. *2019-2020 Alternative Report on the Application of Bosnia and Herzegovina for the European Union Membership: Political Criteria* is the result of the work of the members of the Initiative. The report refers to the political criteria for EU membership, and also contains Special Reports on the local elections in Mostar held in 2020 and the impact of COVID-19 restrictions on the protection and respect of human rights in Bosnia and Herzegovina.

Given the developments in 2019, BiH has made little progress in improving the protection of human rights. Even 10 years after the European Court of Human Rights declared the constitutional provisions discriminatory, BiH has still not amended the disputed provisions. Media freedom remains under threat, while war crimes prosecutions are very slow. The year 2019 was marked by the process of forming the government at the state and FBiH level, and only at the end of the year was the Council of Ministers of Bosnia and Herzegovina (CoM BiH) formed. In practice, the state fails to protect women from gender-based violence and to hold perpetrators accountable. The beginning of September 2019 was marked by the first BiH Pride March. The first Pride March was a positive event, but LGBTIQ people continue to face discrimination and violence. In addition, 2019 was marked by mass migrations. BiH continued to face the challenge of migration after a large number of people on the move passed through the country. Reception centres were unable to respond to large numbers of people on the move and refugees, and international migration officials, as well as volunteers, activists, and civil society organisations in BiH, called on BiH authorities to find a solution for people placed in inhumane facilities. Environmental protection in BiH is still a topic not treated as highly important by the BiH authorities; there is no systematic approach to environmental protection and preservation, or to education of BiH citizens on the importance and ways of preserving the environment.

Like the rest of the world, BiH will remember 2020 by the coronavirus pandemic. The pandemic pointed to existing shortcomings related to the functioning of public procurement in BiH. During the pandemic in BiH, there was an increase in domestic violence and a decrease in the number of services available to victims of violence. In August, an alternative second



<sup>1</sup> The Initiative for Monitoring the European Integration of Bosnia and Herzegovina is an informal coalition of 40 civil society organisations that contributes to the monitoring of reforms and implementation of policies, rights and EU standards. To find out more, please visit: <https://eu-monitoring.ba/>

BiH Pride March was organized in Sarajevo, and an increasing number of threats were made to women activists. The CoM BiH adopted the long-delayed Revised National War Crimes Processing Strategy, which has been in the process of adoption since May 2018. The negative consequences of the coronavirus pandemic have affected the increased number of hate crimes, and disproportionately affected marginalized groups in BiH. Authorities in BiH restricted the movement of people on the move and asylum seekers outside official reception centres and banned new arrivals, leaving many on the road without access to basic rights. In 2020, journalists in BiH continued to face interference in their work, defamation lawsuits, verbal threats and physical attacks. In 2020, little progress was made in the field of environmental protection in BiH, mostly due to the activities of CSOs, and to a lesser extent due to the work of competent institutions. In 2020, ethnic divisions continue to be present in BiH, as well as discrimination against minorities and asylum seekers. In June 2020, the main political parties in Mostar reached an agreement that allowed local elections to be held, the first since 2008.

## 1. DEMOCRACY AND THE RULE OF LAW

### 1.1. Constitutions

The 2019 Alternative Report on the Application of Bosnia and Herzegovina for the European Union Membership<sup>2</sup> drew attention to the judgments of the European Court of Human Rights (ECtHR) in Strasbourg that have been passed so far, Sejdić and Finci (2009), Zornić (2014), Pilav (2016) and Šlak (2016), all of which require BiH to remove discriminatory provisions from the Constitution. The report also mentions the ECtHR judgment in the case Pudarić v. Bosnia and Herzegovina.<sup>3</sup> On 8 December 2020, the ECtHR rendered a judgment in favour of Svetozar Pudarić who in the meantime, on 9 March 2020,<sup>4</sup> passed away in Sarajevo at the age of 61. The aforementioned judgments have not been implemented to date.

The working group that was supposed to set deadlines for the implementation of the ECtHR judgments (Sejdić and Finci, Zornić, Pilav v. BiH) has not been formed since 2016. Also, the initiative of Alma Čolo, the chair of the Constitutional Law Commission of the House of Representatives of the PA BiH,<sup>5</sup> who proposed that the HoR PA BiH should appoint an Ad Hoc Committee to draft a proposal of amendments to the Constitution of BiH and proposal of the Law on Amendments to the Election Law of BiH to align them with the judgments of the ECtHR and BiH Constitutional Court, has been rejected.

During the current term, MPs have launched a total of six initiatives to change the Constitution, twice in the House of Peoples and four times in the House of Representatives.<sup>6</sup> The proposed changes concerned the adoption of amendments to the BiH Constitution, which would ensure the full and consistent implementation of the four judgments of the ECtHR, the amendments to increase the number of members of the BiH Constitutional Court, the amendments regarding the salaries of political officials and the introduction of the possibility of holding early elections and amendments to change the competencies of certain institutions. None of the mentioned initiatives included amendments concerning gender equality, which have been

2 The 2019 Alternative Report on the Application of Bosnia and Herzegovina for the European Union Membership: Political Criteria. Initiative for Monitoring the EU Integration of Bosnia and Herzegovina. Sarajevo, February 2019. Available at: [https://eu-monitoring.ba/site/wp-content/uploads/2019/04/alternativni\\_bhs-1.pdf](https://eu-monitoring.ba/site/wp-content/uploads/2019/04/alternativni_bhs-1.pdf)

3 *Pudarić tužbu protiv BiH poslao Sudu u Strasbourgu: Vežite se! Polijećemo!*. Oslobođenje, 25 October 2018. Available at: <https://web.archive.org/web/20210130001706/https://www.oslobodjenje.ba/vijesti/bih/pudaric-tuzbu-protiv-bih-poslao-sudu-u-strasbourg-vezite-se-polijecemo-403529>

4 *Premينو Svetozar Pudarić, bivši potpredsjednik FBiH*. radiosarajevo.ba, 9 March 2020. Available at: <https://web.archive.org/web/20201209153351/https://radiosarajevo.ba/metromahala/lica/preminuo-je-svetozar-pudaric-bivsi-potpredsjednik-fbih/369724>

5 The text of Alma Čolo's parliamentary initiative is available here: [http://static.parlament.ba/doc/135936\\_01-50-1-2517\\_20%20-%20Inicijativa.pdf](http://static.parlament.ba/doc/135936_01-50-1-2517_20%20-%20Inicijativa.pdf)

6 Delegate Denis Bećirović's initiatives: [http://static.parlament.ba/doc/122480\\_Inicijativa.pdf](http://static.parlament.ba/doc/122480_Inicijativa.pdf), [http://static.parlament.ba/doc/130030\\_Delegatska%20inicijativa.pdf](http://static.parlament.ba/doc/130030_Delegatska%20inicijativa.pdf). In addition to them, one of the initiatives (modified "April Package") was sent by the Club of SDP MPs in October 2020, but they received a negative opinion from the Constitutional Law Commission of the House of Representatives of the BiH Parliamentary Assembly.

advocated for seven years by the Gender Equality Agency and the Initiative Women Citizens for Constitutional Reform.<sup>7</sup>

When it comes to other recommendations from the EC Opinion, there has been one positive change. It is about the “abolition of the reference to the death penalty in the Constitution of the RS”. In this regard, on 27 June 2019, the Bosniak People Caucus in the RS National Assembly filed a request to the BiH Constitutional Court for constitutional review<sup>8</sup> of Article 11 of the RS Constitution, which contains a provision on the death penalty. Deciding on the said request, on 4 October 2019,<sup>9</sup> the BiH Constitutional Court held that such a norm could no longer be part of the RS Constitution, and thus gave the competent institutions of that Entity three months to remove that provision. With the publication in the Official Gazette of BiH on 7 November 2019,<sup>10</sup> the aforementioned decision of the BiH Constitutional Court came into effect, thus fulfilling the priority from the EC Opinion regarding the death penalty reference in the RS Constitution.

In the context of negotiations on possible amendments to the BiH Election Law, which have been conducted in BiH in recent months, some political entities and their highest officials have argued that, for example, the ECtHR judgment in the case *Sejdić and Finci v. BiH* can be implemented without amending the BiH Constitution. However, the content of this, but also other judgments from Strasbourg, as well as of the EC Opinion clearly denies these claims. ECtHR Judgments, EC Opinion on BiH’s application for EU membership and Analytical Report, recommendations of the Venice Commission and OSCE/ODIHR, and the views and opinions of key actors of the international community in BiH all point to the fact that changes to the BiH Constitution are not only necessary, but also inevitable and a priority if BiH is to remove discriminatory provisions from its Constitution, embrace fundamental democratic standards, but also have a more functional and efficient state apparatus, and become an EU member.

During 2020, the international community has evidently revived its interest in being more strongly engaged in the Constitutional change processes, with a particular focus on amending the Election Law. This engagement was particularly evident during the negotiations between SDA and HDZ leaders, who agreed to implement the Constitutional Court’s ruling that has been holding back Mostar local elections since 2008. The ECtHR judgment in the

7 Initiative Women Citizens for Constitutional Reform, <https://gradjankezaustavnepromjene.wordpress.com/>

8 *Klub Bošnjaka u Vijeću naroda RS-a: Ustavnom sudu BiH podnesen zahtjev za ocjenu ustavnosti odredbe o smrtnoj kazni*. Oslobođenje, 27 June 2019. Available at: <https://web.archive.org/web/20190628103722/https://www.oslobodjenje.ba/vijesti/bih/klub-bosnjaka-u-vijecu-naroda-rs-a-ustavnom-sudu-bih-podnesen-zahtjev-za-ocjenu-ustavnosti-odredbe-o-smrtnoj-kazni-468910>

9 *Ukinuta smrtna kazna u Republici Srpskoj*. Nezavisne novine, 4 October 2019 Available at: <https://web.archive.org/web/20201014115806/https://www.nezavisne.com/novosti/bih/Ukinuta-smrtna-kazna-u-Republici-Srpskoj/561694>

10 *USTAV RS: Smrtna kazna i zvanično ukinuta objavljivanjem odluke Ustavnog suda BiH*. Paragraf.ba, 7 November 2019 Available at: <https://web.archive.org/web/20201209113211/https://www.paragraf.ba/dnevne-vijesti/07112019/07112019-vijest1.html>

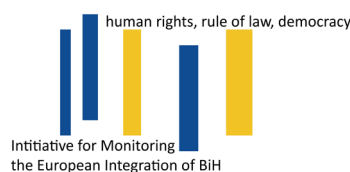
case *Baralija v. BiH* from October 2019,<sup>11</sup> which came into effect in February 2020, gave rise to holding the elections in Mostar. Under the judgment, the BiH Parliament was required to amend, within six months following the judgment, the 2001 Election Law and thus enable the calling and holding of local elections in Mostar. According to the ECtHR, the failure of the competent authorities in BiH to comply with this obligation will give rise to the BiH Constitutional Court to establish interim solutions in accordance with domestic law and practice such as interim rules enabling the next local elections in Mostar. The judgment in case *Baralija v. BiH* has not been fully implemented because the part regarding the change of the Election Law has not yet been implemented. Nevertheless, as a result of the agreement<sup>12</sup> between the political leaders of the major political parties in the city on the Statute of the Mostar City and elections in Mostar, the elections took place on 20 December 2020.

## 1.2. Constitutional Courts

Opinion of the Commission on BiH's application for EU membership<sup>13</sup> published at the end of May 2019, emphasises that BiH will have to fundamentally improve its legislative and institutional framework to ensure it meets the 14 key priorities, one of which relates to the BiH Constitutional Court. In this regard, the Democracy/Functioning section calls for reform of the Constitutional Court, including addressing the issue of international judges and ensuring the enforcement of its decisions. As for international judges, they remain in office until the age of seventy and, as noted in the Analytical Report, there are no specific criteria for their appointment, such as age or judicial experience, save for the eligibility requirement of being recognised as 'distinguished jurists of high moral standing'. Entity constitutions provide that judges are appointed by a simple majority of the Entity assemblies, which risks leading to politicised and ethnic-based appointments. It is important to emphasise that, despite the risk, the Constitutional Court of BiH is one of the few institutions at the state level where, under the Constitution of BiH, ethnicity is not in any way a condition for election. Talking about addressing the issue of international judges in the BiH Constitutional Court, the EC Opinion recalls that the BiH Constitution provides that the Parliamentary Assembly may decide by law a different method of selection of the three judges selected by the ECtHR President. Enacting this provision might ensure stronger domestic participation in their selection process. The BiH Parliamentary Assembly can change the way they are selected by law, but to resolve the "issue of international judges in the Constitutional Court" in a way to no longer have them as members of the Constitutional Court, the BiH Constitution would

- 11 Irma Baralija complained that her inability to vote and stand in elections in the City of Mostar, where there have been no local elections since 2008, amounted to discrimination on the grounds of her place of residence, as concluded in the ECtHR Judgment.
- 12 The signing of the agreement was also attended by the High Representative in BiH Valentin Inzko, US Ambassador Eric Nelson, British Ambassador to BiH Matthew Field and Head of the EU Delegation to BiH Johann Sattler.
- 13 Opinion of EC on Bosnia and Herzegovina's EU membership application. European Commission, 29 May 2019, Brussels. Available at: <http://europa.ba/wp-content/uploads/2019/06/Misljenje-Komisije-o-zahtjevu-Bosne-i-Hercegovina-za-%C4%8Dlanstvo-u-Evropskoj-uniji.pdf>

need to be amended. Even though the decisions of the Constitutional Court are final and binding on all competent bodies, legal entities, and individuals, and that under the Criminal Code non-enforcement of the Constitutional Court decisions is qualified as a criminal offense, as of May 2019, eight decisions remain not enforced, without leading to prosecutions or convictions. This shows that a mechanism of calling to account those responsible for non-implementation of Constitutional Court decisions is not functioning. In addition, once the deadline for implementation expires, the Constitutional Court adopts a ruling on non-enforcement which repeals the unconstitutional legal provision. The professionalism and independence of Constitutional Court judges need to be strengthened, starting with improving their eligibility criteria and appointment procedures. The public in BiH has often witnessed the attempts made by one part of the political spectrum in BiH challenging the legitimacy and credibility of the BiH Constitutional Court, calling BiH's largest court a "criminal and mafia organisation". Such qualifications were made in mid-June 2020 by BiH Presidency Member Milorad Dodik<sup>14</sup> after the BiH Constitutional Court made a ruling<sup>15</sup> repealing Article 53 of the RS Law on Agricultural Land. The said ruling of the Constitutional Court of BiH prompted not only new attacks on the Constitutional Court but also the call for blocking decision-making at the state level. Such a decision was made by the RS National Assembly on 17 February 2020, by "Information on the anti-Dayton activities of the Constitutional Court of BiH - proposal of the President of the Republika Srpska", as well as the agreed "Conclusions of the leaders of parliamentary parties on the anti-Dayton activities of the Constitutional Court of BiH".<sup>16</sup> Reform of the BiH Constitutional Court and resolving the issue of international judges is needed, but only after all other substantive reforms are implemented, primarily those that will guarantee the rule of law in BiH, make BiH a functional country, and ultimately ensure that any violations of the law and the Constitution are timely and adequately sanctioned. When it comes to Entity constitutional courts, it is important to note that the FBiH Constitutional Court is not fully staffed. For a long time, the Constitutional Court of FBiH has been operating with only five judges, one Bosniak, two Croats, one Serb, and one representative of the Others. Under Article 28 of the Law on Procedure before the Constitutional Court of FBiH, this Court shall decide by a majority vote of all judges of the Constitutional Court of FBiH, hence to hold a session of the Court, all five judges need to vote for such a decision. If this is not the case, the decision cannot be made, and the case is removed from the agenda until all judges are appointed. Judge



14 *Dodik: Učiniti sve da bude ukinuto Vijeće naroda*. RTRS, 16 June 2020 Available at: <https://web.archive.org/web/20200617094702/https://lat.rtrs.tv/vijesti/vijest.php?id=388598>

15 The text of the decision of the Constitutional Court of BiH is available here: <http://www.ustavnisud.ba/novosti/sjednice/?id=51010ed0-653f-4138-9e61-7238d09005aa>

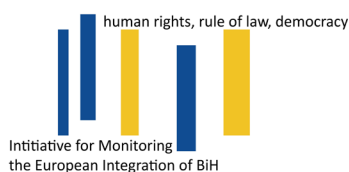
16 *The Tenth Special Session ended, Information and Conclusions regarding the anti-Dayton activities of the Constitutional Court of BiH were adopted*. National Assembly of the Republika Srpska, 17 February 2020 Available at: <https://web.archive.org/web/20200218102146/https://www.narodnaskupstinars.net/?q=la/vijesti/okon%C4%8Dana-deseta-posebna-sjednica-usvojeni-informacija-i-zaklju%C4%8Dci-vezi-antidejtonskog-djelovanja-ustavnog-suda-bih>

of the FBiH Constitutional Court Kata Senjak<sup>17</sup> raised this issue again in late October 2020, recalling that Amendment XXXVIII to the FBiH Constitution establishes a Council for the Protection of Vital Interest comprised of seven judges of the Constitutional Court, two from each constituent peoples and one from the Others. In addition, the President of the FBiH Constitutional Court warned all relevant domestic institutions involved in the process of selecting and appointing judges of this Court, such as the FBiH President and Vice-Presidents, the Speaker of the FBiH House of Representatives, and the HJPC about the vacant posts and impeded work of this court. The FBiH Constitutional Court also addressed the Office of the High Representative for BiH Valentin Inzko and the EU Special Representative in BiH Lars-Gunnar Wigemark, asking them to use their authority to help ensure the constitutional, legal and independent work of the FBiH Constitutional Court, but this problem has not been resolved.

### 1.3. Parliaments

Extremely weak parliamentary activity at all levels in BiH has continued in 2020 and, due to the Covid-19 pandemic, the already small number of sessions of the legislature in the country further dropped. Some legislative bodies met online, while the National Assembly of the Republika Srpska (NA RS) had no sessions for two months, in the period from 28 March to 21 May, when a state of emergency was in force in this Entity. In 2020, the House of Representatives of the Parliamentary Assembly of BiH (PA BiH) held only 12 regular and five emergency sessions, while the House of Peoples of the PA BiH held ten regular and four emergency sessions. In 2020, both Houses of the PA BiH passed five laws, including the budget, while according to the data on the official website of the PA BiH, only 10 laws were passed by both Houses during their entire term.<sup>18</sup>

At this level of the legislature during 2020, the activities were carried out to meet 14 priorities from the EC Opinion on BiH's application for EU membership. This process has been unlocked after the Club of Deputies of the Democratic Front in the House of Representatives of the BiH Parliament sent the initiative to the parliamentary procedure at the end of January 2020,<sup>19</sup> asking the House of Representatives to select its representatives to the BiH Parliament's delegation to the Stabilisation and Association Parliamentary Committee (SAPC) with the EU. At the 8<sup>th</sup> session of the House of Peoples of the PA BiH, held on 25 June



17 *Predsjednica Kata Senjak za Fokus.ba: Rad Ustavnog suda FBiH je dijelom blokiran!* Fokus.ba, 23 October 2020. Available at: <https://www.fokus.ba/vijesti/bih/predsjednica-kata-senjak-za-fokus-ba-rad-ustavnog-suda-fbih-je-dijelom-blokiran/1902522/>

18 Draft laws/laws by status, available at: <https://www.parlament.ba/oLaw/GetOLawsByStatus?SearchTerm=&MandateId=6&Status=9>

19 *DF inicirao formiranje parlamentarnog odbora EU i BiH*. Vijesti.ba, 24 January 2020. Available at: <https://web.archive.org/web/20200626115155/https://vijesti.ba/clanak/476783/df-inicirao-formiranje-parlamentarnog-odbora-eu-i-bih?fbclid=IwAR3Rgsw6ieIeH9AAZuxNJf9nhBfzKcAPZaovuQLc3p-WjekMMWPznaT1y5k>

2020,<sup>20</sup> upon the proposal submitted by the Joint Collegium of both Houses of the PA BiH, the Proposal of the Decision on Appointment of PA BIH members<sup>21</sup> to the SAPC<sup>22</sup> between the PA BiH and the European Parliament. Shortly afterward, at its 10<sup>th</sup> session held on 7 July 2020,<sup>23</sup> the House of Representatives of the Parliamentary Assembly of BiH confirmed the decision of the House of Peoples, thus completing the process of appointing members from BiH to the Committee. Finally, at the first meeting of the newly selected PA BIH members to the SAPC between the PA BiH and the European Parliament, which was held on 22 July 2020, the Rules of Procedure of the SAPC were adopted. In addition, priority number one, which reads: “Ensure that election is conducted in line with European standards by implementing OSCE/ODIHR and relevant Venice Commission recommendations, ensuring transparency of political party financing, and holding municipal elections in Mostar” was met in the part pertaining to the Mostar local elections. With the adoption of amendments to the BiH Election Law by the PA BiH in July 2020,<sup>24</sup> the conditions were created to hold the 2020 Local Elections in this city. The elections took place on 20 December 2020.

In 2020, the House of Representatives of the FBiH Parliament held eight regular sessions,<sup>25</sup> while the House of Peoples of the FBiH Parliament held five regular and three extraordinary sessions.<sup>26</sup> As stated on the official website of the FBiH Parliament, 17 laws were passed by both Houses of the Parliament,<sup>27</sup> nine of which under the urgent procedure, four under the summary procedure, and only four in the regular procedure, and entered into force during 2020. In 2020, the NA RS held three regular and eight special sessions and adopted 49 laws. On March 28, the NARS adopted, upon proposal of the RS Government, the Decision declaring a state of emergency,<sup>28</sup> to enable the institutions to respond more effectively to the coronavirus pandemic. The decision was in force until 21 May 2020, during which time the Assembly did not sit.

No parliament in BiH meets the indicators of data transparency and

- 20 *8th Session of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina*. Parliamentary Assembly of BiH, 25 June 2020 Available at: <https://web.archive.org/web/20200626122538/https://www.parlament.ba/session/OSessionDetails?id=2023&ConvernerId=2>
- 21 *BiH konačno dobija članove Parlamentarnog odbora za stabilizaciju i pridruživanje*. Faktor.ba, 25 June 2020. Available at: <https://web.archive.org/web/20200626124930/https://www.faktor.ba/vijest/bih-konacno-dobija-clanove-parlamentarnog-odbora-za-stabilizaciju-i-pridruzivanje/88191>
- 22 Available at: [http://static.parlament.ba/doc/129675\\_31.pdf](http://static.parlament.ba/doc/129675_31.pdf)
- 23 *The 10th session of the House of Representatives was held. Parliamentary Assembly of BiH*. 7 July 2020 Available at: <https://archive.fo/ca3KQ#selection-1377.0-1377.40>
- 24 *Usvojene izmjene Izbornog zakona BiH*. Truth meter, 8 July 2020. Available at: <https://istinomjer.ba/usvojene-izmjene-izbornog-zakona-bih/>
- 25 The 2018-2022 term: FBiH Parliament, House of Representatives. Available at: <https://predstavnickidom-pfbih.gov.ba/bs/page.php?id=1895>
- 26 FBiH Parliament, House of Peoples. Available at: [https://parlamentfbih.gov.ba/v2/bs/sjed\\_pozivi.php?pageNum\\_rs\\_akt5=1&totalRows\\_rs\\_akt5=124](https://parlamentfbih.gov.ba/v2/bs/sjed_pozivi.php?pageNum_rs_akt5=1&totalRows_rs_akt5=124)
- 27 Laws adopted by the houses of the Federation Parliament under urgent procedure are available at: [https://parlamentfbih.gov.ba/v2/userfiles/file/arhiva\\_spisak/usvojeni%20akti-2018-2022\\_26032021.pdf](https://parlamentfbih.gov.ba/v2/userfiles/file/arhiva_spisak/usvojeni%20akti-2018-2022_26032021.pdf)
- 28 *U Republici Srpskoj uvedeno vanredno stanje*. Radio Free Europe, 28 March 2020 Available at: <https://www.slobodnaevropa.org/a/30514557.html>

openness,<sup>29</sup> nor are they gender-sensitive.<sup>30</sup> Legislative institutions in BiH on average meet 47% of the set indicators of openness in the monitored areas of transparency, accessibility, efficiency, and integrity. Compared to other countries in the region, parliaments in BiH are in the last place in terms of meeting the analysed indicators.

#### 1.4. Executive Power

BiH Council of Ministers (CoM BiH) was formed on 23 December 2019, and in the first year of its mandate, it held 22 regular and 37 extraordinary sessions. By the end of 2020, this CoM referred 12 laws to the parliamentary procedure, of which only four were passed by both houses of the PA BiH. According to the report on monitoring the fulfilment of the pre-election promises of the parties in the CoM, in the first year, only one promise related to the implementation of the Political Agreement for the City of Mostar,<sup>31</sup> Law on Amendments to the Election Law of BiH-City of Mostar-MODEL B<sup>32</sup> and amendments to the Statute of the City of Mostar<sup>33</sup> was fully delivered.

When it comes to holding of local elections in BiH, it is important to note<sup>34</sup> that, despite the appeal<sup>35</sup> from CEC BiH to act in accordance with Article 1.2a of the BiH Election Law<sup>36</sup> and provide funds for the elections within 15 days from the day of the CEC's decision on calling the elections, i.e., until 22 May 2020, the CoM BiH failed to do so. After the expiration of the statutory deadline, the CEC BiH is at its 25<sup>th</sup> session held on 23 May 2020, passed a Decision postponing the local elections in BiH in 2020,<sup>37</sup> hence the elections were held on Sunday, 15 November 2020. After the 2018 General Elections in FBiH<sup>38</sup> and the establishment of the House of Representatives<sup>39</sup> and the House

- 29 Izmirlić, A., Karović, D., Sijah, D., Dajanović, D., *Mapa puta za dobro upravljanje za državne institucije u Bosni i Hercegovini, Na osnovu Regionalnog indeksa otvorenosti državnih institucija*. Udruženje građana "Zašto ne". Sarajevo, 2019.
- 30 None of the parliaments (state and entity) has internal gender-sensitive policies to prevent harassment and sexual harassment in the workplace, neither is consistent in the use of gender-sensitive language, Also none of the parliaments provide the conditions for child care such as family or breastfeeding rooms. See: <http://hcabl.org/wp-content/uploads/2020/07/Procjena-rodne-osjetljivosti-entitetskih-i-dr%C5%BEavnog-parlamenta.pdf>
- 31 The text of the Political Agreement is available at: <https://archive.is/uVluW>
- 32 The text of the Law is available at: <https://archive.vn/yuUo0>
- 33 The text of the Statute is available at: <https://archive.is/pQTe6>
- 34 *Održavanje Lokalnih izbora 2020. godine postalo je pitanje tzv. "političke volje".* Istinomjer, May 25, 2020 Available at: <https://istinomjer.ba/odrzavanje-lokalnih-izbora-2020-godine-postalo-je-pitanje-politicke-volje/>
- 35 *The CEC BiH discussed the problems in the implementation of the 2020 Local Elections.* Central Election Commission of BiH, May 20, 2020 Available at: <https://web.archive.org/web/20200521112130/https://www.izbori.ba/Default.aspx?CategoryID=64&Lang=3&Id=3075>
- 36 The text of the Law is available at: [https://web.archive.org/web/20181024120516/https://izbori.ba/Documents/documents/ZAKONI/Izborni\\_zakon\\_PRECISCENI TEKST-bos.pdf](https://web.archive.org/web/20181024120516/https://izbori.ba/Documents/documents/ZAKONI/Izborni_zakon_PRECISCENI TEKST-bos.pdf)
- 37 2020 Local elections postponed to November 15. Central Election Commission of BiH, May 23, 2020 Available at: <https://web.archive.org/web/20200524105058/https://www.izbori.ba/Default.aspx?CategoryID=64&Lang=3&Id=3078>
- 38 The results of the 2018 General Elections are available here: <https://archive.ph/vbVf>
- 39 Constituent session of the House of Representatives of the Parliament of the Federation of BiH, available at: <https://archive.ph/3WU81#selection-233.0-233.70>

of Peoples<sup>40</sup> of the Federation of BiH, neither the FBiH President or Vice-Presidents were selected nor the new FBiH Government has been formed, which is in the technical mandate ever since. The FBiH Government held 44 regular and 43 emergency sessions in 2020, while the RS Government held 49 sessions in the same period. Both Entity governments have implemented certain measures to combat the COVID-19 pandemic, as well as to mitigate the economic consequences of the pandemic. At the end of March 2020, the RS Government adopted the Decision declaring a state of emergency.<sup>41</sup> As there was no possibility to introduce a state of emergency in the FBiH, in this Entity, on 16 March 2020, a state of natural disaster caused by COVID-19 was declared, which lasted until 31 May of the same year. Regarding economic measures, the RS Government adopted a “Legislative decree on tax measures to mitigate the economic consequences of the COVID-19”, which entered into force on 11 April 2020. On the other hand, the FBiH Government has created an FBiH Law on Mitigating the Adverse Economic Consequences<sup>42</sup>, which entered into force on 7 May 2020.

The distribution of money from the IMF loan of BAM 330 million for the fight against the Covid-19 pandemic, which was approved on 20 April 2020, has stirred up a lot of public attention<sup>43</sup>. The distribution was pending the agreement of three party leaders (Dragan Čović, Milorad Dodik, Bakir Izetbegović). It was not before 2 June that the CoM BiH made the decision on the distribution of these funds,<sup>44</sup> but cantons and municipalities had to wait for their shares for few more weeks afterward. The FBiH Government issued a decision allocating BAM 9.8 million to the cantons, and BAM 11.2 million to municipalities and cities to help take preventive measures in the fight against COVID-19 and mend the consequences. This decision, however, was later annulled, and it was decided to transfer the funds to the current reserve of the FBiH Government, wherefrom, as it was announced at the time,<sup>45</sup> it should be directed to the Federation Ministry of Health for the procurement of medical equipment necessary to combat COVID-19.

From the very beginning, the officials in both Entities could be seen to disregard the measures they imposed,<sup>46</sup> almost equally. Hence, one could see

40 Constituent session of the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina, available at: <https://archive.ph/tRc9D#selection-759.0-759.80>

41 *U Republici Srpskoj uvedeno vanredno stanje*. Radio Free Europe, 28 March 2020 Available at: <https://www.slobodnaevropa.org/a/30514557.html>

42 *Measures of the FBiH and RS governments to support the economy*. Foreign Investments promotion Agency in Bosnia and Herzegovina, 22 May 2020. Available at: <http://fipa.gov.ba/ufokusu/default.aspx?id=14073&langTag=bs-BA>

43 *Dok novac od MMF-a “skuplja prašinu” redaju se optužbe*. Istinomjer, 25 May 2020 Available at: <https://istinomjer.ba/novac-od-mmf-a-skuplja-prasinu/>

44 CoM BiH made a decision on the allocation of IMF funds. BiH Council of Ministers, 2 June 2020 Available at: <https://archive.vn/K21Rr#selection-853.0-853.46>

45 Čampara: Odluka Vlade FBiH o raspodjeli novca iz federalnog budžeta “bit će poništena”. Istinomjer, 5 April 2020. Available at: <https://istinomjer.ba/campara-odluka-vlade-fbih-o-raspodjeli-novca-iz-federalnog-budzeta-bit-ce-ponistena/>

46 *Za bh. lidere (ne)vaze naredbe o ograničenju kretanja i (samo)izolaciji*. Istinomjer, 27 March 2020. Available at: <https://istinomjer.ba/za-bh-lidere-nevaze-naredbe-o-ogranicenju-kretanja-i-samoizolaciji/>

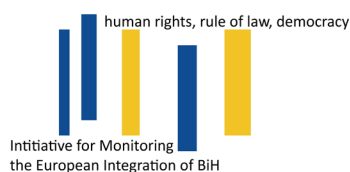
many situations of the officials appearing without face-masks<sup>47</sup> – even during public appearances – when it was mandatory, or using the state of emergency to deal with the opponents.<sup>48</sup>

### 1.5. Government Openness

Openness, transparency, and accessibility of the parliament, as the highest representative body, are one of the key indicators of its democracy, and thus the democratisation of the whole society. A functional and effective parliament - proactive in publishing information about its work, accessible to citizens, and open to cooperation with the media and civil society - is a prerequisite for the rule of law. However, the research on the openness of the institutions of the legislative power in BiH shows no significant progress of institutions' opening up to the public.<sup>49</sup>

When it comes to the legislative power in BiH, it satisfies only 36% of the set indicators of openness. The declining trend of openness continued in the past year, placing BiH at the bottom of the list of countries in the region. According to the survey results, the most open was the NA RS with 39%, followed by the FBiH Parliament with about 38% of satisfied indicators in the House of Peoples, and 29% in the House of Representatives. The House of Peoples of the PA BiH met 35% of the set indicators, and the House of Representatives of the PA BiH 37%. The research showed that some of the reasons behind the poor score of parliaments relative to the previous year are the weak interaction of BiH parliaments with citizens, which satisfies only 6% of set indicators, then failure to conduct public consultations (26%), lack of appropriate mechanisms to prevent conflicts of interest (in this segment, only 40% of the set indicators are met), etc. Given the research findings, the institutions of the legislative power in BiH could be said to have invested no effort in the past year to improve their openness, and hence scored low. Parliaments in BiH should pay better attention to digital transformation, civic engagement, and open data.

When it comes to the openness of the executive power in BiH - the CoM BiH, the Government of the FBiH, and the Government of the RS - a total of 48% of the openness indicators have been met: CoM BiH 59%, the Government of FBiH 48%, and the Government of RS 36%.<sup>50</sup> On average, state and Entity ministries in BiH meet only 31% of the analysed criteria in the areas



47 *Koliko zvaničnici u FBiH poštuju vlastite naredbe?* Istinomjer, 2 April 2020. Available at: <https://istinomjer.ba/koliko-zvanicnici-u-fbih-postuju-vlastite-naredbe/>

48 Vlada RS: *Od Viškovićeve teorije zavjere do kažnjavanja zbog upućenih Kritika.* Istinomjer, 31 March 2020. Available at: <https://istinomjer.ba/vlada-rs-od-viskovicve-teorije-zavjere-do-kaznjavanja-zbog-upucenih-kritika/>

49 Tepavac, Tara., Aščerić, Selma. *Otvorenost parlamenata u regionu i Bosni i Hercegovini, Preporuke za unapređenje stanja zakonodavne vlasti u BiH i regionu.* Udruženje građana „Zašto ne”. Sarajevo, 2020. Available at: <https://zastone.ba/app/uploads/2020/12/Parlamenti-BiH-070920.pdf>

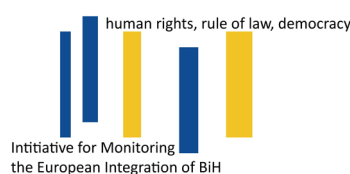
50 Karović, Danira., Gvozdenović, Milena. *Otvorenost izvršne vlasti u regionu i Bosni i Hercegovini, Preporuke za unapređenje stanja izvršne vlasti u BiH i regionu.* Udruženje građana „Zašto ne”. Sarajevo, 2020. Available at: <https://zastone.ba/app/uploads/2020/12/Izvr%C5%A1na-vlast-BiH-070920-1.pdf>

of transparency, accessibility, efficiency, and integrity, which further speaks of the low level of openness of the executive power in BiH. Differences in overall scores between state and Entity ministries in BiH are huge. The BiH Ministry of Justice is best ranked with 55% of all indicators, and the worst-ranked is the FBiH Ministry of Energy, Mining, and Industry with 17%. Administrative bodies in BiH (45 administrative bodies were included in the survey sample) also scored rather modestly (27%). When compared to last year, these scores show slight oscillations that represent neither progressive nor regressive change.

### 1.6. Public Administration

The Public Administration Reform Coordinator at the state level, Predrag Ćuzulan, repeatedly pointed to the obstructions of the RS Government in the PAR process, as they were the only level of government that failed to adopt the strategic document endorsed by all other levels (BiH, FBiH, BDBiH). As a result of this failure, PARCO could not start drafting the joint action plan.<sup>51</sup> In addition, the RS government blocked the Public Administration Reform Fund by refusing to sign an Annex to the Memorandum of Understanding as a key document for the functioning of the Fund, thus preventing further payments by donors and local authorities and calling into question the purpose of the Fund. In the end, the reform process was unlocked, because, in June 2020, the RS Government finally adopted the Strategic Framework for Public Administration Reform in BiH for the period 2018-2022.<sup>52</sup> Shortly afterward, all levels of government adopted a Public Administration Reform Action Plan covering five areas of reform interventions (policy development and coordination, civil service and human resource management, accountability, service delivery, and public financial management), and which contains a total of 165 activities that will be implemented by 2022. It will take a total of BAM 61,473,895 to implement the activities planned under the Action Plan for Public Administration Reform, of which about BAM 60 million is planned to be provided from donations.<sup>53</sup> Civil society organizations (CSOs) submitted their comments to the Action Plan, emphasising that it is necessary to ensure proactive transparency through legislation, and increase the number of targeted training courses for civil servants and management structures, as indicators for monitoring the activities are insufficiently defined.

The very process of adopting framework public policies related to public administration reform, and blocking the reform processes due to political disagreements have shown that the authorities are insufficiently committed to



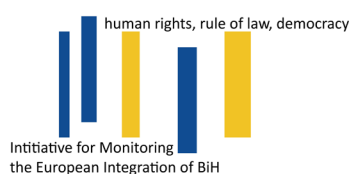
- 51 *Kancelarija koordinatora za reformu javne uprave o opstrukcijama vlade RS*. BHRT, 16 July 2019, available at: <https://bhrt.ba/kancelarija-koordinatora-za-reformu-javne-uprave-o-opstrukcijama-vlade-rs/>
- 52 *BiH dobija depolitiziranu elektronsku javnu upravu?* Office of the Public Administration Reform Coordinator, 30 June 2020, available at: <https://parco.gov.ba/2020/06/30/bih-dobija-depolitiziranu-elektronsku-javnu-upravu/>
- 53 *Vijeće ministara Bosne i Hercegovine usvojilo Akcijski plan za reformu javne uprave*. Office of the Public Administration Reform Coordinator, 17 December 2020, available at: <https://parco.gov.ba/hr/2020/12/17/vijece-ministara-bosne-i-hercegovine-usvojilo-akcioni-plan-za-reformu-javne-uprave/>

modernising and streamlining public administration. It is also worrying that most of the funds required are planned to be obtained from donors and that budgets at all levels of government do not allocate significant funds for reform interventions. At the same time, there have been no major developments in key areas of public administration (civil service, transparency, employment, etc.). In the previous period, most of the activities were focused on harmonising strategic documents and overcoming political disagreements.

Although public administration reform and all segments that accompany this process are identified as a priority in the pre-election programmes of political parties, this process has been moving slowly for years. Thus, it took several years to adopt the Strategic Framework and the Action Plan for Public Administration Reform 2018-2022 (the previous Strategy for Public Administration Reform was adopted in 2006). The Action Plan was finally agreed on 7 July 2020, and officially adopted during the year by all relevant levels in BiH. The areas defined by the Action Plan envisage several ambitiously planned activities, which raises the question of their feasibility, especially if we take into account the time planned for their implementation. Public administration in BiH and its reform are among the 14 priorities from the EC Opinion given in May 2019, but the modernization of public administration in our country is not only an obligation on the path towards EU but also an essential prerequisite for responsible, efficient, and transparent civil service.

### 1.7. Fighting Corruption

According to the available data on corruption prosecution before the courts and prosecutor's offices in BiH for 2019, which are available on the Interactive Map of Corruption Prosecution,<sup>54</sup> there is a decrease in the number of reported corruption offenses compared to previous years. The decline in the number of reported corruption crimes is, in fact, a confirmation of the findings of previous public opinion polls on the reduced public confidence in the work of judicial institutions, which have been recognised as one of the three sectors most susceptible to corruption. Several corruption affairs that occurred within the judiciary greatly contributed to this public perception. Also, there is an alarming rate of orders not to conduct investigations (54% in the total number of resolved corruption reports in 2019). Hence, one should review and analyse the reasons behind such a high rate of so-called negative prosecutorial decisions relating to reported corruption cases. Along with the decrease in the number of reports, the number of open investigations in corruption cases is also decreasing, 4.3% compared to 2018, and as much as 16.5% compared to 2016. When it comes to indictments, in 2019, there has been a slight increase in the number of filed indictments in corruption cases relative to 2018, mostly due to the increase in the number of indictments in the FBiH prosecutorial system. On the other hand, the number of indictments filed to the BiH Prosecutor's Office dropped by 33.3%, or by one-third, as well as in the RS prosecutorial system, where the number of indictments filed dropped by 30% relative to 2018. During 2019,

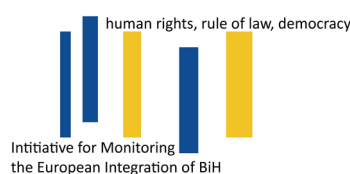


<sup>54</sup> The map available at: [www.mapa.ti-bih.org](http://www.mapa.ti-bih.org)

noted was an increase in the total number of court decisions for corruption offenses, which is the sum of all final and non-final court decisions. While on the one hand there was a significant increase in the number of court decisions in corruption cases at the level of Entity, the Court of BiH, which decides the cases prosecuted by the BiH PO, rendered only one decision in corruption offenses - a suspended sentence - which is an 80% decline relative to the previous year. In 2019, the increased number of convictions is followed by the increased number of acquittals for corruption offenses, 51.2% relative to 2019 and 210% relative to 2016. Looking at the structure of convictions, we come to the conclusion that the penal policy for corruption crimes is very low and not at all dissuasive for potential perpetrators. Although there has been an increase in the total number of court decisions imposing a prison sentence, the share of these sentences in the total number of convictions is still very low, just over 28%. On the other hand, suspended sentences remain the dominant form of punishment for corruption offenses, and this share in the total number of court decisions is as high as 64.2%.

The FBiH has not yet adopted a special law on the protection of whistle-blowers, although the draft law was passed in the House of Representatives in mid-2018. The delay in the adoption of this important law, which would enable stronger legal protection of persons reporting corruption in their work environment, only shows that the fight against corruption is not on the list of political priorities. According to Transparency International in BiH (TI BiH)<sup>55</sup>, since 2014, the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption of BiH (APIK) has granted the status of a protected whistle-blower to only eight of the 24 persons who requested protection. Employees of state institutions enjoy special legal protection as whistle-blowers, but despite this, they rarely opt for this type of report, which shows that there is no trust in the mechanisms of current protection through APIK. In the RS, where the Law on the Protection of Persons Reporting Corruption provides for a judicial model as an external form of protection, only a few court proceedings have been initiated to protect these persons since the adoption of the law (2017). Also, in the first six months of 2020, seven whistle-blowers turned to the TI BiH Free Legal Aid Centre, six of them from the FBiH where these individuals do not enjoy special legal protection. This only indicates that the legal protection of whistle-blowers in the FBiH must be ensured as a matter of urgency.

In September 2020, Nikola Špirić was appointed to the Parliamentary Committee for the selection and monitoring of the work of the APIK.<sup>56</sup> The PA BiH appointed to the parliamentary body a politician who, according to the official information of the US government, was involved in high



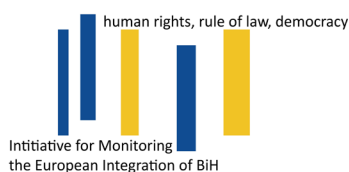
<sup>55</sup> *International Whistleblower Day: Adopt a law in the FBiH and strengthen the legal protection of all whistleblowers*. TI BiH, 23-Jun-20, available at: <https://ti-bih.org/medjunarodni-dan-zvizdaca-donijeti-zakon-u-fbih-i-pojacati-pravnu-zastitu-svih-prijavitelja-korupcije/>

<sup>56</sup> *TI BiH: Appointment of Nikola Špirić to the Committee for Selection and Monitoring of the work of APIK is a slap in the face to the fight against corruption*. TI BiH, September 24, 2020, available at: <https://ti-bih.org/ti-bih-imenovanje-nikole-spirica-u-komisiju-za-izbor-i-pracenje-rada-apik-a-je-samar-borbi-protiv-korupcije/>

corruption and accepting bribes in connection with the public functions he performed. Špirić and his family are banned from entering the United States because of their involvement in corruption. The Committee, as an independent body of the PA BiH, oversees the work of APIK and has a key role in the process of appointing and dismissing the management of the only institution whose mandate is dedicated exclusively to the fight against corruption. By appointing Špirić, the legislature has enabled a politician facing the most serious corruption charges to monitor, supervise and influence the work of the anti-corruption agency. The controversial appointment has once again shown the futility of all efforts to establish an institutional and legislative framework to fight corruption.

According to “An overview of the implementation of the 2015-2019 Strategy and the Action Plan for the fight against corruption”,<sup>57</sup> no significant steps have been taken in terms of improving the legal framework for the fight against corruption. The main reasons for the poor implementation of the Strategy are the lack of political will, i.e., the fact that in the situation of state capture, the interest of political leadership is to maintain the *status quo* and keep the acquired privileges and control over the public resources, processes, and institutions. Although the 2015-2019 Anti-Corruption Strategy and the accompanying Action Plan for its implementation expired at the end of 2019, BiH has not yet adopted a new strategy, hence, it can be concluded that there is currently no strategic anti-corruption framework in BiH, despite the widespread corruption and the enormous consequences it leaves on society as a whole. During 2019, APIK formed a Cross-sectoral Working Group for the development of a new anti-corruption strategy, which at the end of 2019 and the beginning of 2020, worked on drafting a new Anti-Corruption Strategy and the accompanying Action Plan for the period 2020-2024. In early 2020, APIK sent the draft Anti-Corruption Strategy and the accompanying Action Plan for the period 2020-2024 to the BiH Council of Ministers for adoption, but the CoM BiH has not yet adopted it.

No progress has been made on improving the Law on Conflict of Interest in BiH Institutions, even though the Draft Law, which received the support of all international organizations – and in whose drafting IT BiH was involved – was sent to the parliamentary procedure in 2017 and re-sent in 2019. Despite the proposals for the improvement of this law sent by TI BiH through the e-consultations platform, and the appeal of the international community to improve the draft, the Ministry of Justice rejected most of the proposals, thus degrading some segments of the draft law. The draft law proposes that BH officials be allowed to be owners or directors of private companies that do business with lower-level institutions, even though the existing law – which is subject to improvements – prohibits such business with institutions at any level. In almost the same case, the Ministry rejected TI BiH’s proposal to keep the existing provision of the law, which prohibits BiH officials from leading



<sup>57</sup> Transparency International in BiH, *An Overview of the 2015-2019 implementation of the Strategy and Action Plan for the Fight against Corruption*, Banja Luka 2020, available at: [https://ti-bih.org/wp-content/uploads/2021/02/Strategija-osvrt\\_final-1.pdf](https://ti-bih.org/wp-content/uploads/2021/02/Strategija-osvrt_final-1.pdf)

budget-funded associations at any level. In addition to these two provisions, which will certainly set back the existing law, the Ministry has rejected several proposals, such as a proposal to ban public officials from being directors of public institutions at the same time.

In the previous period, there has been no progress in improving the Election Law and the Law on Financing of Political Parties. Detected were a total of 2484 examples of public resources being used for the election promotion of parties and candidates. The largest number of abuses refers to the intensification of public works in the pre-election period. In only three months, noted was a total of 1,075 such cases, almost half of which took place in the last month, during the election campaign. The largest number of these works was recorded in Zenica, Banja Luka, Dobož, and the municipalities of Stari Grad and Novi Grad in Sarajevo. During the monitoring, examples of paid advertising of public companies and institutions that promote candidates in local elections were noted, especially in Bijeljina, Visoko, Banja Luka, and Banovići where public campaigns paid with budget money directly promoted current city and municipal mayors who ran in the local elections. TI BiH reported ten political parties to the CEC of BiH for receiving donations from legally prohibited sources. During the last year, they received donations from private companies that had concluded contracts with executive bodies, which is prohibited by the Law on Financing of Political Parties. In addition, during the monitoring, TI BiH filed 113 reports to the competent authorities on various grounds. Based on TI BiH reports, the Central Election Commission imposed 44 fines in the total amount of BAM 45,000 due to the premature campaign, while the outcome of other reports is still pending.

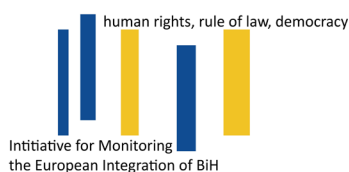
After the outbreak of Covid-19 in BiH in early March 2020, health institutions and various levels of government procured medical and protective equipment worth at least BAM 62 million by the end of the year. According to data collected by the Balkan Research Network of Bosnia and Herzegovina (BIRN BiH), almost no open public procurement procedure has been conducted in the first three months since the launch of procurement of equipment to combat COVID-19. The most common procurement procedure in this period was negotiated procedure without publication of notice, which enabled institutions and public companies to choose which companies they will negotiate the procurement with, without making public announcements for all interested companies. In this way, 426 contracts were concluded for the procurement of protective and medical equipment in the value of more than BAM 30 million, which is almost half of the total value of the procurement from the beginning of the pandemic to the end of the year. Immediately after the declaration of the pandemic in BiH, the authorities requested changes to the BiH Public Procurement Law, in particular the Article governing the application of the law, under the pretext of accelerating the procurement procedures, although such accelerated procedures were already envisaged under the Law. The Public Procurement Agency responded that by the end of October 2020 they had filed 26 requests before competent courts for initiating misdemeanour proceedings and brought ten criminal charges with the

competent prosecutor's offices against contracting authorities for irregularities in public procurement. By the end of the year, there were 11 open cases in the competent prosecutor's offices. The BiH Prosecutor's Office filed an indictment against Fadil Novalić, Prime Minister of FBiH, and others for one of the biggest scandals in 2020, for the purchase of ventilators worth BAM 10.5 million from Srebrena Malina, a Srebrenica company registered for growing and processing fruits and vegetables.

### 1.8. Judiciary

The crisis in the HJPC leadership began in the spring of 2019, when the Office of the Disciplinary Counsel filed a lawsuit against the then President Milan Tegeltija for violations of the Law on the HJPC, i.e., "conduct that amounts to a serious breach of official duty or undermines public confidence in impartiality and credibility of the judiciary". After the first-instance disciplinary commission dismissed the lawsuit, the OSCE, the Office of the High Representative in BiH, and the embassies of the United States, UK, Germany, the Netherlands, and Spain expressed concern over the rejection.<sup>58</sup> The problem culminated after the media in November 2020 broadcast a recording of a conversation between Tegeltija and now a former member of the HJPC on the appointment of her sister to the judiciary. In response to this, the international organisations and judicial associations in BiH appealed to the members of the HJPC and the overall judicial community to address this crisis immediately. As a result of these two affairs, Milan Tegeltija resigned in December 2020. Transparency of the work of judicial institutions remains one of the unresolved issues, exacerbated by the COVID-19 pandemic. In the telephone session of the HJPC, which was held on 3 April 2020, an initiative to enable online trials and investigative hearings was adopted in 2006. However, the initiative was immediately objected to by the BiH Ministry of Justice, which claimed that changing as many as four laws at all levels of government in such a short time would be impossible. By the end of 2020, there were no online trials.

The EC Reports on BiH for 2019 and 2020 state that the judicial system is not sufficiently accessible and transparent, and reports indicate that key court decisions and confirmed indictments are not available on the official websites.<sup>59</sup> To adapt to the situation caused by COVID-19, the HJPC introduced online sessions (e-session). The Rulebook on holding electronic sessions does not foresee the presence of the public in such sessions, and HJPC noted that they have not been able to ensure direct monitoring of the e-sessions for media representatives. This was especially problematic in November 2020, when the HJPC Law was discussed in e-sessions, which the public was informed about only through their press releases. In October 2020, the HJPC issued another decision that deeply concerned both the domestic and foreign experts.



58 Tegeltija case: OSCE, OHR and five embassies concerned about disciplinary proceedings, June 2019, <https://detektor.ba/2019/06/07/slucaj-tegeltija-osce-ohr-i-pet-ambasada-zabrinuti-zbog-disciplinskog-postupka>

59 European Commission Report on BiH for 2020, page 20, [http://europa.ba/wp-content/uploads/2020/10/2020\\_bosnia\\_and\\_herzegovina\\_report.pdf%20i%20za%202019](http://europa.ba/wp-content/uploads/2020/10/2020_bosnia_and_herzegovina_report.pdf%20i%20za%202019), page 35, <https://ec.europa.eu/neighborhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-analytical-report.pdf>

Namely, they announced there will be no performance appraisal of judicial officeholders in 2020, due to the pandemic. This is particularly worrying given that at the same session it was stated that “the 2019 performance appraisal process has not yet been completed, and that there is a large number of judicial officeholders who have a negative evaluation”.<sup>60</sup>

Justice Sector Reform Strategy in Bosnia and Herzegovina and accompanying Action Plan for the period 2014-2018<sup>61</sup> were initially presented as key strategic documents which, although mutually conditioned, were supposed to provide a harmonised response of the entire judiciary to the expected and much-needed reform measures. One of the key goals was to align the BiH judiciary with EU standards. Although the set strategic framework, due to its comprehensiveness, required timely action of the competent institutions in order to implement the set strategic programmes, the progress in the implementation of strategic programmes and defining activities could be said to have remained very limited.<sup>62</sup> In 2017, with the coordination of the Association “Vaša prava BiH”, a coalition of CSOs was formed to systematically monitor the implementation of the Justice Sector Reform Strategy 2014-2018/20. By signing an MoU between the Association “Vaša prava BiH” and the Ministry of Justice of BiH, this coalition was formalised as an operational mechanism for assessing the implementation of the Strategy and the accompanying action plan. The process of establishing the reform platform was significantly delayed due to the delayed adoption of the Action Plan, which was adopted only in 2017, and which formally prevented the implementation of the Strategy in that period. The same thing happened with the adoption of the Revised Action Plan, which was supposed to enable the continuation of reform activities in the period 2019-2020 until the adoption of a new reform framework. More precisely, although the draft Revised Action Plan was supported in the third Ministerial Conference (Ministers of Justice) on 3 February 2018, the CoM BiH adopted it only on 29 October 2020, 2 months before the expiration of the Revised Action Plan.<sup>63</sup> In addition to the above-mentioned challenges that existed in the process of establishing the reform strategic framework, which was largely conditioned by the negative aspect of the criteria of political feasibility, the key reform goals were also not fully met. This was mostly reflected in the fact that in the reform process that lasted 7 years, BiH failed to adopt the much-needed amendments to the HJPC Law and amendments to the BiH Criminal Procedure Code, reform the appeals system of the Court of BiH to align it with the European Convention, adopt the law on the Constitutional Court of BiH, harmonise the laws on prosecutor’s offices,

<sup>60</sup> *HJPC Neće se ocjenjivati nosioci pravosudnih funkcija za 2020*. Detektor.ba, October 2020, available at: <https://detektor.ba/2020/10/22/vstv-nece-se-ocjenjivati-nosioci-pravosudnih-funkcija-za-2020/>

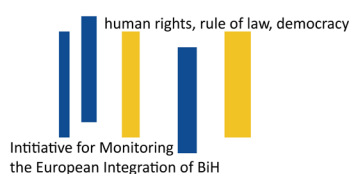
<sup>61</sup> Justice Sector Reform Strategy in Bosnia and Herzegovina for the period from 2014 to 018, available at: <http://www.mpr.gov.ba/aktuelnosti/propisi/konsultacije/SRSP%20u%20BiH.pdf>.

<sup>62</sup> Conclusions from the 19<sup>th</sup> session of the Council of Ministers of BiH, held on 29 October 2020; Conclusion number 7. - Decision of the Council of Ministers of BiH on the adoption of the revised Action Plan for the implementation of the Justice Sector Reform Strategy in BiH for the period 2019 - 2020, [http://www.vijeceministara.gov.ba/saopštenja/sjednice/zakljucci\\_sa\\_sjednica/default.aspx?id=34395&langTag=hr-HR](http://www.vijeceministara.gov.ba/saopštenja/sjednice/zakljucci_sa_sjednica/default.aspx?id=34395&langTag=hr-HR)

<sup>63</sup> Ibid.

improve the system of financing judicial institutions, and improve and strengthen the system of horizontal and vertical coordination of competent institutions in the process of implementing the Strategy. Report of CSOs on monitoring and implementation of the Justice Sector Reform Strategy in BiH,<sup>64</sup> prepared by the Association “Vaša prava BiH”, states that in the implementation period of the 2014-2018 Strategy, out of a total of 178 activities, only 68 activities were fully implemented (35%), while in the period of implementation of the 2018-2020 Strategy and the Revised Action Plan, out of a total of 169 activities, only 43 activities were fully implemented (26%). In the process of monitoring and evaluating the implementation of the Strategy, the Association established the need for greater engagement of the competent authorities on addressing the lack of harmonisation and independence of the judiciary, the need for increased responsibility of all parties responsible for the reform processes for the set targets, the need to align the Strategy with existing reform initiatives and priorities, and ultimately more frequent assessment of the status of implementation of the strategy/action plan that would allow for alternative corrective measures to address possible delays and obstacles to the implementation of individual reform activities and programmes. All these findings were subsequently confirmed by the OSCE BIH and the EU Delegation.

The judiciary is burdened with scandals involving high-ranking judicial officials, particularly the allegations of corruption against Milan Tegeltija, the former president of the HJPC.<sup>65</sup> Disciplinary commissions, composed of members of the HJPC, in the first such affair took the position that the President of the HJPC cannot bear disciplinary responsibility because he was taking actions in the capacity of a Council president, not a judge. CSOs have warned that replacing persons in the judicial regulatory body will not be enough as the judiciary as such is facing serious challenges such as inappropriate political influence on judicial officeholders, declining public confidence in the judiciary, lack of integrity and mechanisms to checks the asset declarations of the judges and prosecutors, the “impunity syndrome”, etc.<sup>66</sup> In this regard, CSOs have advocated the establishment of vetting procedures or re-evaluation of all existing judges and prosecutors in the judiciary. This would involve the introduction of temporary and specialised bodies, composed of independent legal experts, with the participation of international experts. They should check all judges and prosecutors through several instances, and the judges and prosecutors would have the right to appeal. However, they would assess the following aspects: 1) verification of competencies; 2) verification of personal backgrounds and connections with



64 Association “Vaša prava BiH”, Report of civil society organizations on monitoring and implementation of the Justice Sector Reform Strategy in BiH for 2019 and 2020, [https://storage.googleapis.com/strapi-vasaprava/RED\\_Izvjestaj\\_OCD\\_o\\_pracenju\\_i\\_provodjenju\\_SRSP\\_i\\_AP\\_za\\_2019\\_i\\_2020\\_fc7a2e99ca/RED\\_Izvjestaj\\_OCD\\_o\\_pracenju\\_i\\_provodjenju\\_SR7](https://storage.googleapis.com/strapi-vasaprava/RED_Izvjestaj_OCD_o_pracenju_i_provodjenju_SRSP_i_AP_za_2019_i_2020_fc7a2e99ca/RED_Izvjestaj_OCD_o_pracenju_i_provodjenju_SR7).

65 Afera potkivanje, available at: <https://ba.voanews.com/p/7138.html>

66 TI BiH: The latest affair confirms that vetting process is the only solution for the judiciary. TI BiH, November 27, 2020 Available at: <https://ti-bih.org/ti-bih-najnovija-afera-potvrduje-vetting-procedure-jedino-rjesenje-za-pravosudje/>

organised crime/corruption, and 3) verification of assets.<sup>67</sup>

According to TI BiH data from the Report on trial Monitoring of Corruption Cases,<sup>68</sup> court proceedings in these cases are lengthy, and there is an unreasonable time difference between the hearings. Only one-third of the monitored cases were held once a week, but longer intervals of at least two weeks and more (over a month) prevailed. This shows that there is no procedural discipline and holding of trials on the principle of successive court days. The current practice in corruption cases indicates disproportionate time intervals between the hearings, including the negligent attitude of judges towards procedural economics. The findings of the Report also show that the amount of damage or the complexity of the factual substrate in corruption cases does not affect the length of court proceedings. Even in the so-called simpler cases of petty corruption, proceedings can take more than five years from the time the indictment is confirmed.

Impunity for attacks on journalists, as well as pressures and violations of their rights in 2020 increased by 23% relative to 2019. One of the reasons for the increased rate of violence against journalists is the inadequate legal and institutional protection of media freedoms and rights of journalists through criminal legislation, as well as the insufficient level of efficiency of judicial bodies and the prosecutor's office in court proceedings. In 2019, BH Novinari submitted amendments to the Criminal Codes (BiH, FBiH, RS, BD BiH)<sup>69</sup> relating to security threats to nominally introduce journalists into criminal law as a profession that needs special and more effective protection against attacks and other criminal offenses. Only 1/3 of cases are resolved in favour of journalists before the judiciary, which speaks in favour of the fact that state and entity governments should start amending criminal legislation as soon as possible to ensure effective protection of media workers during their journalistic work. BiH does not keep official records through its competent public authorities on the number and type of threats and attacks on journalists. The only available data on the territory of the entire country are those maintained by BH Novinari.<sup>70</sup> The Judicial CMS system does not provide for recording cases related to journalists because the cases are not entered in the system by the profession of the injured party. Also, criminal codes in BiH do not recognise "attacks on journalists" as a separate crime.<sup>71</sup> For now, the only institution that keeps its records of attacks on journalists is the RS Ministry of the Interior.<sup>72</sup> BH Novinari and other media organisations have repeatedly

<sup>67</sup> Ibid.

<sup>68</sup> *Reports on the trial monitoring of corruption cases*. TI BiH. Banja Luka, August 2020. Available at: [https://ti-bih.org/wp-content/uploads/2015/06/Izvjestaj-Sudjenja\\_bhs.pdf](https://ti-bih.org/wp-content/uploads/2015/06/Izvjestaj-Sudjenja_bhs.pdf)

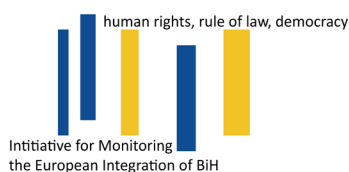
<sup>69</sup> Pabrić, Nedim. Investigations and prosecution of attacks on journalists and media workers in Bosnia and Herzegovina. Available at: <https://safejournalists.net/wp-content/uploads/2020/11/Istrage-i-procesuiranje-napada-na-novinare-u-BiH.pdf>

<sup>70</sup> Since 2004, Free Media Helpline, a special service has been operating within BH Novinari. It works on collecting and archiving information on violations of media freedoms and journalists' rights.

<sup>71</sup> Nedim Pabrić, author, Investigations and prosecution of attacks against journalists and media workers in BiH, interviewed by Maja Radević, 22 November 2020.

<sup>72</sup> 2020 Media Freedoms and Journalist Safety Indicators in BiH, BH Novinari

spoken with representatives of the judiciary and the BiH Ministry of Justice and Ministry of Human Rights and Refugees of BiH (MHRR BiH) on the possibility of improving the CMS to enable mapping and tracking of the victim, witness and proceedings data involving media professionals.<sup>73</sup> One of the recommendations of the 2017 Special Report of the BiH HR Ombudsman's Institution on Threats to Journalists was that the HJPC should necessarily upgrade the CMS.<sup>74</sup> The decision made by the HJPC at the suggestion of BH Novinari has not yet taken root in judicial institutions. The judicial officeholders themselves feel that this initiative should be implemented as soon as possible because with electronic case records and a publicly available database of cases related to media freedoms and the safety of journalists, one could monitor the efficiency of the judiciary, and have an insight into case law and cases related to journalists, which would greatly facilitate the work of judges themselves.<sup>75</sup> Changing practices in dealing with threats and attacks on journalists in the online and offline spheres is not only an obligation of the state in the context of ensuring freedom of speech and media, protection of journalists and media workers, or strengthening the rule of law, but also one of BiH's key obligations at the foreign policy level, in the context of the EU integration process as one of the 14 priorities of the EC.



<sup>73</sup> *Special report on the position and cases of threats to journalists in BiH*, Institution of the Human Rights Ombudsman of BiH, 2017 Available at: <https://bhnovinari.ba/bs/2017/08/28/ombudsman-bih-stanje-u-medijima-gore-nego-ranijih-godina/>

<sup>74</sup> *Special report on the position and cases of threats to journalists in BiH*, Institution of the Human Rights Ombudsman of BiH, 2017 Available at: <https://bhnovinari.ba/bs/2017/08/28/ombudsman-bih-stanje-u-medijima-gore-nego-ranijih-godina/>

<sup>75</sup> Arben Murtezić, Director of the Judicial Training Centre of the FBiH, interviewed by Maja Radević.

## 2. HUMAN RIGHTS AND PROTECTION OF MINORITY RIGHTS

### 2.1. Protection against Discrimination

In its work programme, the Ministry of Human Rights and Refugees anticipated activities related to the 2nd Mid-Term Anti-Discrimination Programme in BiH in 2020 as well. This document and the activities related to it have been carried over to the following year for years already without any indication of when the document will be completed and adopted. The challenges cited so far are related to the lack of political consensus, and the limited reach of the Ministry of Human Rights when it comes to imposing responsibilities on Entity government levels.

Also, it is necessary to primarily approach the amendments to the BiH Constitution in the relevant part, in order to ensure that the Election Law is in accordance with the Constitution, and that there is no discrimination against citizens. BiH clearly discriminates against all its citizens: constituent peoples, national minorities, and those without a declared national affiliation based on ethnic background and place of residence. Also, it is clearly necessary to eliminate discriminatory provisions and establish the principle that everyone has the right to be elected and to vote, under equal conditions. Amending of discriminatory articles in the Constitution of BiH and in the Election Law is defined as the state's international obligation, which is confirmed by judgments of the ECtHR (judgments mentioned in the previous chapter). Accordingly, the disputable provisions of the BiH Constitution should be amended first, which should be followed by amendments to the Election Law. With the involvement of all stakeholders and effective acceleration of the process that has been on hold for a long time, a move towards a society in which all citizens will be able to equally enjoy rights related to elections and election processes can be finally expected. In the period covered by this Report, only a slight progress has been made in the reporting and prosecution of cases of gender-based discrimination, harassment and sexual harassment in the workplace and in employment. So far, 52 institutions on the level of BiH have adopted decisions on zero tolerance policy<sup>76</sup> and appointed advisors for the prevention of sexual harassment and gender-based harassment. The BiH Gender Equality Agency organised a training for 30 appointed advisors on recognising sexual harassment and their role as advisors in December 2020. In addition to state-level institutions, sexual harassment prevention advisors have been appointed in judicial institutions in BiH and in a number of higher education institutions in BiH as well.<sup>77</sup>

When it comes to the protection against discrimination of LGBTIQ persons,

<sup>76</sup> A decision example available at: <https://isbih.gov.ba/uploads/dokumenti/O-nama/odluka-o-politici-nulte-tolerancije-prema-djelima-seksualnog-uznemiravanja-i-uznemiravanjan-na-osnovu-spola.pdf>

<sup>77</sup> Faculty of Law in Sarajevo, University of East Sarajevo, at the initiative of the Helsinki Citizens' Assembly, the University in Banja Luka also adopted the Guidelines for Prevention of Sexual and Gender-Based Harassment in June 2020.

there is still not a single court judgement establishing discrimination based on sexual orientation, gender identity and/or sex characteristics. The Sarajevo Open Centre initiated 4 cases involving discrimination in the sphere of access to goods and services and incitement to discrimination. BiH citizens are stigmatised because of their real or perceived sexual orientation or gender identity, and are unable to fully enjoy their universal human rights. Some are victims of hate crimes and do not have adequate protection by the institutions in discrimination cases due to inadequate prosecution and sanctioning of reported cases. All these problems contribute to an increasing number of LGBTIQ people, BiH citizens leaving BiH and going to Western European countries. There are too few leading politicians and public opinion leaders who take a firm stand against homophobic and transphobic statements, discrimination and violence.<sup>78</sup>

The pandemic caused by COVID-19 brought additional problems in the exercise of women's rights. Numerous *#ostanikući* (stay home) campaigns promoted the "home is a safe place" policy, but to many women throughout BiH and the world, home is not a safe place. Isolation and physical distancing in homes meant an increased risk of domestic violence to many women. The promotion of physical distancing is medically justified, but it is also a policy of the privileged, as it is not achievable to those whose survival depends on serving others, which brings them into constant contact with the disease and increases the risk of infection. These are mostly women who do not have the privilege to respect the *#ostanikući* campaign, because they are workers in supermarkets, cleaners and cooks in healthcare institutions, nurses, health workers, because they are the majority workers in production and factories who work so that others can stay at home. On the other hand, the increase in unpaid domestic work of women that resulted from the closure of schools, recreational facilities and kindergartens additionally burdened housewives or women who stay at home. They directly face additional responsibilities that include caring for children, family members with disabilities and other vulnerable family members who no longer, and cannot access social and healthcare services.<sup>79</sup>

## 2.2. Position and Rights of Roma

The very difficult overall position of Roma in the last year has been further exacerbated by the COVID-19 pandemic. The information that the Association "Vaša prava BiH" obtained from Roma NGOs shows that the orders of the executive authorities issued in 2020 to prevent the spread of COVID-19 particularly affected the Roma population because a large number of Roma were prevented from engaging in daily activities and providing for a living. Given that a large number of Roma are officially unemployed and

<sup>78</sup> *Pink Report 2020, Annual Report on the State of the Human Rights of LGBTI People in Bosnia and Herzegovina*. Sarajevo Open Centre, July 2020. Available at: [https://soc.ba/site/wp-content/uploads/2020/07/Rozi-izvjestaj-2020\\_web-2.pdf](https://soc.ba/site/wp-content/uploads/2020/07/Rozi-izvjestaj-2020_web-2.pdf)

<sup>79</sup> *Ekonomska pozicija žene ili zadnja stranica javnog momentuma u BiH*, The initiative for monitoring of BiH's EU integration, available at: <https://eu-monitoring.ba/ekonomska-pozicija-zene-ili-zadnja-stranica-javnog-momentuma-u-bih/>. *Biro za zapošljavanje kao spas ili utopija radničkih prava*, CURE Foundation, 21.05.2020, available at: <https://fondacijacure.org/2020/05/6360/>

mainly engaged in agriculture, marketplace trading, collection and resale of secondary raw materials, it is evident that this category of population did not meet the criteria for assistance and subsidies in accordance with regulations adopted to mitigate negative economic consequences of the pandemic. Social protection systems in BiH do not recognise those who belong to the working-age population as beneficiaries of social assistance, and the amounts of child allowance are insufficient to meet even the most basic living needs. Members of the Roma ethnic minority are in the most unfavourable socio-economic position of all citizens in BiH.

According to the association “Vaša prava BiH”, there were no recent amendments to laws or other regulations that could significantly contribute to improved access to rights for members of the Roma ethnic minority. Also, the Law on Amendments to the Law on Permanent and Temporary Residence of Citizens of BiH<sup>80</sup> from 2015 remains one of the biggest obstacles to exercising the rights of the Roma population, given that a large number of Roma do not own any property or live in improvised or illegal facilities, which deprives them of the opportunity to register residence, and thus of the ability to obtain identification documents as a precondition for the exercise of all other civil rights (e.g. the right to healthcare, the right to education, etc.). The practice in the implementation of this law has shown that, as they do not own housing facilities, the Roma are forced to register their formal residence in one municipality, while in reality they live in another. This directly results in frequent rejecting of Roma’s applications for exercise of their rights in the field of social protection and healthcare, with the explanation that they do not reside at the address where they are formally registered. For the same reason, social work centres very often initiate proceedings for the annulment of residence and personal documents, which ultimately results in an even greater loss of rights for the Roma population.

Regarding the exercise of the Roma’s right to healthcare, from the last reporting period until the development of this report, there were no changes in legislation or policies that would have an impact on the healthcare of Roma as a particularly vulnerable category of the population. According to the legislation governing healthcare in BiH, Roma citizens enjoy the right to healthcare under the same conditions as other citizens. Of all legislation governing healthcare and health insurance in BiH, only Article 12 of the Law on HealthCare of FBiH defines<sup>81</sup> Roma persons who do not have a permanent place of residence or stay as a special category of the population that is allowed access to healthcare. In order to implement this provision, the FBiH Government adopts a decision each year<sup>82</sup> allocating certain amount of funds from the FBiH budget. However, this

80 Law on Permanent and Temporary Residence of Citizens of BiH (Official Gazette of BiH, 32/01, 56/08 and 58/15).

81 Law on Healthcare (Official Gazette of the Federation of BiH, 46/10 and 75/13).

82 The Decision adopting the programme of resource spending with criteria for allocation of resources “Current transfers to other government levels and funds - Roma healthcare in the Federation of Bosnia and Herzegovina”, defined in the 2020 Budget of the Federation of Bosnia and Herzegovina to the FBiH Ministry of Health (Official Gazette of the Federation of BiH, 26/20).

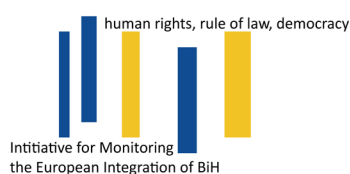
decision does not solve the problem of healthcare of Roma persons who have duly registered residence and do not belong to the category of persons treated by the Law on Health Insurance of FBiH.

### 2.3. Persons with Disabilities

All government levels of Bosnia and Herzegovina do not put sufficient effort to implement the commitments made by ratifying the Convention on the Rights of Persons with Disabilities (hereinafter: the Convention). Although it's been eleven years since the ratification of the Convention, there has been no significant harmonisation of legislation, and thus there is no concrete implementation in order to respect the rights of persons with disabilities in accordance with the Convention. In addition to removing obstacles to the exercise of the rights of persons/children with disabilities, a state that has ratified the Convention has an obligation to provide support equalising their opportunities for equal participation in society.

BiH still does not have a national/Entity-level strategy for raising public awareness or promoting human rights of persons with disabilities, and staff of the ministries that should enable the respect and exercise of the rights of persons with disabilities have not received any training to help them understand the significance of the approach to disability from a human rights perspective. Without good and continuous training of employees in public institutions, and without the promotion of the rights of persons with disabilities aimed at the general public, no progress has been made in shifting the paradigm from the medical approach to disability to social model and human rights model.

Insufficient and inadequate legislative solutions and lack of budget allocations, together with the fact that people with disabilities are still excluded from the decision-making processes in issues concerning their rights, let alone issues affecting society as a whole, contribute to the fact that persons with disabilities is still a very marginalised group of citizens in BiH. A provision which lays down that denial of reasonable adjustment for people with disabilities constitutes discrimination on the grounds of disability has not yet found its place in the anti-discrimination law. Reasonable adjustment as well as the provision of adequate and free aids and assistive technologies constitute a necessary precondition for equalising the opportunities of persons with disabilities to participate equally in all social activities. Even when some important principles necessary for a normal life and functioning of persons with disabilities in the society are prescribed by legislation, such as the obligation to ensure accessibility, they are not implemented because budget resources required for their implementation are not allocated.<sup>83</sup> Sufficient efforts are not put to ensure the accessibility of healthcare institutions for people with disabilities, although it is commendable that the General Hospital



<sup>83</sup> Decree on spatial standards, urban-technical conditions and norms for preventing the creation of architectural-urban barriers for persons with disabilities (Official Gazette of the Federation of Bosnia and Herzegovina, 5/00, 48/09), Rulebook on conditions for planning and designing facilities for unimpeded movement of children and persons with reduced physical abilities (Official Gazette of RS, 44/11).

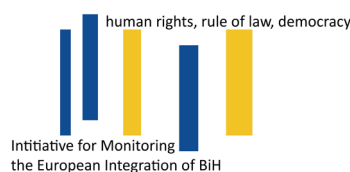
in Sarajevo is the first healthcare institution in FBiH accredited according to ISOSI - Inclusive Standards for People with Disabilities.<sup>84</sup>

At present, BiH does not have a system for collecting and analysing data aggregated and/or disaggregated by age, gender, type of disability or other data on persons with disabilities, in order to ensure the inclusion and coverage of different subgroups of persons with disabilities in various activities of the society.

Legitimised systemic discrimination due to different treatment of civilian victims of war, war veterans, as well as persons who have acquired a disability regardless of the war, who have different rights in relation to the occurrence of disability, is still in place. The number of personal benefits and some other rights that these three groups have are different, and there are additional differences within the groups depending on the level of disability, as well as between different Entities and municipalities. Despite the fact that the UN Human Rights Committee has recommended that the BiH authorities adjust disability benefits regardless of the pattern of disability and adopt a harmonised concept of disability based on human rights, the relevant authorities are doing nothing to eliminate discrimination.

In 2018-2020, there was no significant progress in exercising the right of persons with disabilities to access information, or in exercising the right of women with disabilities to access sexual and reproductive health and parenting planning. Of the seven key legislative and executive institutions in BiH (parliaments and governments at the state and Entity levels and the BiH Presidency), none has a website that is fully adapted and accessible to people with disabilities. Apart from the standard font size selection and, in some cases, contrast selection option, the pages are not easy to navigate, search and understand, some content is not available to PWDs at all and, in general, the pages have no other options for additional customisation and/or use of assistive technologies to ensure accessibility.<sup>85</sup> In this way, significant information on key institutions in the country whose obligation to adapt websites and mobile applications derives from the UN Convention on the Rights of Persons with Disabilities, but also from Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies, remains unavailable to a significant number of people with disabilities.

Accessibility of information on public broadcasters is also below all prescribed international and EU standards. Namely, the monitoring of central news



<sup>84</sup> *Opća bolnica Sarajevo – ISOSI za olakšan pristup pacijenata sa invaliditetom*, City of Sarajevo, 26 June 2020, available at: <https://usaidjp.ba/assets/files/publication/1453979174-dijagnosticka-analiza-integriteta-pravosudnog-sektora-u-bih-i-mogucih-rizika-od-nastanka-korupcije-ili-neeticnog-ponasanja-u-pravosudu.pdf>

<sup>85</sup> These are findings of the analysis “Accessible information, the right for all - Website accessibility analysis of crucial governmental institutions in Bosnia and Herzegovina for persons with disabilities and alignment with European accessibility regulations,” available at: <http://hcabl.org/wp-content/uploads/2021/01/Analiza04.pdf>

programmes on the channels of state and Entity public broadcasters - BHTV, FTV and RTRS, which was done from 1 to 8 September 2020, showed that no public broadcaster has an engaged sign language interpreter, that audio descriptions and audio signatures of journalists or authors of stories are rare and often omit to point out who the interlocutors giving the statements are, and thus persons with impaired vision remain deprived of this information.<sup>86</sup> An important step forward in terms of accessibility of audio-visual content of public broadcasters was made in April 2020 by issuing the Licence for public broadcasters which introduced mandatory programme quotas for content accessible to persons with disabilities, in accordance with the EU Audiovisual Media Services Directive. According to this Licence, which has been in force since September 2020, the share of accessible programme for persons with disabilities in public broadcasters should be at least 10% in the first year, and reach 25% by the expiration of the five-year licence.

Women with disabilities in BiH still face a number of barriers preventing them from accessing sexual and reproductive health: from architectural inaccessibility of healthcare facilities, insufficient education of medical staff to inadequately equipped gynaecological offices and lack of necessary support services. Out of 34 public and private health care institutions from all over BiH, 66.5% are accessible to wheelchair users, but 48% do not have adjusted elevators or toilets for people with disabilities. More than half of the surveyed healthcare facilities (56%) do not have a gynaecological examination table adjusted for women with disabilities who use wheelchairs or suffer from impaired movement, and as many as 41% of healthcare facilities stated that their staff was insufficiently or only partially trained to work with women with disabilities.<sup>87</sup>

## 2.4. Returnees and Displaced Persons

Pursuant to the Law on Permanent and Temporary Residence of Citizens of BiH,<sup>88</sup> a change of permanent or temporary residence inevitably leads to a status change, which is why displaced persons and returnees face problems with accessing many rights, primarily in the field of social protection, healthcare and access to justice and free legal aid. Due to discrepancies between Entity-level and cantonal legislation regarding the exercise of certain rights, displaced persons and returnees often decide to retain the status of displaced persons in the place of displacement, i.e., they opt for fictitious residences, especially

<sup>86</sup> Findings of the monitoring of public broadcasters are available in the publication “Accessibility of audiovisual content of public broadcasters to persons with disabilities in BiH”: <http://hcabl.org/wp-content/uploads/2020/11/Pristupacnost-audiovizualnih-sadrzaja-javnih-servisa-osobama-sa-invaliditetom-u-BiH.pdf>

At the time when the monitoring was conducted, the COVID-19 epidemic was still ongoing in BiH. In crisis situations, when any new information is very important, providing equal access to information to all citizens is of invaluable importance.

<sup>87</sup> See: “*Pristup žena sa invaliditetom u BiH seksualnom i reproduktivnom zdravlju i planiranju roditeljstva – Analiza stanja*”, at: <http://hcabl.org/wp-content/uploads/2020/03/Pristup-%C5%BEena-sa-invaliditetom-u-BiH-seksualnom-i-reproduktivnom-zdravlju-i-planiranju-roditeljstva.pdf>

<sup>88</sup> Official Gazette of BiH, 32/2001, 56/2008, 58/2015

in municipalities that are “on the border” of the Entities and cantons. Non-harmonised legislation, non-implementation and misinterpretation of the law particularly affect the most vulnerable categories of returnees and displaced persons such as the elderly with reduced working ability and limited functional capacity, civilian victims of war, pensioners, singles, the unemployed and all those who ended up in a state of social need due to status change and loss of acquired rights. Additionally, the Law on Permanent and Temporary Residence of Citizens of BiH prescribes the facilitated registration procedure of pre-war residence for returnees. Based on information from the field, when registering the residence, a returnee is required to submit proof that he has a valid ground for residing at the address he seeks to register as his residence, and the law prescribes lease agreements, which landlords do not want to conclude, as one of the proofs, which makes the registration of permanent and temporary residence more difficult, and thus the acquisition of valid documents and access to other rights.

The status rights of civilian victims of war are regulated by Entity laws, however, due to discrepancies between these laws, some persons are prevented from exercising their rights, e.g. certain civilian victims of war in the RS are unable to exercise the right to civilian/survivor disability benefits because the application deadline has expired. Entity health insurance laws are not tailored to the needs of displaced persons and returnees, as the competence of the Health Insurance Funds is determined by the place of residence of the insured person, and displaced persons and returnees must fit into the healthcare system at the place of return, which is not always possible. Returnees often decide not to register their return due to fear of losing health insurance in the place of displacement, or of the inability to obtain healthcare in the place of return on the same level as in the place of displacement. The health insurance problem is particularly prevalent in FBiH. Returnees and displaced persons also face problems with exercising the right to a proportional part of their pension when they completed their creditable periods in both Entities. Free legal aid is not equally accessible on the whole territory of BiH. The procedure of protecting the rights through the court is lengthy, caselaw is uneven, and final judgments are often not implemented in practice. Therefore, there is a great need to harmonise regulations in these areas of law in BiH, i.e., to enable equal access to all rights on the entire territory of BiH.

The issue of language, which should be an issue for the linguistic sciences only, is a very sensitive topic in BiH. The Constitution of BiH does not contain a provision explicitly regulating the issue of the use of official languages and the official script in BiH. Entity Constitutions prescribe official languages

differently.<sup>89</sup> A request for change of the language name was rejected by the Decision of the Constitutional Court of BiH no. U 7/15.<sup>90</sup> Even after the Decision of the Constitutional Court of BiH was passed, the right to learn the Bosnian language and subjects from the national group is denied to Bosniak students in the RS. This is why children from Konjević-Polje and Kotor-Varoš attend instructional classes in dislocated schools, which are partly funded by the FBiH Government and the FBiH Ministry of Displaced Persons and Refugees. Since 2018, educational institutions in the Zenica-Doboj Canton have introduced Serbian language and literature subject for Serb students-returnees in Maglaj.

## 2.5. Gender Equality

Important legal steps have been taken to promote gender equality, strategies have been adopted to reduce domestic violence, and institutional mechanisms have been put in place to mainstream gender. Women are still underrepresented on all levels of political and public life. The election law prescribes a quota of 40%, but it does not stipulate a mandatory balanced representation of both sexes on the electoral lists. According to the CEC BiH, out of the total number of 425 candidates for municipal and city mayors, only 29 are women (6.82%) compared to 396 men (93.18%), while for municipal councils, municipal assemblies, city councils, city assemblies and the Assembly of the BD BiH, 12,753 (42.27%) candidates are women, and 17,415 (57.73%) are men. Five candidates (21%) were elected mayors in Odžak, Drvar, Istočni Drvar, Jezero and Novo Goražde, while only about 19.8% of women were elected councillors in the municipal/city councils in BiH, of which 21.8% in the FBiH and 17% in the RS. In the repeated elections in Doboj and Srebrenica, 6 more women out of the total number of candidates in these cities won councillor seats. When it comes to political parties, the largest number of elected women councillors in the in FBiH comes from Naša stranka (41.7%), while the least elected women are from the electoral lists of SBB, DF and SBiH. SNSD (22.1%) is a party with the largest number of elected women councillors to city/municipal councils in the RS, while SDA ranks last with 5.4%.

During the pre-election campaigns, the media repeat dominant ideologies and attitudes towards women that are based on gender stereotypes in politics. The

<sup>89</sup> Article 6 paragraph 1 of the FBiH Constitution prescribes that the official languages are Bosnian, Croatian and Serbian, and Art. 7 paragraph 1 of the RS Constitution stipulates that the official languages are the language of Serbs, the language of Bosniaks and the language of Croats, which is why request was submitted to the BiH Constitutional Court for a review of the constitutionality of the line “the language of Bosniaks” in Article 7 paragraph 1 of the RS Constitution, with the explanation that it is not in accordance with the Constitution of BiH because the name of the language is imposed on the Bosniak people, and they are denied the right to name their own language as an inherent right to language.

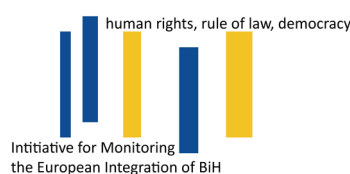
<sup>90</sup> Published in the Official Gazette of BiH, 51/16, on 26 May 2016.

<sup>91</sup> Explanation of the decision: the disputed part of the provision of Article 7 paragraph 1 of the RS Constitution is neutral and does not determine the name of the language, but contains the constitutional right of the constituent Bosniak people to call the language they speak the name they want like all other constituent peoples, which is in accordance with the BiH Constitution, and any contrary action in practice would lead to a violation of the BiH Constitution, and thereby the RS Constitution as well.

role of the media is largely unregulated, and most contextual enablers have not been able to develop a comprehensive approach to work with the media. Due to all this, women remain invisible in politics, especially in the pre-election period.<sup>92</sup>

Financing of safe houses for women and children - victims of domestic violence is still not regular, and the work of safe houses has been further hampered by the circumstances of the COVID-19 pandemic. CSOs running safe houses faced the problem of mandatory testing of new beneficiaries (only after several months and requests to the competent ministries, beneficiaries were given priority in testing), lack of adequate space for isolation,<sup>93</sup> and reduced working hours of on-call services, such as social work centres, whose assistance is necessary when placing women users in safe houses. An additional problem for safe houses in the RS lies in the fact that funds are paid retroactively, 4-6 months after the victim had been taken care of. The RS government covers 70% of the total amount for victim care, while the remaining 30% should be covered by the victim's local community, which happens rarely or never, because small local communities do not have any budget for this purpose. In the FBiH, the FBiH Government bears 70% of the costs, while the remaining 30% should be provided from cantonal budgets. The Tuzla Canton's budget includes an item intended for financing of safe houses, but the problem is that in relation to the total budget of the safe house "Vive žene", the funds planned by this budget do not meet the legal basis of financing in the amount of 30%. Since mid-May 2020, all safe houses in BiH have seen an increase in calls and reports of domestic violence. According to the data of the Gender Equality Agency of BiH, since the abolishment of the state of emergency in May 2020, the number of applications for admission to safe houses and calls to the SOS hotline has recorded a rapid increase by about 50 percent compared to 2019.<sup>94</sup> All safe houses also pointed out that during the pandemic, victims of violence had difficulty, or were prevented from accessing various institutions and services - at the level of secondary healthcare - all examinations were postponed, accompanied by difficulties in establishing contact and scheduling medical examinations for beneficiaries, previously scheduled court hearings were cancelled without scheduling new dates, while the social work centres worked shorter hours and suspended all contacts with beneficiaries.

A positive example was made by Medica Zenica. In late 2020, in cooperation with the Ministry of Labour, Social Policy and Refugees of the Zenica-Doboj Canton (ZDC) and the Coordination Body of ZDC, Medica Zenica revised the Protocol on mutual cooperation in providing protection, support, assistance and care for victims of domestic and community violence and prevention of



92 *Polazna studija o barijerama političkom učešću žena u Bosni i Hercegovini*, UNDP – UN WOMEN, Sarajevo, 2020, available at: <https://www.gcfbih.gov.ba/polazna-studija-o-barijerama-politickom-ucescu-zena-u-bosni-i-hercegovini/>

93 In order to comply with the mandatory measure of isolation, at one point, the NGO "Vive žene" had to place a client with children in their conference room, with improvised inflatable beds. The problem was that it was a room on the ground floor, with many windows, without any special protection or security.

94 *Sigurne kuće u BiH su prebukirane*. Radio Free Europe, 25 November 2020 Available at: <https://www.slobodnaevropa.org/a/30968225.html>

violence in ZDC. The revised protocol allows victims to contact Medica Zenica directly, which can decide to place them in the Safe House even without the social work centre or the police. Another novelty in the Protocol is that the accommodation of violence victims in the Safe House will be financed from three levels in the future, while local communities will have the obligation to support various programmes of economic empowerment of violence victims. During 2020, Sarajevo Open Centre worked on a survey about women's participation in management structures of public enterprises.<sup>95</sup> The survey included enterprises majority-owned by BiH, FBiH, RS, BDBiH. The survey results showed that none of the enterprises complied with the 40% quota provided by the Law on Gender Equality of BiH, and that women are underrepresented in the supervisory boards and management of public enterprises with 22.93%. Women are underrepresented in municipal councils as well.<sup>96</sup>

Women in small and rural areas still face a number of barriers to exercising their rights and suggest improvements in the following areas: better access to healthcare, more opportunities for formal and informal education, prevention and suppression of violence, more employment opportunities, better access to the social protection system, improve cooperation between municipalities and marginalised women from rural areas, provide the necessary infrastructure for people with disabilities in public institutions, make greater efforts to prevent and combat violence, and improve cooperation between municipalities and marginalised women from rural areas.<sup>97</sup>

## 2.6. LGBTIQ Rights

LGBTIQ people are still marginalised in BiH, which is mostly reflected in unequal access to rights, violence and discrimination, and neglect of the needs of transgender and intersex people. In late 2020, the 2021-2023 Equality Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTIQ Persons in BiH resulted from two-year efforts of the MHRR BiH with the support of the EU and the Council of Europe, which brought together government representatives from the state, Entity and BDBiH levels and the civil society. The document includes a systemic series of measures structured by fields and activities, and covers all the most important aspects of LGBTIQ human rights. The main goals include effective mechanisms for the protection against discrimination and hate crimes, equal rights in all areas of public and private life, developing awareness of the need to combat prejudice and stereotypes about LGBTIQ people. The document was sent to the competent government levels for consultation and opinion in the drafting stage. Adoption

<sup>95</sup> Dizdar, Amina. Zastupljenost žena u upravljačkim strukturama javnih preduzeća u vlasništvu Bosne i Hercegovine, Federacije Bosne i Hercegovine, Republike Srpske i Brčko distrikta BiH. Sarajevo Open Centre. Sarajevo, November 2020 Available at: <https://soc.ba/site/wp-content/uploads/2020/11/paper-54-final2.pdf>

<sup>96</sup> According to the CEC data, 19.64% of women were elected to municipal councils in the BDBiH, 21.43% in the FBiH, 17.21% in the RS, and 12.9% of women were elected to the BDBiH Assembly. 25.7% of women were elected to the Mostar City Council.

<sup>97</sup> These improvements are listed in five action plans developed by the CURE Foundation in collaboration with 5 women's organizations, and apply to the following local communities: Bratunac/Konjević Polje, Vareš, Zavidovići/Hajderovići, Konjic and the Sarajevo municipality of Novi Grad.

of this document would be a much-needed systematic response and approach by the state when it comes to the human rights of LGBTIQ people.

The inter-departmental working group for analysis of legislation according to which same-sex couples in a life partnership can exercise the rights stemming from the European Convention for the Protection of Human Rights and Fundamental Freedoms and proposing legislation that should be adopted on the territory of the Federation of Bosnia and Herzegovina held a constituent session on 6 February 2020. After the session, representatives of civil society, the Sarajevo Open Centre was also included in the group's work as an observer. There were no additional activities by the end of 2020.

The Pride March has helped sensitise the public in BiH, which is a big step forward, but there are still many unresolved challenges, including the regulation of freedom of assembly.<sup>98</sup> The organisational committee of the March sent comments to the SC Law on Public Assembly, but it has not received any feedback yet. Due to the COVID-19 pandemic, the second Pride March planned in Sarajevo was marked in an alternative way through a parade of activists' cars through the city centre, with the police support and protection. The event was called Pride on Four Wheels. Also, in the current pandemic circumstances, LGBTIQ people in BiH face increased domestic violence rates. Violence against LGBTIQ people has increased recently, as many LGBTIQ people living alone near their workplace or school/university have had to return home. They faced many problems there, locked up in a home with unsupportive or abusive parents. Many LGBTIQ people had to seek psychological support because this situation affected their mental well-being. Moreover, there are no safe houses for LGBTIQ people in BiH, and they must suffer discrimination and violence on a daily basis.

LGBTIQ people on the move face a huge number of challenges. In addition to the problems they have as people on the move in BiH, they face even more violence and discrimination because of their sexual orientation. Only some LGBTIQ people have special protection from the IOM and the UNHCR. However, it is important to emphasise that all LGBTIQ people on the move are vulnerable and need a special protection mechanism.

## 2.7. Right to Education

Not all children in BiH have equal right to education, given that the education system is decentralised. Competences in education are divided between ten cantons of the FBiH, the RS and the BDBiH. Education in BiH is not unified, i.e., it differs between cantons, and especially between the FBiH and the RS or the BDBiH. The non-functionality of the online education system where representatives of educational institutions, primarily teachers, oversaturated with the curriculum, are forced to partially improvise certain school materials because the education system changed in the past year due to the COVID-19

<sup>98</sup> Kurtović, Amila. *Sloboda okupljanja u labirintu zakona: Analiza bh. zakonodavstva u oblasti slobode okupljanja*. Sarajevo Open Centre. Sarajevo, 2020. Available at: [https://soc.ba/site/wp-content/uploads/2020/11/BH\\_verzija-1.pdf](https://soc.ba/site/wp-content/uploads/2020/11/BH_verzija-1.pdf)

pandemic. Representatives of teachers believe that the sudden and constant changes that follow the recommendations of the FBiH Crisis Staff are dysfunctional because education loses quality, teachers are overburdened with material, they often must assess themselves which part of the material to omit in order to adapt to 35-minute classes instead of 45-minute ones, because this is one of the recommendations. Many of them say that they work 10 or even 12 hours a day because it is impossible to physically prepare, follow online classes and fulfil all other obligations (especially in the case of a combined education system - online and offline). All of this lacks systemic support that would be crucial in preventing oscillations, and providing a tailored curriculum for teachers, adapting the education system to students so that they can acquire adequate knowledge in emergency situations or other natural disasters, and adapting the content of textbooks to the situation in force at the given time. The education system needs to be uniform and unified so that young people do not learn about different historical facts, based on different curricula, access and education opportunities depending on which part of the country they live in.

There is a big difference in the educational opportunities available to children with disabilities compared to those available to their peers. Most mainstream schools still do not have genuine inclusive education that would include students with disabilities. Education laws do not prescribe the obligation to provide reasonable adjustments for students with disabilities; therefore, it can be concluded that decision makers in education and teachers are not aware of the obligation to provide reasonable adjustments, since their denial constitutes discrimination against students on the basis of disability. Also, budgets do not plan sufficient funds for good inclusive education of children/ youth with disabilities, which includes accessibility, reasonable adjustment and the provision of assistive technologies that enable better inclusion of students with disabilities in the education process. Therefore, we still have cases where even children with physical disabilities are referred to special schools, as a segregating form of education, because mainstream schools are not accessible. Ministries of education do not monitor or measure the quality of education of students in general, including the quality of education of students with disabilities. The state does nothing to promote equal rights of children with disabilities to education in the mainstream school system in order to raise public awareness in general, and especially the awareness of those in charge of education but also of parents of children with and without disabilities. Multiple discrimination occurs among females with disabilities, who are mostly denied the right to education in some parts of our country. Further discrimination occurs if women or girls with disabilities belong to a minority ethnic group in the area where they live. The topic of inclusive education is still not included as a mandatory and regular segment of the curriculum for all future teachers, and learning-by-doing trainings in inclusive education for teachers are rare and mostly provided under project activities of NGOs. During the COVID-19 pandemic, the focus of the ministries of education was completely shifted to online classes that are still not of adequate quality, not even for average students, and very little attention is paid to all aspects of

accessibility for students with disabilities, which is why they are even more affected by the pandemic.

The CURE Foundation issued the publication “*Pogled iz drugog ugla: udžbenička politika i analiza zastupljenosti stereotipa u udžbenicima srednjih škola u KS*” (View from a different angle: textbook policy and analysis of the representation of stereotypes in secondary school textbooks in SC).<sup>99</sup> The results of the analysis of 7 textbooks used as an example show a number of stereotypes found in SC textbooks, and it has been concluded that the current textbooks violate some of the elementary provisions.<sup>100</sup> In addition, women and men are not equally portrayed in textbooks. Some textbooks are obsolete and contain irrelevant information.<sup>101</sup> Representatives of the CURE Foundation sent a letter to the FBiH Ministry of Education and Science of SC in order to point out the existing problems in the textbook contents and propose some recommendations for the adoption of measures. The FBiH Ministry of Education responded that the textbook policy in the FBiH is regulated on the basis of the Decision on the procedure for preparation and approval of textbooks, workbooks and other teaching aids for primary and secondary schools issued by the Coordination of ministers of education and science of the FBiH, and that there were no amendments to existing curricula or teaching materials in the past few years. If amendments are adopted, a plan of the needs for new adjustment will be defined.

Against this background, an informal Initiative for affirmative amendments and changes to the textbook contents was established, which brings together several non-governmental organisations, institutions and individuals either directly or indirectly dealing with the segment of education in their work. The Initiative advocates for:

1. Creating textbooks that treat sexes and genders equally - Men and women should be portrayed in similar situations, which means women in political positions and men in the household as well, women as leaders, men as parents, etc.
2. Creating textbooks that do not contain untrue, discriminatory and outdated information. Textbooks must be cleaned of all discriminatory contents related to all marginalised groups, including women, LGBTIQ people, Roma, people with disabilities, etc.
3. Creating textbooks in which women are equally represented - Knowledge of women and about women should be an integral part of the textbooks. Example: history, famous women mathematicians, etc.

99 Mujić, M., Knežević S. *Pogled iz drugog ugla: udžbenička politika i analiza zastupljenosti stereotipa u udžbenicima srednjih škola u Kantonu Sarajevo*. CURE Foundation. Sarajevo, 2016. ISBN 978-9926-413-03-3

100 BiH Constitution, Law on the Prohibition of Discrimination of BiH, Gender Equality Law of BiH, CEDAW Convention, Convention on the Rights of the Child.

101 Information such as: Roma representatives and Jews are portrayed and described in an offensive way, women are portrayed very stereotypically as mothers, wives, housewives or saints both in the narrative and in photographs. Textbooks do not include any successful women theoreticians, scientists, heroines. Such roles are most often assigned to men and they occupy space in textbook contents with high-ranking positions.

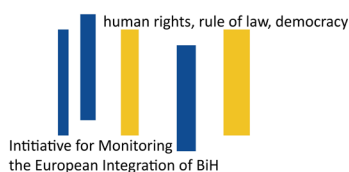
- cians, physicists, writers.
4. Creating textbooks that use gender-sensitive language, and all nouns, adjectives and verbs should use feminine and masculine genders.
  5. Creating textbooks that will avoid stereotypical and discriminatory portrayal in texts, images and illustrations.
  6. Request for full consultation of the previously approved Code of Ethics and abiding by it in the textbook approval process.<sup>102</sup>

A significant increase in youth violence has been noticed, which is directly encountered by the representatives of the teaching staff, while the topics of violence, gender-based violence, and online violence are not taught in mainstream formal education.

## 2.8. Freedom of Assembly

In its report from February 2020, the Institution of the Human Rights Ombudsman of BiH issued the Special Report on the Right to Freedom of Peaceful Assembly, which specifies problems facing groups of citizens and CSOs including, among other things, problems with space restrictions, excessive use of force by the police, imposition of additional measures/appointment of steward services and related obligations which exceed their capabilities (detention and apprehension of persons), bureaucratic problems and legislation unaligned with international standards, lengthy notification procedure, etc.

During 2019 and 2020, serious human rights violations were recorded in the RS, especially violations of the rights to freedom of association, public assembly and freedom of opinion and expression. These violations were mostly committed against members of the “Justice for David” group and citizens who supported them. During a peaceful “Justice for David” gathering in front of the Temple of Christ the Saviour on 20 June 2019, while identifying the participants, members of the RS Ministry of the Interior arrested Bruno Batinić (66) using excessive force, and the harassment continued in the official premises of the Ministry of the Interior.<sup>103</sup> Additionally, during a moving assembly, i.e., the March 8th march in Banja Luka in 2019, when members of the “Justice for David” group joined the march, members of the RS Ministry of the Interior interrupted the assembly on the Krajina Square and told the organisers that they would be reported for minor offence, because the assembly was not in line with the notification. The police first called the assembly organiser and activist of citizens’ association “Oštra Nula” for an interview, due to the alleged violation of the public peace and order, as the protesters were shouting slogans, using megaphones and whistles during the



<sup>102</sup> Through the Initiative for affirmative amendments to the textbook contents and the project Gender-Based Violence, Violence in Youth Relationships: A View from Different Angle, representatives of the CURE Foundation have worked directly with students and teachers in secondary schools through educational classes in schools, workshops, conferences, and working meetings.

<sup>103</sup> *Nakon brutalnog hapšenja u Banjoj Luci: Pretučeni švedski državljani Bruno Batinić napustio BiH.* Žurnal.info, 21 April 2019, available at: <https://zurnal.info/novost/22201/pretuceni-svedski-drzavljanin-bruno-batinic-napustio-bih>.

protest. After questioning the organisers of the assembly, the police sent a summons for questioning to the stewards who were securing the assembly, asking them to plead guilty of disturbing public peace and order. With the financial support of Civil Right Defenders, legal aid of an attorney was provided during these questionings. Nobody has been officially reported for minor offence yet. Organisers were unofficially informed that they were supposed to stop the event when members of the group “Justice for David” joined them.

Compared to the previous marches, changes that were introduced during the organisation of the March 8th march in 2020 include the police invitation for an interview upon receiving the notification of a moving assembly, where the organisers were given instructions for holding the march and verbal permission for the march. In previous years, organisers were notified by telephone of the approval of moving assemblies. This way of approving moving assemblies is a bad practice that needs to be changed, and the organisers should be informed in writing about the approval of a moving assembly. During the preparations for the civil campaign for the local elections “When one day is worth four years”, the citizens’ association “Oštra Nula” faced a problem in obtaining permits for the use of public space in Banja Luka, Srebrenica and Ugljevik. For the second time during the campaign, the citizens’ association “Oštra Nula” did not receive a permission for street action on the Krajina Square in Banja Luka, under the pretext that the Square is reserved only for political parties and that they should try after the elections. The citizens’ association “Oštra Nula” was notified by phone that they were not granted permission, noting that a written notification would arrive after the elections, which has not happened to date. After submitting a request for a street action in Srebrenica, the municipality called them several times to check what type of action it was. The citizens’ association “Oštra Nula” eventually received the permission on the date of the action. In Ugljevik, the citizens’ association “Oštra Nula” received a reply that they were not able to issue a permission, because they had never issued permissions for non-commercial events in public space before. After almost a month of intensive communication, the citizens’ association “Oštra Nula” neither received an answer as to which department was in charge of issuing the permission, nor the permission for the action.

## 2.9. Free Legal Aid

The current situation regarding the access of BiH citizens to free legal aid (FLA) is reflected in fragmentation and inconsistency in access to rights and non-harmonisation of legislation. BiH does not have a functional FLA system. Therefore, BiH does not meet the EU-accepted standards concerning this issue. Legislative provisions governing FLA on all levels should be harmonised, in order to ensure the implementation of minimum standards for all citizens of BiH. Non-existence of a legal framework on the levels of BiH and FBiH is a separate problem. The state-level law on the provision of free legal aid refers to access to rights before the bodies and institutions of BiH and is a law in itself, and not a framework for other legislation governing free legal aid.

Cantons have the exclusive competences for FLA provision in FBiH. In some cantons, mechanisms for FLA provision have not been established at all, and there is a legal gap in this segment. The HNC adopted a law governing this field in 2013, but the office or institute does not function because the management has not been appointed yet. The Canton 10 adopted a legal framework for the establishment and functioning of the FLA institute in 2016. After a long period, the appeal procedure related to the appointment of the director of the Institute was completed, and the director was finally appointed, and it is expected that the Institute will become fully functional in the following period. In the CBC, the draft law was withdrawn from the procedure, and there are no indications that competent authorities will engage more actively in ensuring the access to justice for citizens of this Canton.

In the RS, a new law was drafted, and the Law on Exercising the Right to FLA was published on 10 July 2020,<sup>104</sup> replacing the previous FLA Law from 2008. Like the former law, the new law also contains shortcomings that prevent equal access to justice for different groups of citizens, which will cause unequal treatment and discrimination during the implementation of the law. It is important to note that the Law stipulates that only the Ministry of Justice decides on appeals against the denial of the right to FLA, as well as appeals against the work of this body. The Ministry is also responsible for supervising the application of this law, while the body before which the procedure is conducted and before which the FLA user exercises the right to FLA, as well as the Ministry of Justice conduct supervision of the conscientious and competent FLA provision.

In the BDBiH, FLA is regulated by the 2007 Law on Legal Aid Office of the BDBiH, and the current practice of the institute has proven to be extremely good, and the FLA system to be extremely effective. The employees of the BDBiH FLA office have the status of judicial employees, and the FLA providers are lawyers and they are the only independent bodies that provide this type of assistance. In the centre for FLA provision in the RS and the cantonal institutes in the FBiH, employees have the status of civil servants, which is not an adequate solution considering their position.

Competent authorities that will adopt future measures should consult the list of 23 FLA recommendations prepared by the EU experts in the peer review mission for the purposes of BiH. The analysis of the existing legal aid laws and the efficiency of this system showed a large deviation and lack of a common approach in regulating the basic FLA principles, and that citizens in the three aforementioned cantons of the FBiH do not have access to justice or a fully established system of free legal aid yet.

Generally, the level of protection of rights of journalists and media freedoms is constantly declining. Since 2004, BH Novinari have provided FLA to media

<sup>104</sup> Official Gazette of RS, 67/20

workers through the Free Media Help Line (FMHL),<sup>105</sup> in collaboration with the network of lawyers from the whole country. In the past three years, the FMHL registered over 143 crimes against journalists, including attempted murder, numerous death threats, physical attacks, death threats and violations of rights posing a threat on journalists' safety.<sup>106</sup> During 2020, the number of requests from journalists addressed to the FMHL increased, especially FLA requests related to online violence and threats.

The COVID-19 pandemic also had immeasurable effects on the mental and physical condition of journalists and media workers. In April 2020, BH Novinari launched the Free psychological support programme.<sup>107</sup> This type of psychological support resulted from the cooperation of BH Novinari with the associations of psychologists of the SC and the RS, and with three clinical psychologists and therapists from Banja Luka, Mostar and Sarajevo.<sup>108</sup> The goal was to help the media and journalists in overcoming professional stress, fatigue, fear and other consequences caused by changing conditions and ways of work due to the COVID-19 pandemic through psychological support, online counselling, and individual and group therapies.

## 2.10. Persons on the Move

Despite pressures from the international community and domestic and foreign human rights organisations, the BiH authorities failed to take responsibility and coordinate the obligations arising from the BiH Constitution, the Law on Aliens and the Law on Asylum in 2018-2020. The absolute unwillingness to engage in the adoption of any effective measures to adequately protect the rights of persons on the move and fulfil their international obligations was further complicated by the existence of political disagreements on how to solve this problem. This is why the IOM took over most of the obligations from the very beginning of the so-called "migrant crisis." Manipulation about the number of people on the move and the reasons why they are present on the territory of BiH served the purpose of daily political confrontations between members of the ruling structures with opposing opinions. The trend of increased number of entries of persons on the move and refugees to the territory of BiH continued during 2019, when the authorities recorded the irregular entry of 29,169 persons on the move and refugees, which is an increase by 21% compared to the previous year.<sup>109</sup> The total number of entries during 2020 was 16,150, and it was significantly reduced due to the spread of the COVID-19 pandemic and the adoption of numerous restrictive measures, primarily measures restricting movement. Of the total

<sup>105</sup> Free Media Help Line, *BH novinari*, available at: <https://bhnovinari.ba/bs/linija-za-pomoc/>

<sup>106</sup> Press release, available at: <https://bhnovinari.ba/bs/2020/11/02/bh-novinari-trazimo-zaustavaljanje-nasilja-nad-novinarima-i-ostrije-kazne-za-pocinitelje/>

<sup>107</sup> Psychological support, *BH novinari*, 2020, available at: <https://bhnovinari.ba/bs/psiholoska-pomoc/>

<sup>108</sup> The Free Press Unlimited from Amsterdam (the Netherlands) financially supported the free psychological assistance to media workers from BiH.

<sup>109</sup> UNHCR Refugee Agency, Fact Sheet, 31 December 2019, available at: <https://www.unhcr.org/see/wp-content/uploads/sites/57/2020/01/BiH-Country-Fact-Sheet-December31-2019-1.pdf>

number of persons on the move and refugees that have entered BiH from 1 January 2018 to December 2020, 94% (69,943) expressed the intention to apply for asylum to the Service for Foreigner Affairs, while only 4% (2,601) formally applied for asylum with the Asylum Department of the BiH Ministry of Security.<sup>110</sup> In 2019, the BiH Ministry of Security issued 44 positive decisions in the asylum procedure (3 refugee statuses and 41 subsidiary protection statuses), 35 negative decisions, while the procedure was suspended in 988 cases.<sup>111</sup> In 2020, 31 subsidiary protection statuses were approved, a total of 56 negative decisions were made, as well as 546 conclusions suspending the asylum-seeking procedure.<sup>112</sup>

An efficient approach to the asylum-seeking procedure is still one of the biggest challenges. The state approaches the unselective issuance of certificates of expressed intent to apply for asylum, without prior verification of whether persons coming to the territory of BiH are really interested in the asylum procedure, or wish to continue their journey to EU member states. This results in the fact that, in practice, the certificate of intent is in most cases considered only as a residence permit for 14 days and a prerequisite to access accommodation facilities managed by the Service for Foreigner Affairs in coordination with the IOM. According to the BiH Law on Asylum,<sup>113</sup> the deadline for coming to the Ministry of Security of BiH in order to personally apply for asylum is determined, and it is clearly specified that if a foreign citizen fails to submit an application for asylum within the specified time period without a good reason, he/she will be considered to have given up their intention. When the asylum intentions are expressed, translators for relevant languages are not provided, which would enable the provision of adequate information about the rights and obligations in the asylum-seeking procedure. Certificates are issued in the official languages of BiH, which often leads to missed deadlines and the inability to overcome administrative barriers to accessing the guaranteed rights. Although a certificate is considered an invitation to apply for asylum, the BiH Ministry of Security submits special invitations that are required for initiation of the procedure. Apart from expressing the asylum intent, accommodation is the main precondition for access to the asylum-seeking procedure. Only persons accommodated in formal reception centres or private accommodation facilities with a registered address can access the procedure. The Ministry of Security of BiH gives priority to the registration of unaccompanied minors accommodated in the Temporary Reception Centre (TRC) Ušivak and persons using private accommodation. The procedure for receiving asylum applications is not possible in the temporary reception centres Blažuj

110 UN BiH, Bosnia and Herzegovina: Interagency Response to Mixed Movement MONTHLY SITUATION REPORT-DECEMBER 2020, available at: <https://bosniaherzegovina.un.org/sites/default/files/2021-03/IA%20December%20Final.pdf>

111 UNHCR Refugee Agency, Fact Sheet, 31 December 2019, available at: <https://www.unhcr.org/see/wp-content/uploads/sites/57/2020/01/BiH-Country-Fact-Sheet-December31-2019-1.pdf>

112 UN BiH, Bosnia and Herzegovina: Interagency Response to Mixed Movement MONTHLY SITUATION REPORT-DECEMBER 2020, available at: <https://bosniaherzegovina.un.org/sites/default/files/2021-03/IA%20December%20Final.pdf>

113 Official Gazette of BiH, 11/16, 16/16

and Miral, and in the Lipa location, which leads to direct discrimination that is prohibited by the Law on Asylum of BiH. Existing shortcomings result in a large number of irregular migrants that have no access to the asylum-seeking procedure or other guaranteed human rights.<sup>114</sup> The right to asylum is guaranteed by the BiH Constitution and should be provided under equal conditions to all foreign nationals fleeing persecution and seeking protection. The competent national authorities must provide information to foreign nationals expressing the intention to seek asylum about rights and obligations in languages they understand without delay,<sup>115</sup> and ensure mechanisms for the enjoyment of guaranteed rights without discrimination, thus creating the basic conditions for the establishment of a more efficient asylum system.

The largest accommodation capacities were located in the USC, and it is assumed that there were always between 5,000 and 6,000 people on the move on that territory in 2019-2020. Unfortunately, although there were a number of accommodation units during this period, a large number of people on the move could not be accommodated in the existing reception centres. This is why a significant number of them (between 2,000 and 3,000) established informal camps that did not meet even the minimum living conditions. These provided refuge to people on the move who failed to cross the border with Croatia or experienced violent and brutal deportations from Croatia. Only a small number of people on the move who were not accommodated in reception centres were able to pay for private accommodation. In the winter and spring of 2020, the most alarming situation was in the forests and abandoned buildings near Bihać, where over 1,000 people on the move were registered, often including families with children and minors. Also, Tuzla has become a kind of transit centre where up to 400 people stayed at the bus station every day, initially receiving help from humanitarian organisations and volunteer associations only. The situation was extremely bad in all existing accommodation centres, except in Mostar and Bihać (Sedra and Borići), where families with children and unaccompanied minors were accommodated. For example, up to 1,300 people were accommodated in the Blažuj camp, which was originally planned to receive 850 people, and the construction of additional capacities that did not meet the required standards continued. In the USC, in addition to the existing facilities, the construction of the Lipa camp started in 2020, which was planned to receive all persons who were not accommodated in the existing facilities and thus relocate them from the centre of Bihać. In April 2020, the relocation of all persons on the move without provided accommodation began, but also of those using private accommodation in the USC, to an unfinished camp that did not even meet basic conditions, and the Bira camp was closed in September, making the already poor conditions in this camp unbearable. After months of protests by people on the move at the Lipa camp over

<sup>114</sup> Information collected through direct work with asylum seekers in BiH of the Association “Vaša prava BiH”

<sup>115</sup> Article 15 of the BiH Law on Asylum foresees the obligation to provide information in oral or written form.

unbearable conditions, warnings of possible human casualties during the winter, and the USC authorities' refusal to reopen the Bira camp during the winter, the IOM decided to withdraw and cease operations there. The half-abandoned camp was set on fire by yet unknown perpetrators on 23 December 2020. During this period, 1350 people on the move were left to struggle for life at temperatures below -10 degrees. At the same time, the RS authorities never allowed reception centres for persons on the move to be established in the RS Entity. Persons on the move usually stayed only as long as they needed to get to the border with the USC or possibly to Tuzla. In addition, if the RS police spotted them, they escorted them to the inter-entity line with the FBiH in an organised manner.

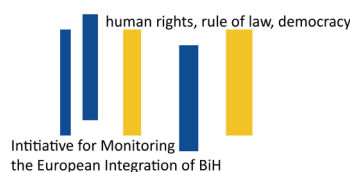
In terms of nutrition, persons on the move accommodated in the camps were provided with three meals that were often inappropriate for a long-term diet. Other persons on the move depended on meals they received from volunteers or were forced to buy and prepare meals themselves in unsanitary conditions. Persons on the move who applied for asylum were entitled to primary healthcare, but the costs of their treatment were not covered systematically. The Danish Refugee Council provided primary healthcare in some of the existing centres and financed secondary healthcare in some cases. However, a large number of persons on the move who did not have accommodation in any of the centres depended on the help provided by volunteers or people who paid their hospital bills. The official number of COVID-19- infected, treated and deceased people has not been officially established in the period until December 2020.

As early as the beginning of 2019, the USC authorities denied freedom of movement to persons on the move. On 2 September 2019, the Task Force for Coordination of Activities and Supervision of the Migrant Crisis in the USC area adopted conclusions that include deterring further influx of migrants into the territory of the USC, banning the transport of migrants by all transportation means, banning the movement of migrants or gatherings in public areas, and a ban on providing accommodation services to migrants. At the same time, the RS authorities applied methods to find and forcibly transport persons on the move from the RS to the FBiH. As early as in the second half of March 2020, the authorities took advantage of the pandemic as a reason to further restrict the freedom of movement of persons on the move, and new measures were adopted to restrict their movement. On 13 March 2020, the USC operational staff adopted a series of conclusions related to the early detection and prevention of the spread of COVID-19 disease among persons on the move, including absolute ban on the movement of persons on the move and the implementation of previously adopted conclusions regarding the closure of reception centres Bira and Miral, and transfer of persons on the move to a new location outside of Bihać. On 18 March 2020, the SC government made a decision and defined measures to restrict the movement of migrants in the area of the SC, and ordered mandatory accommodation in temporary reception centres. With the consent of the commander of the SC Civilian Protection Staff, the FBiH Civilian Protection

Staff issued a special order aimed at protecting health, suspending visits and departures of all migrants from the centres in which they are accommodated on 24 March 2020. These measures, which were adopted in the USC and SC, were followed by a series of measures in other cantons, all with the aim of isolating persons on the move. All adopted measures were discriminatory and greatly impaired access to adequate accommodation, hygiene and food for persons on the move. Measures restricting the free movement of persons on the move cannot be considered justified and evidence-based, as at the time of adoption there was no information to support the claim that a total movement ban for persons on the move only would prevent the spread of COVID-19. The pandemic has completely exposed all the unwillingness and disinterest of the authorities in BiH to adhere to the obligations arising from the international instruments that BiH has signed and ratified, as well as from national laws. During this period, the BiH authorities exposed persons on the move to even more rigorous measures than the other vulnerable categories.

Examples of LGBTIQ persons on the move have been recorded in BiH. Most of them are transiting through BiH, and only a few decide to stay in BiH. The problems they face are related to accommodation, legal support and information, and stigmatisation and violence they experience as a particularly vulnerable group from other persons on the move. For these reasons, LGBTIQ persons on the move often avoid the provided camps and accommodation.

The EU has provided BiH with financial assistance in the amount of EUR 89 million, mainly through IPA funds, primarily intended for capacity building of the state. The distribution of funds is divided to several levels, including a number of stakeholders, not only the state institutions but also international organisations, and most of these funds include financial remunerations for the staff. However, in addition to the EU financial and technical support, the lack of internal coordination on all administration levels in BiH, together with the refusal to accept the responsibility, have led to an escalation of the situation into a humanitarian crisis. The EU and BiH did not apply functional institutional mechanisms in the fulfilment of needs of persons on the move. The majority of refugees and persons on the move have tried to enter the EU across the Croatian border, where they have been forced to return through push-back<sup>116</sup> mechanisms that exclude their individual circumstances as well as the possibility of seeking asylum. Although the official bodies of the Republic of Croatia (RC) denied violations of the law by the Croatian Border Police, numerous organisations, such as the Human Rights Watch,<sup>117</sup> reported on illegal activities of the Croatian Police in transferring persons



<sup>116</sup> Definition: Push back, ECCHR Glossary, available at: <https://www.ecchr.eu/en/glossary/push-back/>;

<sup>117</sup> Human Rights Watch (2018), *Croatia: Migrants Pushed Back to Bosnia and Herzegovina*, available at: <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>

on the move and refugees to BiH, using force and threat of weapons.<sup>118</sup> Such treatment and the systemic return of persons on the move constitute violation of the Geneva Convention, and the very practice of denying entry and asylum violates international law and human rights. Although some EU officials have spoken out about the humanitarian crisis, with increased controls on the border and push back mechanisms from Croatia, the EU has received harsh criticism for its double standards - calling for the protection of human rights of refugees and people on the move, while the EU member state treats them in inhumane way.

<sup>118</sup> *Nakon što je žandarmerija zamijenila SIPA-u na granici: Za dva mjeseca ušlo više od 7000 migranata*, Žurnal info, 2019. Available at: <https://zurnal.info/novost/22517/za-dva-mjeseca-iz-srbije-u-bih-uslo-vise-od-7000-migranata->

### 3. TRANSITIONAL JUSTICE

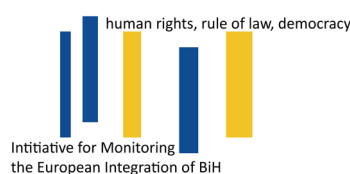
#### 3.1. War Crimes Trials

During 2019 and 2020, the Prosecutor's Office of BiH filed a total of 31 indictments for war crimes against 57 people. The Court of BiH rendered 36 final judgments, sending 42 people to prison for a total of 411 years. During this period, 20 people were released. In the last three years, BIRN BiH has observed a decrease in the number of indictments filed, as well as the number of those charged with war crimes. In 2019, 27 prosecutors indicted 32 people in 22 indictments, whereas 29 prosecutors from the Prosecutor's Office of BiH working on war crimes cases filed only nine indictments in 2020.<sup>119</sup>

Due to the COVID-19 pandemic, all war crimes trials were cancelled in March 2020. The decision to loosen measures and schedule certain trials was made at the end of May, but the Court of BiH indicated that cases with a significant number of the indicted still cannot be held due to a lack of capacity, because even in the largest courtroom, they could not follow the Crisis Headquarters' recommendations. Given a large number of cases with ten or more indicted persons, this situation has further slowed down the processing of war crimes and the achievement of justice for victims. Representatives of associations and families of victims of the previous war point to the fact that they have been waiting for years for information on cases submitted to the Prosecutor's Office of BiH as one of the problems in processing war crimes, while some victims say they have been waiting for more than a decade for the investigation to be completed or proceedings to begin.<sup>120</sup>

97 remains from the previous war in BiH were excavated in 2019, whereas only 62 remains were discovered in 2020. The lack of reliable information regarding the sites of the graves where the victims are, as well as the passage of time, is a serious challenge in finding the remaining victims, of which there are over 7,500 from BiH.

A confidential meeting of prosecutors from Montenegro, Croatia, Serbia, and BiH<sup>121</sup> was held at the end of 2019, during which it was noted that too little work has been done on regional collaboration between prosecutor's offices in war crimes proceedings in the last three years. The biggest shortcoming is the lack of a legal framework that would regulate regional cooperation, and the most difficult challenge in prosecuting those with dual citizenship who are in neighbouring countries is the prevention of extradition and access to evidence,



<sup>119</sup> Data available in BIRN BiH annual analysis of war crimes prosecutions in BiH <https://detektor.ba/2019/12/30/tuzilastvo-bih-i-ove-godine-ima-manji-broj-optuznica-nego-tuzilaca-za-ratne-zlocine/> i <https://detektor.ba/2020/12/29/jos-jedna-godina-u-kojoj-tuzilastvo-bih-ima-vise-tuzilaca-nego-optuznica-za-zlocine/>

<sup>120</sup> Porodice žrtava ratnih zločina zbog netransparentnosti gube povjerenje u rad Tužilaštva BiH, October 2020, <https://detektor.ba/2020/10/07/porodice-zrtava-ratnih-zlocina-zbog-netransparentnosti-gube-povjerenje-u-rad-tuzilastva-bih/>

<sup>121</sup> Slaba regionalna saradnja u predmetima ratnih zločina, December 2019, <https://detektor.ba/2019/12/18/slaba-regionalna-saradnja-u-predmetima-ratnih-zlocina/>

as well as non-recognition of certain crimes, as in the case of Serbia and the genocide in Srebrenica. In 2020, two of the 25 indicted were unreachable to judicial institutions due to their locations in Montenegro and Serbia, and up to eight of the indicted have Serbian citizenship, which may cause the trial to be delayed.

### 3.2. Rights of Torture Victims

In BiH, various legal acts govern the recognition of the status of a war torture victim, resulting in unequal treatment of victims within BiH based on their place of residence. Victims of war torture from the RS are at a disadvantage. Victims of torture who are assigned identity protection measures in criminal proceedings face difficulties in applying for torture victim status, which requires the exposure of their identities. The procedure for determining this status includes the submission of all relevant documents to the city or municipal administrative body responsible for the protection of war veterans and disabled persons, as well as the protection of civilian victims of war with the current place of residence in the RS,<sup>122</sup> or the administrative body of the last place of residence in the RS for persons who no longer reside in this entity.<sup>123</sup> As a result, the RS Law on the Protection of Victims of War Torture needs to be amended to include a special procedure for victims who are assigned identity protection measures. Furthermore, the RS Law limits the list of evidence used to determine torture to those issued by official RS institutions and bodies.<sup>124</sup> Also, the RS Law stipulates that in the procedure for determining the status of a victim of torture, the body conducting the procedure will seek the opinion of the RS Association of Camp Detainees and/or the RS Association of Women Victims of War, as well as other associations of civilian victims of war who gained their association status in the public interest.<sup>125</sup> Given that the cases of some victims have been documented by associations and bodies outside this entity, such evidence may be ruled out. For this reason, the RS Law needs to be amended to accept the evidence of all competent bodies and institutions within BiH. Another issue for victims of war torture is that only medical records from 1996 to 2006 are accepted. This restrictive provision should also be removed from the RS Law. The five-year deadline for applying for torture victim status<sup>126</sup> is an additional barrier, as some victims are not yet ready to speak publicly about the crime they survived.<sup>127</sup> On the other side, there are several provisions that can be improved in the FBiH by adopting decisions from the RS Law. For example, the Law on Fundamentals of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children in the FBiH could include the right to a therapeutic spa treatment for victims of torture, which many victims and experts have cited as an important rehabilitative measure.

The optimal solution to ensure equal access to the rights of all victims of

<sup>122</sup> Ibid. Article 14

<sup>123</sup> Ibid. Article 20

<sup>124</sup> Ibid. Article 16(3)

<sup>125</sup> Ibid. Article 16(7)

<sup>126</sup> Ibid. Article 38(1)

<sup>127</sup> Usvajanje Zakona o zaštiti žrtava torture Republike Srpske, TRIAL International and Amnesty International, June 2018, <https://bit.ly/2Kbaf4I>

torture is the introduction of a framework legal solution at the state level which would establish certain minimum standards, harmonise conditions for access to rights, as well as the scope and level of protection of victims of torture. The adoption of this solution, however, requires political will, which is currently lacking.

### 3.3. Wartime Sexual Violence

While great progress was made in 2019 and 2020 in terms of enhancing the rights of survivors of wartime sexual violence, many issues highlighted earlier remain unresolved and continue to be a stumbling block for survivors seeking to exercise their rights to justice, the truth, and reparation.

Due to the previously noted inequality of legal acts in the FBiH, RS, and BDBiH, social benefits for survivors of sexual violence, as well as other forms of wartime torture, can be achieved administratively, but are disproportionately lower for victims who exercise this right in the RS. Survivors of wartime torture who choose to seek redress for their rights confront another set of problems. When it comes to litigation, the statute of limitations still applies to claims for non-pecuniary damage made against the entity or the state. In 2015, the Court of BiH set a significant precedent by awarding compensation to wartime victims in several criminal cases,<sup>128</sup> encouraging victims to seek compensation in this way. It is clear that this practice is evolving, given that to this date, there have been 15 final judgments in which perpetrators of wartime sexual violence are obliged to pay compensation to victims. However, due to the ignorance and/or lack of experience or will of the plaintiffs, as well as the ignorance or lack of legal aid to the victims, the survivors unfortunately did not exercise this right in some cases.<sup>129</sup> Furthermore, in some cases, although a compensation claim has been filed, BiH courts still refer victims to civil proceedings. It is important to emphasise that civil proceedings do not allow victims to remain protected witnesses in the exercise of compensation for damages, but in order to exercise their rights, victims must give up the protected identity assigned to them as a measure of protection in criminal proceedings. Although there has been a practice since 2015 to award compensation for damages in criminal proceedings by acting on a compensation claim, many court councils continue to instruct injured parties to exercise their right to compensation for damages in civil proceedings. This practice often discourages victims of sexual violence and other war crimes from seeking compensation in civil proceedings due to the impossibility of protecting their identity, but also due to re-traumatisation. To solve this problem, it is necessary to adopt amendments to the Civil Procedure Law at all levels, which would provide witnesses who testify under protection measures in criminal proceedings with continuing identity protection, during the subsequent initiation of civil proceedings for compensation for damages. The Amendments to the Civil Procedure Law before the Court of BiH have not

128 Hanušić, Adrijana. *Ostvarivanje zahtjeva za naknadu štete žrtava ratnih zločina u okviru krivičnih postupaka u Bosni i Hercegovini – stanje, problemi i perspektive*. TRIAL International, 2015. Available at: <https://bit.ly/3d2MwAj>

129 Delbyck, Kyle. *Compensating Survivors in Criminal Proceedings: Perspectives from the Field*. TRIAL International. Available at: <https://bit.ly/3d0NixC>

been adopted by the end of 2020, but even if the Law is adopted, it is required for the entity levels to follow such a procedure in order to solve the problem. Furthermore, the majority of perpetrators have yet to pay the awarded sum because they lack or have previously alienated property, and by the end of 2020, there were only two cases of successfully paid compensations.<sup>130</sup> Prosecutors may determine the perpetrator's financial status throughout the investigation to ensure that compensation awarded in criminal proceedings is finally paid by perpetrators, and subsequent collection of funds may be facilitated based on potential measures to pledge the perpetrator's property, upon request of survivors' attorneys. Unfortunately, such practice is still uncommon.

In 2019 and 2020, the UN Committee against Torture (UNCAT)<sup>131</sup> and the UN Committee on the Elimination of Discrimination against Women (UNCEDAW)<sup>132</sup> warned BiH of the shortcomings when it comes to the rights of survivors of wartime sexual violence. In 2019, UNCAT ordered BiH to compensate the victim of wartime sexual violence and to provide appropriate and free medical and psychological aid as soon as possible. Also, it was ordered that the survivor must receive an official public apology. According to the decision, BiH must establish an effective system of reparations at the state level in order to provide all types of reparations to victims of war crimes, including victims of sexual violence.<sup>133</sup> The following year, UNCEDAW issued a warning that survivors' compensation claims for sexual violence should not be subject to statutes of limitations, that prompt, impartial, and effective investigations into all occurrences of gender-based violence should be ensured, and that survivors should be informed of them in a timely manner and have secure access to justice, including FLA if necessary. UNCEDAW further expressed concern about the amount of disability benefits received by a survivor of this petition which is disproportionate to the damage she had suffered in the form of bodily injuries and mental suffering, highlighting the issue of discriminatory entity laws.<sup>134</sup> By the end of 2020, none of these bodies' recommendations has been implemented.

Since there is no provision in the current Criminal Procedure Law at any level of government in BiH that would prohibit the presentation of evidence or questions about the sexual behaviour of war crime survivors after being raped, which usually seeks to portray the injured party as promiscuous and responsible for what happened to them, stigmatisation of survivors is still present in BiH

<sup>130</sup> See: *Po prvi put dobrovoljno isplaćena odšteta žrtvi silovanja*. Detektor.ba, 17 September 2019. Available at: <https://bit.ly/2Rhts8Z> and *Prvi slučaj isplaćivanja odštete za seksualno nasilje tokom rata na entitetskim sudovima*. Detektor.ba, 15 April 2020. Available at: <https://bit.ly/3t3R2Er>

<sup>131</sup> Decision of the Committee under Article 22 of the Convention, concerning application no. 854/2017 <https://bit.ly/3dP5ARD>

<sup>132</sup> *Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning communication No. 116/2017* <https://bit.ly/3t7P85x>

<sup>133</sup> *BiH propustila da provede obaveze iz UN Konvencije protiv mučenja*. TRIAL International, 29 August 2019. Available at: <https://bit.ly/2QaETPa>

<sup>134</sup> *UN Komitet za eliminaciju diskriminacije žena osudio propust Bosne i Hercegovine u podršci preživjelim ratnog seksualnog nasilja*. TRIAL International, 31 August 2020. Available at: <https://bit.ly/3t6yKSN>

courtrooms.<sup>135</sup> The lack of this provision violates international standards,<sup>136</sup> and the initiatives of TRIAL International, SOC and United Women to amend this Code in the relevant institutions by the end of 2020 have not been adopted. In Bosnia and Herzegovina, sentences for wartime sexual violence are short and varied throughout different levels of government.<sup>137</sup> Based on the Law on the Provision of FLA from 2016, the FLA of the Ministry of Justice of BiH is inadequate in some cases, because by the end of 2020, the Office for FLA did not have enough staff, nor the appointed head of the Office, preventing victims from receiving timely legal aid.<sup>138</sup>

### 3.4. Missing Persons

Compared to the previous report from 2019, there have been no significant developments in resolving the issue of missing persons and the rights of their families arising from the 2004 Law on Missing Persons. The planned goals of finding another 7,500 missing persons from the last war were not achieved over the last year due to a lack of adequate information and the COVID-19 pandemic. In 2020, the International Committee of the Red Cross (ICRC) donated 27 GPS devices and six additional laptops with accompanying equipment to the Missing Persons Institute (MPI) BiH in order to improve technical capacities and speed up the search for missing persons.<sup>139</sup> The audit report on the MPI's work for 2020 highlights the issue of the Supervisory Board's expired mandate and the Governing Board's mandate which is still in a temporary status, non-compliance of the Rulebook on the internal organisation and systematisation of MPI jobs with CoM BiH decisions, as well as shortcomings and weak points in the public procurement process, while other recommendations from the previous report are under implementation.<sup>140</sup>

### 3.5. Transitional Justice Strategy and Remembrance Policies

Following the formation of a working group in April 2017 to draft amendments to the National Strategy, i.e., the so-called Revised Strategy, which was supported by the HJPC in February 2018, the CoM BiH eventually adopted the Revised National War Crimes Processing Strategy on 24 September 2020. The revised strategy calls for all war crime cases to be resolved within five years, i.e., by 2023.

According to the report "Improving War Crimes Processing at the State Level

<sup>135</sup> Delbyck, Kyle. *Rape Myths in Wartime Sexual Violence Trials*. TRIAL International, 2017. Available at: <https://bit.ly/3t6yS4J>

<sup>136</sup> Rules of Procedure and Evidence, International Criminal Court, Rule 71.

<sup>137</sup> Delbyck, Kyle. *Punishing Conflict-Related Sexual Violence*. TRIAL International. 2018. Available at: <https://bit.ly/3wANH1L>

<sup>138</sup> *Follow-up Report on the Human Rights Committee's Concluding Observations on Bosnia and Herzegovina*. TRIAL International. April 2020. <https://bit.ly/39TLkgQ>

<sup>139</sup> 2020 Work Report of the Institute for Missing Persons of Bosnia and Herzegovina, available at: [www.ino.ba/odnosi-s-javnoscu/izvjestaji/?id=1024](http://www.ino.ba/odnosi-s-javnoscu/izvjestaji/?id=1024)

<sup>140</sup> 2019 Financial Audit Report of the Institute for Missing Persons of Bosnia and Herzegovina, available at: <http://www.ino.ba/odnosi-s-javnoscu/izvjestaji/default.aspx?id=894&langTag=sr-SP-Cyrl>

in BiH”,<sup>141</sup> the BiH Prosecutor’s Office complied with only four of the 32 recommendations given by Judge Joanna Korner in an earlier report from 2016 to improve the processing of war crimes, while 15 recommendations remained unimplemented, and as many as 13 were only partially implemented”.<sup>142</sup> One of the criticisms refers to the indictment of persons who are not available to the judiciary in BiH or perpetrators who are already serving long prison sentences for war crimes, and serious criticism was directed at the work of Chief Prosecutor Gordana Tadić, emphasising that “she did not improve the work of the Prosecutor’s Office and that there has been a decline in the quality of work on investigations and indictments for war crimes”.<sup>143</sup>

In this reporting period, BiH, as in prior reports, has not yet adopted a Transitional Justice Strategy. Furthermore, progress on remembrance policies compared to the situation noted in previous reports has also been lacking. It is noticeable that there is a complete disinterest of official policies towards the processes of transitional justice and dealing with the past. Conflicting war narratives are present in public and political space; they are used for daily political goals, causing tensions and divisions to persist. There is a political instrumentalisation of remembrance on the scene, and memorials to the victims and places of remembrance are frequently used to mark ethnic zones.

At its session held on 27 September 2018, the RS Government accepted the decision to revitalise the Commission for Investigating the Sufferings of Serbs in Sarajevo from 1991 to 1995 and adopted conclusions on the work of the Commission for Investigating the Sufferings of Serbs in Sarajevo at the end of October 2020.<sup>144</sup> Such commissions and reports serve daily politics rather than provide an objective perspective of the facts or constructive dealing with the past. Even after 25 years since the end of the war, BiH’s society has not begun the process of institutional dealing with its past, but on the contrary, divisions are institutionally encouraged and war criminals are openly celebrated. In such an environment, the peacebuilding process is practically kept to a bare minimum, with NGOs continuing to make the majority of efforts,<sup>145</sup> and it seems that common visions for the future are not

141 Korner, Joanna. *Improving War Crimes Processing at the State Level in Bosnia and Herzegovina*. OSCE BiH, 16 September 2020. Available at: [https://www.osce.org/files/f/documents/3/7/463731\\_0.pdf](https://www.osce.org/files/f/documents/3/7/463731_0.pdf)

142 *Potrebne radikalne promjene u Državnom tužilaštvu*, sutkinja Korner, September 2020, <https://detektor.ba/2020/09/16/potrebne-radikalne-promjene-u-drzavnom-tuzilastvu-sutkinja-korner/>

143 Ibid.

144 *Vlada RS usvojila zaključke o radu Komisije za istraživanje stradanja Srba u Sarajevu*. BHRT, 23 October 2020. Available at: <https://bhrt.ba/vlada-rs-usvojila-zakljucke-o-radu-komisije-za-istrazivanje-stradanja-srba-u-sarajevu/>

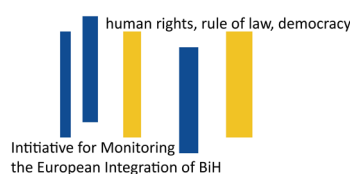
145 Forum ZFD and TRIAL International, as two organizations in Bosnia and Herzegovina active in the field of transitional justice and dealing with the past, in 2019 initiated the launch of a constructive discourse on the need to enact a law on the prohibition of denial of genocide, holocaust, crimes against humanity and war crimes, in an effort to establish and maintain open talks with various actors and relevant groups on this topic, but ultimately also a broader dialogue and raising social and political awareness on the topic of dealing with the past. More information on the link: [http://www.dwp-balkan.org/bh/library.php?cat\\_id=5&text\\_id=35](http://www.dwp-balkan.org/bh/library.php?cat_id=5&text_id=35)

in the interest of either side. Victims of war crimes, as well as BiH citizens, suffer the most in such circumstances.

Several positive processes were initiated throughout the reporting period. In particular, the BiH Prosecutor's Office filed an indictment against members of the Ravna Gora Movement for inciting racial, national, or religious hatred and intolerance in Višegrad in 2019.<sup>146</sup> The Law on the Prohibition of all Fascist and Neo-Fascist Organisations and the Use of Their Symbols in BiH would be one of the key mechanisms to prevent such organisations from operating in BiH in the future. Several meetings held in 2019 with the management of the Assembly of the City of Prijedor and representatives of party caucuses in the City's local parliament, as well as with the mayor and other representatives of the executive power, resulted in accepting the request of parents to erect a monument in the centre of Prijedor for 102 children killed in the previous war. Following the selection of the location, a public competition for the conceptual design will be published, and all administrative procedures for the construction of the monument will be completed at the same time. Furthermore, the Revised National War Crimes Processing Strategy was adopted in September 2020 at an extraordinary session of the BiH Council of Ministers, following two years of non-adoption and numerous occasions of urging by the Ministry of Justice of BiH. The plaque with the name of Radovan Karadžić, who was convicted of war crimes and genocide in BiH, was removed from the student dormitory in Pale on 10 December 2020. This act occurred due to pressure from the international community and the announcement of possible sanctions against BiH Presidency member Milorad Dodik, including a travel restriction to all EU and UN countries.<sup>147</sup>

BiH's relations with neighbouring countries are ongoing, but also complex. For example, cooperation between the Republic of Croatia and BiH in this reporting period was not an example of regional cooperation leading to a process of reconciliation and trust between the two countries. Instead of being convicted of war crimes, people are being decorated and praised for killing others. Specifically, at a state ceremony, President of the Republic of Croatia Zoran Milanović decided to award a military decoration to Zlatan Mijo Jelić, a retired HVO general accused of war crimes by the Prosecutor's Office of BiH, who fled to Croatia with his family from Mostar immediately before the indictment was announced.<sup>148</sup>

Given that the entire world was affected by the COVID-19 pandemic throughout this reporting period, this new difficulty for BiH has utterly slowed down all other processes, including those related to transitional justice, dealing with the past, and peace building.



<sup>146</sup> *Uz podizanje optužnice: Četničko izazivanje straha u Višegradu*. Radio Free Europe, 10 December 2020. Available at: <https://www.slobodnaevropa.org/a/30994612.html>

<sup>147</sup> See: *Uklonjena ploča sa imenom Radovana Karadžića na Palama*. Radio Free Europe, 10 December 2020. Available at: <https://www.slobodnaevropa.org/a/30994263.html>

<sup>148</sup> See: *Milanović je, predajući odlikovanje optuženiku za ratne zločine, duboko iznevjerio sve koji su za njega glasali*. Telegram.hr, 4 August 2020. Available at: <https://www.telegram.hr/politika-kriminal/milanovic-je-predajuci-odlikovanje-optuzeniku-za-ratne-zlocine-duboko-iznevjerio-svaku-osobu-koja-je-glasala-za-njega/>

### 3.6. Denial of Genocide and War Crimes

From the end of the war until now, BiH has faced open denial, trivialisation, justification, approval and glorification of committed crimes and adjudicated facts before the competent criminal courts. During the reporting period, there has been a noticeable increase in the intensity of such rhetoric and its use for political purposes. Unfortunately, there is still no state law or criminal regulation in BiH prohibiting the denial, trivialisation, justification or approval of genocide, the Holocaust, crimes against humanity or war crimes, which would legally sanction such actions. Due to a lack of legal regulations, doubters and deniers of convictions for crimes are encouraged to continue this practice. Crime victims, on the other hand, continue to wait for justice, suffer humiliation, and face betrayal. Manipulation of established facts further deepens ethnic divisions and has a negative impact on the already delicate processes of dealing with the past and building peace. Legal regulation of the prohibition of denial of war crimes is important in order to show respect to victims of crimes regardless of their ethnicity and to provide them with a certain satisfaction.

One example of denial concerns the genocide in Srebrenica, and it comes from a member of the BiH Presidency who consistently denies genocide,<sup>149</sup> even though the International Criminal Tribunal for the former Yugoslavia has ruled in several verdicts that genocide occurred in Srebrenica in 1995. Unfortunately, the practice of denying determined and adjudicated facts is not uncommon, therefore, in addition to genocide, other convictions for crimes are denied, and war criminals are glorified. Thus, the Croatian National Assembly of BiH adopted a Declaration stating that they reject the joint criminal enterprise qualification of the International Criminal Tribunal for the Former Yugoslavia with it has groundlessly and unjustly attributed to the Republic of Croatia, the Croat Republic of Herceg Bosna and the Croatian Defence Council (HVO).<sup>150</sup> In addition to the foregoing, we have the practice of naming public spaces (streets, public institutions) after convicted war criminals, holding memorials and erecting monuments glorifying war criminals, and providing direct or indirect financial support to convicted war criminals and their families from public budgets.<sup>151</sup> In addition, people who have been convicted or indicted for war crimes hold public office. Thus, in the 2020 elections, Fikret Abdić,<sup>152</sup> who was convicted of war crimes in the Republic of Croatia, was re-elected mayor of Velika Kladuša. Miroslav Kraljević, a member of the Alliance of Independent Social Democrats (SNSD), was re-elected mayor of Vlasenica while being on

149 See: Dodik: *U Srebrenici nije počinjen genocid, to je mit poput kosovskog*. Radio Free Europe. 12 July 2019. Available at: <https://www.slobodnaevropa.org/a/30052016.html>

150 See: Čović o presudi za UZP: *Mi se s njom ne slažemo i tu ne vidim problem*. N1 BiH, 1 February 2019. Available at: <https://ba.n1info.com/vijesti/a313328-covic-o-presudi-za-uzp-mi-se-s-njom-ne-slažemo-i-tu-ne-vidim-problem/>

151 See: *Regulating a Ban on Denial, Trivialisation, Justification or Condonation of Genocide, the Holocaust, Crimes against Humanity or War Crimes in Bosnia and Herzegovina*. forumZFD – TRIAL International. Sarajevo, 2020. Available at: [http://www.dwp-balkan.org/userfiles/file/2402/new/Pravna\\_regulacija\\_Web.pdf](http://www.dwp-balkan.org/userfiles/file/2402/new/Pravna_regulacija_Web.pdf)

152 See: *BiH: Ratni zločinac reizabran za načelnika opštine Velika Kladuša*. BIRN, 16 November 2020. Available at: <https://balkaninsight.com/2020/11/16/bih-ratni-zlocinac-reizabran-za-nacelnika-opstine-velika-kladusa/?lang=sr>

trial for war crimes.<sup>153</sup>

Only the FBiH Criminal Code, in Article 163 (5), currently recognises the denial or justification of genocide, crimes against humanity, or war crimes as a crime.<sup>154</sup> This, however, means that public denial or justification of these crimes becomes punishable only if it incites hatred, discord, or hostility. Several initiatives have been proposed at the state level to legally regulate the prohibition of denial, trivialisation, justification, or approval of the Holocaust, war crimes, genocide, and crimes against humanity, but all have failed. During this reporting period, the Democratic Front initiative at the BiH level was submitted in June 2019, where Zlatko Miletić, delegate in the House of Peoples of the PABiH, sent to the parliamentary procedure the Proposal to amend the BiH Criminal Code, which would amend the legislative framework and enable the denial of genocide and war crimes to be recognised and sanctioned. The proposal, however, was not adopted.<sup>155</sup> Among the current initiatives for legal regulation is the initiative of Naša stranka, that submitted to the FBiH Parliament the Draft Law on Prohibition of Denial of Genocide, Holocaust and Other Crimes against Humanity, which was adopted in 2016 in the House of Representatives of the FBiH Parliament, but never appeared on the agenda of the FBiH House of Peoples. There have been no such legal regulation initiatives in the RS and BDBiH as of yet. All this indicates that the adoption of legislation is a political issue, particularly during election campaigns.

The primary purpose of enacting such legislation is to eradicate the culture of denial, negation and impunity. Legal regulation should prevent the continuation of inflammatory rhetoric and the deepening of divisions in BiH. It will not solve all the challenges in dealing with the past, but legislation, together with ongoing efforts in other areas (education, culture, civil society, media) is an important component of building sustainable peace and democratic development in BiH.<sup>156</sup> It is very important to emphasise once again that the legislation should not only deal with the denial of genocide but should also be comprehensive and include

153 Kraljević is accused of being responsible for the persecution of Bosniak civilians through illegal detention, killings, sexual abuse, torture, disappearances and other atrocities. His alleged crimes were committed between 1992 and 1993 while he was commander of a special police platoon in Vlasenica.

154 (Inciting National, Racial or Religious Hatred, Discord or Hostility) Whoever publicly incites and inflames national, racial or religious hatred, discord or hostility among constituent peoples and others who live in the Federation (...) makes public denial or justification of genocide, crime against humanity or war crimes determined by a final decision of the International Court of Justice, the International Criminal Tribunal for the former Yugoslavia or a domestic court, shall be punished by imprisonment for a term between three months and three years.

155 See: *Miletićev prijedlog izmjena i dopuna Kaznenog zakona BiH nije usvojen: I dalje bez sankcija za negiranje genocida i zločina*. Oslobođenje, 23 January 2020. Available at: <https://www.oslobodjenje.ba/vijesti/bih/pocela-sjednica-doma-naroda-psbih-zakon-ovstv-u-skinut-sa-dnevnog-reda-pred-delegatima-izborni-zakon-i-ratni-zlocinci-525606>

156 See: *Regulating a Ban on Denial, Trivialisation, Justification or Condonation of Genocide, the Holocaust, Crimes against Humanity or War Crimes in Bosnia and Herzegovina*. forumZFD – TRIAL International. Sarajevo, 2020. Available at: [http://www.dwp-balkan.org/userfiles/file/2402/new/Pravna\\_regulacija\\_Web.pdf](http://www.dwp-balkan.org/userfiles/file/2402/new/Pravna_regulacija_Web.pdf)

the denial of all other convictions for war crimes.<sup>157</sup>

The practices of historical revisionism,<sup>158</sup> denial of established court facts, public denial of genocide,<sup>159</sup> denial of war crimes and glorification of war criminals, public gatherings of fascist organisations, and the erection of war criminal murals<sup>160</sup> have become commonplace and are not subject to any legal or moral sanctions or condemnations. Such practices are unquestionably contrary to fundamental European values, and they are impeding BiH's integration process, which is becoming increasingly slow and uncertain. EU officials sent clear messages to BiH authorities, emphasising that countries that deny war crimes have no place in the EU, and that revisionism and denial of crimes are contrary to fundamental European values.<sup>161</sup> Josep Borrell, the EU High Representative and EU Vice President, also stated in his column that glorifying war criminals is unacceptable, sending a clear message to political elites in Bosnia and Herzegovina and the region.<sup>162</sup> For example, more than ten streets, squares, and public buildings in BiH currently bear the names of those convicted or indicted for war crimes or for participating in a joint criminal enterprise in which war crimes were committed in BiH, prompting EU criticism for developing revisionist narratives.<sup>163</sup> Although the High Representative in BiH, Valentin Inzko, indicated in 2019 the possibility of imposing a law prohibiting the denial of genocide<sup>164</sup> and raised the matter again in 2020<sup>165</sup> this has not yet occurred.

- 157 Forum ZFD and TRIAL International, as two organizations in Bosnia and Herzegovina active in the field of transitional justice and dealing with the past, in 2019 initiated the launch of a constructive discourse on the need to enact a law on the prohibition of denial of genocide, holocaust, crimes against humanity and war crimes, in an effort to establish and maintain open talks with various actors and relevant groups on this topic, but ultimately also a broader dialogue and raising social and political awareness on the topic of dealing with the past. More information on the link: [http://www.dwp-balkan.org/bh/library.php?cat\\_id=5&text\\_id=35](http://www.dwp-balkan.org/bh/library.php?cat_id=5&text_id=35)
- 158 Some examples of revisionism: <https://www.dw.com/hr/sarajevska-misa-zablajbur%C5%A1ke-zlo%C4%8Dince-ili-%C5%BErtve/a-53423219>, <http://abrasmedia.info/husnija-kamberovic-historijski-revizionizam-u-bih/>
- 159 *Dodik: U Srebrenici nije počinjen genocid, to je mit poput kosovskog*. Radio Slobodna Evropa. 12 July 2019. Available at: <https://www.slobodnaevropa.org/a/30052016.html>
- 160 *Skandalozno: U Bosanskoj Gradišci osvanuo mural ratnom zločincu Ratku Mladiću*. Klix.ba, 19 June 2020. Available at: <https://www.klix.ba/vijesti/bih/skandalozno-u-bosanskoj-gradisci-osvanuo-mural-ratnom-zlocincu-ratku-mladicu/200619128>
- 161 *Speech by Foreign Minister Heiko Maas in the German Bundestag on the coalition motion "War crimes and human rights violations must not go unpunished"*. The Germany Embassy in BiH, 28 October 2020. Available at: <https://www.auswaertiges-amt.de/en/newsroom/news/-/2411152>
- 162 See: *Borrell: Veličanje ratnih zločinaca je neprihvatljivo*. Fokus.ba, 11 July 2020. Available at: <https://www.fokus.ba/vijesti/bih/borrell-velicanje-ratnih-zlocinaca-je-neprihvatljivo/1816934/>
- 163 *Slavljenje ratnih zločina ulicama, trgovima i parkovima*. Detektor.ba, 19 May 2020. Available at: [https://detektor.ba/2020/05/19/slavljenje-ratnih-zlocina-ulicama-trgovima-i-parkovima/?fbclid=IwAR3vd3mwMf1lamr7GndDL0B3eSkivMU-wxE4NPbk8tH9wMg1\\_smq2mIdTs](https://detektor.ba/2020/05/19/slavljenje-ratnih-zlocina-ulicama-trgovima-i-parkovima/?fbclid=IwAR3vd3mwMf1lamr7GndDL0B3eSkivMU-wxE4NPbk8tH9wMg1_smq2mIdTs)
- 164 *Inzko najavio: Zakon o zabrani negiranja genocida mogao bi biti nametnut*. Radiosarajevo.ba, 12 December 2019. Available at: <https://radiosarajevo.ba/vijesti/bosna-i-hercegovina/inzko-najavio-zakon-o-zabrani-negiranja-genocida-mogao-bi-bit-nametnut-bonskim-ovlastima/360500>
- 165 *Inzko: Spreman sam da nametnem Zakon o zabrani negiranja genocida u BiH*. N1 BiH, 22 November 2020. Available at: <https://ba.n1info.com/vijesti/a489005-inzko-spreman-sam-da-nametnem-zakon-o-zabrani-negiranja-genocida-u-bih/>

## 4. REGIONAL COOPERATION

### 4.1. Bilateral Relations

Great care must be taken to align BiH's legal and institutional framework with the commitments it has made both through the SAA and within CEFTA, as well as to build the country's economic, development, and scientific capacities so that it can cope with open market pressures. This is in addition to the Copenhagen criteria requirements, namely that BiH must build capacity to deal with market pressures, primarily in the region, and then, eventually, within the EU. It is encouraging that existing regional organisations such as CEFTA, RCC, the Transport Community, and similar institutionalised forms of cooperation, of which BiH has long been a member, are reviving regional cooperation. Actual project initiatives in infrastructure, improved transport links, energy, environmental protection and the free movement of people must begin to be designed under the strategic political umbrella of the Berlin Process. The new agenda is the Common Regional Market,<sup>166</sup> which is entirely complementary to the EU Economic and Investment Plan for the Western Balkans and is supported by the EU. The current Mini Schengen has become an integral part of this plan through four European freedoms, and as a result, Mini Schengen has been depoliticised and depersonalised, which is very important, given the reserves of Montenegro, as well as parts of BiH and Kosovo. This plan also includes work on full freedom of movement, i.e., signing a regional agreement on movement only with ID cards, which would allow BiH and Kosovo citizens to travel freely with ID cards for the first time. The aim is also to accelerate convergence with the EU, to enable the transfer of the fourth industrial revolution technologies and so allowing young people to stay.

With the outbreak of the COVID-19 pandemic, BiH received numerous foreign donations<sup>167</sup> to fight the pandemic, with the goal of not only supporting capacities but also of developing suitable mechanisms to adapt to the new situation. The first donation arrived on 23 March 2020, in the same month when the first case of infection with the COVID-19 virus was confirmed. This donation included humanitarian aid from the United States Government in the form of medical equipment, hospital and emergency equipment, food, and water. Shortly afterwards, the Kingdom of Norway donated 7.5 million Norwegian kroner (900,000 euros). The Republic of Serbia also provided a donation in the form of necessary material and technical equipment for the fight against the pandemic, which was accepted by the RS Government. The EU has also approved an 80.5 million euro worth aid package for Bosnia and

<sup>166</sup> Common Regional Market, more at: <https://www.rcc.int/pages/143/common-regional-market>

<sup>167</sup> Velić, E., Sarajlić, H., Kurjaković, H., Sijamija, M. *Inostrana pomoć BiH u borbi protiv pandemije COVID-19*. BiH Foreign Policy Initiative. 2020. Available at: <https://vpi.ba/wp-content/uploads/2020/08/Inostrana-POMOĆ-BIH-4.pdf>

Herzegovina. That money was allocated for the needs of the health sector as well as for social and economic recovery. In the following months of the pandemic, BiH received similar donations from the following countries: Turkey, the Russian Federation, Malaysia, Slovenia, Hungary, China, Italy, the Republic of Azerbaijan, Austria, the Republic of Croatia, Poland, the United Arab Emirates, Qatar, Switzerland, Japan, Sweden, and additional aid came from NATO and the EU. All donations were further distributed following existing capacities and needs. Furthermore, the EU has approved additional 4.5 million euros in funding to help refugees and people on the move during the pandemic

## 5. INFORMATION SOCIETY AND THE MEDIA

In 2019, BH Novinari registered 56 attacks, threats and other violations of media freedoms and journalists' rights,<sup>168</sup> which grew to 69 cases in 2020. In just two years, there have been 125 reports of attacks and violations of journalists' rights, demonstrating a surge in violence against media workers in BiH. The most common are death threats, physical attacks, verbal threats, labour rights violations and mobbing, defamation, denial of access to information, political pressure, gender-based violence, cyber-attacks and other forms of intimidation and pressure. The attacks documented by the FMHL demonstrate that threats and attacks were on the rise in 2019 and 2020. Attacks on the RTV Slon crew from Tuzla,<sup>169</sup> death threats against journalist Vanja Stokić<sup>170</sup> and journalist Nikola Vučić,<sup>171</sup> physical attack on the editor of RTV Zenica Sinan Gluhic,<sup>172</sup> death threats against the Nezavisne novine crew,<sup>173</sup> and intrusion into the Faktor editorial office<sup>174</sup> stand out on the cruelty scale. In the last two years, BH Novinari have reported one incident involving possible abuse of power by the OSA and interference in journalistic work,<sup>175</sup> as well as six cases involving top police officials or police and border police officers on the ground.<sup>176</sup> The

<sup>168</sup> Radević, Maja. *Indikatori nivoa medijskih sloboda i sigurnosti novinara u BiH 2019*. BH Novinari, p. 21, available at: <https://safejournalists.net/wp-content/uploads/2020/12/BiH-BiH-2019.pdf>

<sup>169</sup> Press release, BH Novinari, April 2020, available at: <https://bhnovinari.ba/bs/2020/04/21/bh-novinari-javni-protest-mup-u-tk-zbog-nezakonitog-postupanja-prema-ekipi-rtv-slona/>

<sup>170</sup> Press release, May 2020, BH Novinari, available at: <https://bhnovinari.ba/bs/2020/05/25/bih-policija-odmah-da-reaguje-kada-se-prijeti-novinarima/>

<sup>171</sup> Press release, June 2020, BH Novinari, available at: <https://bhnovinari.ba/bs/2020/06/01/safejournalists-novinaru-n1-tv-iz-bih-vucicu-upucene-prijetnje-smrcu/>

<sup>172</sup> Press release, BH Novinari, June 2020, available at: <https://bhnovinari.ba/bs/2020/06/08/safejournalists-novinaru-iz-bih-gluhica-fizicki-napao-politickar-spahic/>

<sup>173</sup> Press release, December 2020, available at: <https://bhnovinari.ba/bs/2020/12/18/safejournalists-prijetnje-smrcu-novinarima-nezavisnih-novina-u-bih/>

<sup>174</sup> Press release, April 2020, BH Novinari, available at: <https://bhnovinari.ba/bs/2020/04/16/regionalna-platforma-faktor-ba-pod-prijetnjama-i-pritiskom-da-ukloni-sadrzaj/>

<sup>175</sup> *UO BHN: Tražimo hitno i javno očitavanje agencije OSA*. BH Novinari, 26 June 2019. Available at: <https://bhnovinari.ba/bs/2019/06/26/uo-bhn-trazimo-hitno-i-javno-ocitavanje-agencije-osa/>

<sup>176</sup> *BH Novinari: Očekujemo izvinjenje funkcionera MUP-a RS novinarskoj zajednici BiH*. BH Novinari, 28 December 2018. Available at: <https://bhnovinari.ba/bs/2018/12/28/bh-novinari-ocekujemo-izvinjenje-funkcionera-mup-a-rs-novinarskoj-zajednici-bih/>; *Izmještanje migranata iz USK je događaj od javnog značaja i novinarima moraju biti osigurane informacije o cijelom postupku*. BH Novinari, 10 December 2019. Available at: <https://bhnovinari.ba/bs/2019/12/10/izmjestanje-migranata-iz-usk-je-dogadjaj-od-javnog-znacaja-i-novinarima-moraju-biti-osigurane-informacije-o-cijelom-postupku/>; *Koalicija za borbu protiv govora mržnje: Osuđujemo policijsko nasilje i zahtijevamo procesuiranje istog*. BH Novinari, 14 January 2020. Available at: <https://bhnovinari.ba/bs/2020/01/14/koalicija-za-borbu-protiv-govora-mrznje-osudjujemo-policijsko-nasilje-i-zahitjevamo-procesuiranje-istog/>; *REGIONALNA PLATFORMA: POLICIJA MORA POŠTOVATI ZAKON*. BH Novinari, 23 April 2020. Available at: <https://bhnovinari.ba/bs/2020/04/23/regionalna-platforma-policija-mora-postovati-zakon/>; *UO BHN: Javni protest MUP RS zbog neprofesionalnog postupanja u slučaju prijetnji smrću Vanji Stokić, urednici portala Etrafika*. BH Novinari, 24 May 2020. Available at: <https://bhnovinari.ba/bs/2020/05/24/uo-bhn-javni-protest-mup-rs-zbog-neprofesionalnog-postupanja-u-slucaju-prijetnji-smrcu-vanji-stokic-urednici-portala-etrafika/>; *BH novinari: Javni protest MUP-u Kantona Sarajevo*. BH Novinari, 18 June 2020. Available at: <https://bhnovinari.ba/bs/2020/06/18/bh-novinari-javni-protest-mup-u-kantona-sarajevo/>

OSA did not adequately respond to allegations of suspected wiretapping of journalists from BiH (as well as Serbia and Croatia), nor did the Parliamentary Oversight of Security and Intelligence Agencies respond to allegations made at a press conference by Milorad Dodik, BiH Presidency member.<sup>177</sup> Members of the RS MoI and the TC MoI took the disciplinary action and penalised police officers who treated journalists unlawfully.<sup>178</sup> It is concerning that the USC MoI and the BiH Border Police have never responded to allegations of violations of journalists' rights to freedom of movement, access to information, free and dignified work, or violations of media freedoms when reporting on people on the move/migrants. In the context of the safety of journalists and respect for media freedoms, the illegal and undemocratic behaviour of judicial institutions in BiH, led by the Prosecutor's Office of BiH, is on the rise. BH Novinari registered at least four incidents involving prosecutors illegally inviting journalists for informative interviews, forcing them to disclose sources of information, or otherwise exerting institutional and political pressure on media workers, particularly those involved in investigative journalism. The Special Investigation Commission of both houses of the PA BiH for the preparation of reports on the situation in the judiciary, as part of the review of various aspects of the work of the judiciary in BiH, heard journalists and representatives of news associations.<sup>179</sup>

Hate speech and violence against journalists in the online world are becoming more prevalent and pervasive. The editorial policy of the media in BiH also reflects ethnic divisions, and hate speech is becoming increasingly apparent.<sup>180</sup> In 2020 alone, the Press Council received a total of 712 complaints of hate speech.<sup>181</sup> Gender-based violence in the online world<sup>182</sup> accounts for over 53%, of which only two-thirds of journalists report online violence to management. Over the last three years, more than 40% of journalists have been exposed to attacks or threats, and 75% of them have experienced this from a politician or a public office holder.

According to the Reporters without Borders' Press Freedom Index for 2020,

<sup>177</sup> *Sud BiH: Dodik izdaje naloge za prisuškivanje, a ne predsjednik Suda*. Radio Free Europe, 9 September 2020. Available at: <https://www.slobodnaevropa.org/a/30829574.html>

<sup>178</sup> The Tuzla Canton MoI sent a letter to the BH Novinari informing them about the punishment of police officers who acted illegally against the RTV Slon press team from Tuzla. The RS MoI also informed BH Novinari about the punishment of inspectors and they published this information publicly. More information on the link: <https://www.etratika.net/drustvo/75032/inspektor-kaznjen-zbog-nepostupanja-u-slucaju-vanje-stokic/>

<sup>179</sup> *Istražna komisija: Zbog stanja u pravosuđu novinari se osjećaju nesigurno i nezaštićeno*. Mediacentar, 13 October 2020. Available at: <https://www.media.ba/bs/vijesti-i-dogadaji-vijesti/istrazna-komisija-zbog-stanja-u-pravosuđu-novinari-se-osjecaju-nesigurno>

<sup>180</sup> Hate speech is by far the most common in the comments of visitors to BiH's Internet portals, and this issue was addressed within 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: The Press Council in BiH is implementing the "Stop! Hate speech 2018" campaign in online media, Oslobodjenje, 17 August 2018, <https://bit.ly/2Xqif4q>

<sup>181</sup> The Press Council in Bosnia and Herzegovina, <http://www.vzs.ba/>

<sup>182</sup> BH Novinari' campaign, November 2019, available at: <https://bhnovinari.ba/bs/2019/11/28/bh-novinari-se-pridruzili-kampanji-protiv-nasilja-nad-novinarkama-na-internetu/>

BiH ranks 58<sup>th</sup>,<sup>183</sup> however, media freedoms are still assessed as unfavourable due to the political climate, editorial policy and pressures on the media. The current political climate is unfavourable for media freedom, as evidenced by constant verbal attacks on journalists, threats and unauthorised interference in editorial policy and the introduction of censorship, particularly in the public media.<sup>184</sup> Slanderous statements and pressure from the mayor of Zenica, Fuad Kasumović, on journalists and other employees of BHRT and the FTV Information and Technical Centre in Zenica, are clear examples of this.<sup>185</sup>

Defamation lawsuits, mostly filed by politicians and public officials, frequently intimidate journalists and deter them from doing their jobs. According to the FMHL, 21 new defamation lawsuits<sup>186</sup> were filed in 2019 alone, while in July 2020, 289 defamation lawsuits were active against journalists and the media.<sup>187</sup> By the end of 2020, BiH courts had issued only two defamation verdicts in favour of a journalist from Trebinje and a blogger from Banja Luka, both of which relied on ECtHR case law.<sup>188</sup> In August 2019, the PA BiH accepted the proposal of the Member of Parliament Damir Arnaut, who proposed stricter standards of acceptability, tolerance and proof to be incorporated into the laws on protection against defamation at the entity levels in cases when lawsuits are filed by politicians and other public figures.<sup>189</sup>

The lack of legislation on the transparency of media ownership, advertising, and media financing from public budgets has profoundly influenced the increase in political and economic pressures on the media. This is especially evident in local communities, where the existence of public radio and TV stations depends on funds from municipal or cantonal budgets, as well as on the willingness of elected mayors or local assemblies/councils to fund the media in the public interest of all citizens or following the party in power.<sup>190</sup>

183 Reporters without Borders, World Press Freedom Index, available at: [https://rsf.org/en/ranking\\_table?sort=asc&order=Countries%20%26%20regions](https://rsf.org/en/ranking_table?sort=asc&order=Countries%20%26%20regions)

184 Press release, 22 August 2020, BH Novinari, available at: <https://bhnovinari.ba/bs/2020/08/22/cenzura-bez-pojasnenja-zasto-je-bhrt-izbrisala-kritiku-filma-pjera-zalice/> and <https://bhnovinari.ba/bs/2020/08/23/bh-novinari-cenzura-na-bhrt-je-atak-na-slobode-izrazavanja-i-misljenja/>

185 Press release, BH Novinari, February 2020, available at: <https://bhnovinari.ba/bs/2020/02/13/uo-bh-novinara-osudjujemo-politicke-pritiske-i-klevetnicke-izjave-gradonacelnika-zenice-kasumovica/>

186 Radević, Maja. *Indikatori nivoa medijskih sloboda i sigurnosti novinaru u BiH 2019*. BH Novinari, p.11, available at: <https://safejournalists.net/wp-content/uploads/2020/12/BiH-BiH-2019.pdf>

187 *U BiH aktivno 289 tužbi za klevetu protiv novinaru i medija*. Mediacentar, 10 July 2020, available at: <https://media.ba/bs/vijesti-i-dogadaji-vijesti/u-bih-aktivno-289-tuzbi-za-klevetu-protiv-novinaru-i-medija>

188 “Žarko Raketa PD Trebinje” v. “Milanka Kovačević” and “Marinko Umičević” v. “Srđan Puhalo”

189 Radević, Maja. *Indikatori nivoa medijskih sloboda i sigurnosti novinaru u BiH 2019*. BH Novinari, p.11, available at: <https://safejournalists.net/wp-content/uploads/2020/12/BiH-BiH-2019.pdf>

190 Kulenović, Velida. *Mjesečna tranša kao alat za pritisak*. BH Novinari, 2018, available at: <https://bit.ly/2SpJEzS>; Adilagić, Rea. *Bosna i Hercegovina: Indikatori nivoa medijskih sloboda i sigurnosti novinaru*, BH Novinari, 2018, available at: <https://safejournalists.net/wp-content/uploads/2018/12/2018-BiH-Indikatori-nivoa-medijskih-sloboda-i-bezbjednosti-novinaru.pdf>

State institutions, on the other hand, rejected the proposals of the Consortium of Media Organisations “Media and Public Reputation” for the Draft Law on Transparency of Media Ownership and Advertising.<sup>191</sup> In December 2018, the Consortium submitted to the Ministry of Communications and Transport of BiH the Draft Law on Transparency of Media Ownership and Pluralism and the Draft Law on Advertising and the Procedures for Financing Media from Public Budgets. It is yet uncertain whether the proposed laws will be subjected to parliamentary procedure.<sup>192</sup>

The unresolved issue of collecting the RTV fee is a fundamental challenge in the functional and independent operation of the Public Broadcasting Service (PBS). Over the last 10 years, agreements have been reached with public companies to collect the RTV fee through telephone or electricity bills for a set period of time<sup>193</sup>. Currently, RTV fee is collected in FBiH through Elektroprivreda BiH, and in the RS through Elektroprivreda RS and collectors who have “separate budgets,” which is contrary to the Law on the Public Broadcasting Service, which states that RTV fee earnings would go to one account and be disbursed to three public services, BHRT, RTRS, and RTVFBiH, in accordance with legal provisions.<sup>194</sup>

Public comments on editorial policy and political influence on the public service programme contents are also becoming more common. Political dependence is directly related to the election of board members, as well as the appointment of directors and editors, where the predominant criteria are ethnicity and political backing, rather than professional competencies.<sup>195</sup> In some cases, such as RTRS, editorial policy is entirely shaped by the interests of the ruling party, as evidenced by its reporting and the phenomenon of “rotation” of close government officials who move from political positions to managerial and editorial positions in the public service and vice versa.<sup>196</sup> Furthermore, the selection of editor at BHRT was the subject of public outcry and controversy,<sup>197</sup> as well as the court proceedings that revealed the illegal actions of the administration and management in appointing the editor of the

191 The consortium included Mediacentar Sarajevo Foundation, NGO JaBIHEU, Press and Online Media Council in BiH and BH Novinari

192 Radević, Maja. *Indikatori nivoa medijskih sloboda i sigurnosti novinara u BiH 2019*. BH Novinari, p.9, available at: <https://safejournalists.net/wp-content/uploads/2020/12/BiH-BiH-2019.pdf>

193 *Naplata RTV takse putem računa za električnu energiju*. EPBiH, 2017, available at: <https://www.epbih.ba/novost/21886/naplata-rtv-takse-putem-racuna-za-elektricnu-energiju>

194 Radević, Maja. *Indikatori nivoa medijskih sloboda i sigurnosti novinara u BiH 2019*. BH Novinari, p. 9, available at: <https://safejournalists.net/wp-content/uploads/2020/12/BiH-BiH-2019.pdf>

195 *Izveštaj o stanju ljudskih prava u 2019. godini Bosna i Hercegovina*, 2019., US Embassy in BiH, pp.7-8, available at: [https://ba.usembassy.gov/wp-content/uploads/sites/270/HRR\\_2019.pdf](https://ba.usembassy.gov/wp-content/uploads/sites/270/HRR_2019.pdf)

196 Cvjetičanin, Tijana., Brkan, Darko. *Četvrti dio: Sloboda i nezavisnost medija – neophodan korak ka evropskim vrijednostima*. Citizens’ Association “Zašto ne”, 2019, available at: <https://zastone.ba/app/uploads/2019/04/Sloboda-i-nezavisnost-medija-%E2%80%93-neophodan-korak-ka-evropskim-vrijednostima-1.pdf>

197 *Političko TV kadriranje*. Radio Free Europe, 16 March 2018, available at: <https://www.slobodnaevropa.org/a/29104194.html>

documentary programme.<sup>198</sup>

In 2020, the media in BiH, like the media throughout the world, experienced the phenomena of infodemic. The spread of the COVID-19 virus was accompanied by an increase in the distribution of misinformation. Raskrinkavanje.ba, a BiH fact-checking platform launched in 2017 by the Citizens Association “Zašto ne”, has released hundreds of analyses of inaccurate COVID-19 allegations that have spread in our speaking region since the pandemic was announced to the end of 2020. SEE Check<sup>199</sup> is a network of seven regional fact-checkers from 6 different countries: BiH (Raskrinkavanje.ba), the Republic of Croatia (Faktograf.hr), Montenegro (Raskrinkavanje.me), North Macedonia (F2n2.mk), Serbia (Fakenews.rs and Raskrinkavanje.rs), and Slovenia (Razkrinkavanje.si). Members of the SEE Check Network have created a Viber community<sup>200</sup> solely dedicated to countering the spread of pandemic-related misinformation. Furthermore, untruths and conspiracies about COVID-19 in the media space in BiH and the region, as well as “evidence” that the pandemic was fabricated, began to be presented by people unknown to the public who had no formal education in medical or related sciences. Then, social networks were swamped with misinformation and conspiracy theories regarding the 5G network, followed by misinformation about purported aerial poisoning, so-called chemtrails. With the first approved vaccines came a flood of misinformation and fake news about them. The media were not immune to misleading “trends” either. People with true medical knowledge who advocate anti-scientific views, or lack competence in relevant areas, on the other hand, have risen to prominence in the region in recent years. Their perspectives on the pandemic began to be transmitted by equally credible media,<sup>201</sup> as well as websites that published news from unreliable sources.<sup>202</sup> At the same time, YouTube videos from other countries<sup>203</sup> began to spread virally across the region.

Hate speech has become an everyday occurrence in BiH. The developments of new technologies and the Internet has facilitated the dissemination of hate speech at a faster rate, with no effective restriction. In the period 2019-2020, hate speech in BiH evidently escalated both on social media and in the daily speeches of politicians, public officials, but also citizens. It is noteworthy that during this period, the focus of hate speech switched from returnees,

198 *Srđan Šarenac dokazao na sudu da je BHRT mijenjao uvjete konkursa za izbor urednika*. Klix.ba, 31 May 2019, available at: <https://www.klix.ba/vijesti/bih/srdjan-sarenac-dokazao-na-sudu-da-je-bhrt-mijenja-uvjete-konkursa-za-izbor-urednika/190531124>

199 More at: <https://www.facebook.com/SeeCheckNetwork/>

200 Available at: <https://invite.viber.com/?g2=AQBHeZncLF6p%2F0tBCz5gabelYuzJcc3BS8fEYr7xBX2AzM%2BBftv1qJnJeb76JULk&lang=en>

201 *N1's analysis: From pandemic to repression*. N1, 1 May 2020, available at: <https://web.archive.org/web/20200629202031/http://ba.n1info.com/English/NEWS/a430183/N1-s-analysis-From-pandemic-to-repression.html>

202 “*Tri pitanja*” *Lidije Gajski - drugi dio*. Raskrinkavanje.ba, 5 May 2020, available at: <https://raskrinkavanje.ba/analiza/tri-pitanja-lidije-gajski-drugi-dio>

203 *Njemački liječnik Wolfgang Wodarg netočnim tvrdnjama pokušava uvjeriti javnost da je koronavirus bezopasan*. Faktograf.hr, 28 April 2020, available at: <https://faktograf.hr/2020/04/28/njemacki-lijecnik-wolfgang-wodarg-netocnim-tvrdnjama-pokusava-uvjeriti-javnost-da-je-koronavirus-bezopasan/>

representatives of constituent peoples residing in minority areas, members of national minorities, persons with disabilities, and members of gender and sexual minorities, to other categories. There were two key reasons for this: the 2020 elections and the declaration of a state of emergency in the country as a result of the COVID-19 pandemic. During the 2020 pre-election campaign, hate speech primarily targeted political dissidents and members of other ethnonational groups. However, most worrying is the fact that the authorities, for their three years of unwillingness and irresponsibility in effectively taking care of people on the move, have used hate speech in adopting extremely discriminatory measures restricting their rights and freedoms. During the pandemic, people on the move were falsely depicted as the greatest threat to the health of citizens<sup>204</sup> and the stability of BiH<sup>205</sup> in their statements. The situation deteriorated when a portion of the media cooperated in creating and sharing similar content,<sup>206</sup> while the BiH Ombudsman Institution did not respond independently to such attacks on people on the move or responded rather late to complaints from CSOs dealing with hate speech prevention.

The web portal [www.antimigrant.ba](http://www.antimigrant.ba), which was already the subject of complaints to the Press Council and the Ombudsman Institution in 2019, is still active. In 2019, the Network for Building Peace filed a complaint with the Press Council, pointing to the content of this portal. The Press Council adopted the complaint and stated a gross violation of the Press and Online Media Code, as well as the inflammatory nature of the writing itself, which refers to hate speech and other offences. On the same occasion, in 2020, ADI Sarajevo filed nine complaints with the Press Council and the Ombudsman Institution. All nine complaints were approved by the Press Council, and the Ombudsman Institution responded to both organisations in early 2020, noting that it had taken all required actions and was satisfied with the current cooperation with the police, prosecutors, and the CRA. The conclusion is that there was a rise in hate speech against people on the move in 2019 and 2020 and that the competent institutions in BiH did not implement suitable prevention measures or prosecute the perpetrators. Furthermore, the fact that government officials have frequently utilised hate speech to justify some of the measures adopted to target this category, has far-reaching ramifications for people on the move, their position and status in the future.

204 Reactions of the Coalition for the Fight Against Hate Speech and Hate Crimes available on the website [www.adi.org.ba](http://www.adi.org.ba)

205 *Pandemija kao pokriće za dodatno etiketiranje ljudi u pokretu*, 27 April 2020, Mediacentar, available at: <https://www.media.ba/bs/magazin-novinarstvo/pandemija-kao-pokrice-za-dodatno-etiketiranje-ljudi-u-pokretu>

206 *Mediji, političari i migranti: Jezik mržnje umjesto solidarnosti*, Mediacentar, 29 May 2019, available at: <https://www.media.ba/bs/medijetar/mediji-politiciari-i-migranti-jezik-mrznje-umjesto-solidarnosti>. *Izvještavanje o migrantskoj i izbjegličkoj krizi u BiH: insinacije, rasizam i ksenofobija*, Diskriminacija.ba, 9 December 2019, available at: <https://www.diskriminacija.ba teme/izvje%C5%A1tavanje-o-migrantskoj-i-izbjegli%C4%8Dkoj-krizi-u-bih-insinucije-rasizam-i-ksenofobija>. *Migranti i izbjeglice u BiH: Dehumanizirani ljudi, glavna meta govora mržnje*, Voice of America, 13 August 2019, available at: <https://ba.voanews.com/a/migranti-i-izbjeglice-test-iz-humanosti-za-bh-gradjane-/5040074.html>

Media and information literacy is almost entirely absent from strategies and public policies. These skills are required not only for citizens, but also for governments, in order to adapt to the new digital world. The development of these policies should reach all strata of society. The importance of developing media and information literacy stimulates students' critical thinking and would undoubtedly benefit their long-term growth, with BiH aiming to improve its 2018 results. Media and information literacy, based on the principles of lifelong learning, is an umbrella competence that is assumed in "a society that has undergone digital transformation and expects the citizen to be sufficiently informed and educated to be a competent participant in democratic discourse, and as a proactive independent subject, constructively and responsibly make decisions and contribute to the knowledge society."<sup>207</sup> According to a public perception survey conducted as part of the project Western Balkan Civil Society Empowerment for a Reformed Public Administration (WeBER 2.0), the pandemic "has not significantly altered the habits of BiH citizens and the countries of the Western Balkans region when it comes to the usage of electronic services". However, the results of the survey conducted by the Foreign Policy Initiative of BiH in collaboration with partners showed that the pandemic did not affect the fact that citizens in BiH and our region are more likely to start using e-services. This situation is explained in such a way that citizens are unaware of these services and lack the necessary information and technical skills to use them. Citizens in BiH, as in all countries in the region, generally use e-services with caution, and this has not changed during the pandemic. BiH needs to launch campaigns to inform citizens about these services in order to raise awareness that they are significantly cheaper and bring savings. In addition to campaigns, efforts must be made to improve the quality of these services. All of this would certainly lead to greater trust of citizens in electronic interaction with the administration.

## 6. SOCIAL POLICIES AND EMPLOYMENT

Bosnia and Herzegovina, as a country of the peripheral economy in relation to 2019, did not record positive developments, therefore it remains characterised by a high unemployment rate, and the domain of legal and labour relations and employment is still marked by discrimination reflected in the domain of gender, political affiliation, work in the public and private sectors, and the ethnicity of the workers. New labour laws enacted in both entities four years ago have further reduced the scope of workers' rights.<sup>208</sup> A general collective agreement has not yet been signed in the RS, and a significant number of companies or institutions in both the public and private sectors have not signed branch or special collective agreements. In this way, legal and labour relations between the social partners (employer - trade union/workers) are still regulated by the Rules of Procedure. They are established by the employer without the approval and consultation with the unions, giving the employer a wide range of options for determining the price of work, the duration of working hours throughout the week/month, (non)payment of overtime, and exercising the right to annual leave under Labour Law. As the pandemic marked 2020, the situation for workers became even more complicated. Under pressure from employers, the FBiH Government drafted amendments to the Labour Law in the second quarter of 2020, which further curtailed workers' rights, i.e., opened the possibility of simplifying dismissal proceedings and increasing the number of weekly and monthly working hours. Due to the protests organised by the unions and the fact that local elections were held in 2020, the mentioned amendments to the law were put on hold, but they were not withdrawn from the parliamentary procedure. The RS government and unions have frozen all forms of collective bargaining. Neither the signing of the general collective agreement nor the amendments to the Labour Law, that had been worked on for three years, were put on the agenda. Legal and labour legislation in BiH is the responsibility of the entities, even though there are no legal obstacles, trade unions are organised on an entity-territorial basis and there is almost no form of mutual cooperation. The situation is further exacerbated in the FBiH in the domain of trade union organisation because it varies greatly from canton to canton. The situation is particularly difficult in the Herzegovina-Neretva and Livno cantons, where only a small number of workers is unionised and they are mostly employed in the public sector. Trade union organisation in the RS is also complicated because, in addition to the Federation of Trade Unions of the RS, the Confederation of Trade Unions of the RS has gained representativeness too, as well as several trade unions in the field of health activities that operate independently. The pandemic has further harmed the position of workers in the low-profit industries (textiles, leather, footwear), as well as the trade sector where women make up the majority of the workforce. In order to maintain production and make a profit in these sectors throughout 2020, numerous violations of labour rights were reported, mostly due to violations of epidemiological measures and conscious disregard

for the life and health of women workers by control/inspection bodies. There is no official data on how many workers lost their jobs due to the pandemic. At its session held on 26 February 2020, the Constitutional Court of the FBiH passed a judgment<sup>209</sup> establishing that Article 9 of the Law on Amendments to the Labour Law of the FBiH,<sup>210</sup> which previously amended Article 114 of the Labour Law,<sup>211</sup> is not in compliance with the FBiH Constitution.<sup>212</sup> Considering the request for constitutional review of the aforementioned Article 9 of the Law, the Constitutional Court in its judgment found that Article 9 of the Law is not in compliance with the FBiH Constitution. Given that Article 12, paragraph 1) item b) (Constitutional Court) of the FBiH Constitution<sup>213</sup> specifies that the adopted regulations will not apply if the Constitutional Court finds that they are not in compliance with the Constitution, and given that the decision of the Constitutional Court is published in the Official Gazette of the FBiH, it is considered that the disputed Article 9 of the Law is no longer in force. However, contrary to the above, and having in mind the non-harmonised practice of the competent courts in FBiH and the fact that the FBiH Parliament has not yet adopted amendments to the Labour Law of the FBiH that would remove the unconstitutional provision from the text of Article 9 (Article 114), it remains unclear whether any worker lawsuits will be rejected if they do not previously, within 30 days, meet the condition of Article 9 (Article 114) of the Law, and do not submit to the employer a request for protection of rights from employment relationship before filing a lawsuit.

The pay gap between men and women in BiH goes up to 25% in the capital, while women earn 17.6% less than men on average in the rest of the country. The same tendency can be noticed when looking at the average income for some of the most sought-after occupations in BiH. Women in BiH face many challenges, the most visible of which is unemployment and the lack of access to a confidential and secure system for filing complaints about sex discrimination or sexual harassment in the workplace. BiH has not improved the protection of the right to benefits during maternity leave, nor has a system for protecting the rights of women who use the same leave been established. One of the issues that should be prioritised and addressed through more definite action plans is the economic implications of the economic crisis, which never have the same impact on men and women. The problem is that marginalised and minority groups of women survivors of domestic violence have been left out of the FBiH Employment Strategy for the period 2018 – 2021, adopted by the FBiH Government. During the COVID-19 pandemic, women entrepreneurs and micro-business owners face a significant risk of cash inflow and demand stoppage as a result of crisis headquarters' recommendations aimed at

209 Judgment of the Constitutional Court of the FBiH (Official Gazette of the FBiH, 23/20).

210 Law on Amendments to the Labour Law of the FBiH (Official Gazette of BiH, 89/18).

211 Original text Article 114 of the FBiH Labour Law (Official Gazette of the FBiH, 26/16, 89/18)

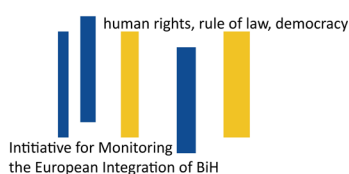
212 The aforementioned Article 9 of the Labour Law stipulated that before filing a lawsuit, the employee must submit to the employer a prior request for exercising the rights from the employment relationship within the prescribed preclusive period of 30 days from the day of the violation, i.e., except in case of termination of the employment contract.

213 FBiH Constitution, <https://www.predstavnickidom-pfbih.gov.ba/bs/page.php?id=103> .

physical distancing. The situation of women from marginalised groups (Roma women, single mothers, LGBTIQ women, disabled women, women survivors of sexual violence and other forms of war torture, and women survivors of gender-based violence) further deteriorated during the COVID-19 pandemic. Although the most important thing was to stay at home and thus contribute to the decline in the number of infected, for many women in BiH and around the world, home is the last place they feel safe. Staying at home alone, isolation, and physical distancing all raise the risk of domestic violence. According to the text “COVID-19: When house is not home!”,<sup>214</sup> the experiences of some of the women from safe houses reveal that the COVID-19 pandemic has stopped everything for the majority of them. In light of the above and the new situation, the CURE Foundation is in the process of preparing amendments to the said Strategy, the results of which will be submitted to the competent FBiH ministry in collaboration with the Agency for Gender Equality of BiH and the Gender Centre of FBiH.<sup>215</sup>

During the COVID-19 pandemic, the Women’s Network BiH<sup>216</sup> conducted a survey with women on women’s needs. Respondents answered that their health, whether mental or physical, is the most important priority during the COVID-19 pandemic, as well as caring for and supporting their children and the environment. Respondents were aware that the majority of women workers were sent home on unpaid leave, that women workers were laid off as a result of redundancy, or simply lost their jobs, as is the case in most situations. Unfortunately, it is arguable how much women are aware of their rights as workers in general, particularly in cases of dismissal and doubt as to whether it is a lawful or unlawful method to be terminated, and what protection mechanisms women have. The Agency for Gender Equality of BiH and the MHRH BiH sent a letter to women’s organisations inviting them to submit action proposals for women entrepreneurs, women who have lost their jobs, and employed women. The aim of obtaining this information is to direct intervention actions from the budget as well as funding from the donor community toward the most adequate solution of the most pressing problems confronting women during the economic crisis caused by the pandemic. The focus is also on marginalised groups of women, particularly those who have experienced domestic violence.

During the pandemic crisis in 2020, a great number of journalists, including women journalists, were dismissed. It is estimated that approximately 100 journalists were laid off in 2020,<sup>217</sup> although we cannot be positive that this



214 *COVID 19: Kada kuća nije dom!* “United Women” Banja Luka, Initiative “Women Citizens for Constitutional Reform”. 10 April 2020.

215 *BIRO ZA ZAPOSŁJAVANJE KAO SPAS ILI UTOPIJA RADNIČKIH PRAVA*. CURE Foundation, 21 May 2020, available at: <https://fondacijacure.org/2020/05/6360/>

216 *Ja, aktivistkinja i zaštitnica ženskih prava u BiH i pandemija COVID-19.*, Women’s Network, available at: <https://zenskamreza.ba/ja-aktivistkinja-i-zastitnica-zenskih-prava-u-bosni-i-hercegovini-i-pandemija-covid19/>

217 *Stotine novinara dobilo otkaz u 2020. godini*. Radnički univerzitet, December, 2020, available at: <https://radnickiuniverzitet.org/view-more/stotine-novinara-dobilo-otkaz-u-2020-godini/196>

figure is final because many media outlets employ on a part-time basis. The media houses that were among the first to fire personnel were Oslobodjenje, RSG, Dnevni Avaz, Al Jazeera<sup>218</sup> and finally FENA,<sup>219</sup> which is financed from the public budget and which dismissed the entire correspondent network. BH Novinari sent a letter of protest against the dismissal of journalists, especially the mass dismissals that occurred in Oslobodjenje, and called for finding a different model of solution.<sup>220</sup> The year 2020 was marked by the COVID-19 pandemic, which significantly hindered the operation of media outlets as well as journalists' labour rights and engagements. The position of journalists was not the same, and women journalists suffered significantly more severe pandemic consequences, particularly while working outside the newsroom or from home. According to a survey of BH Novinari, more than 10% of women journalists lost their jobs during the COVID-19 pandemic, and more than 95% of them suffered financial losses.<sup>221</sup> In its Opinion (95/20),<sup>222</sup> the Institution of the Human Rights Ombudsman of BiH stated that women journalists and media workers, in particular, encountered indirect discrimination during the pandemic. The Institution also sent a recommendation to the competent authorities to determine in the coming period the modalities of allocating funds from pension and social insurance funds for women journalists and media workers who are not employed but are engaged in temporary and periodical jobs.<sup>223</sup> According to a survey of BH Novinari, the women journalists' workload increased by more than 50% during the pandemic, resulting in a deterioration in their mental and physical health due to increased stress. More than 18% of women journalists sought protective equipment from CSOs, while more than 4% faced threats that forced them to seek FLA.<sup>224</sup>

<sup>218</sup> Ibid.

<sup>219</sup> *Novi talas oktaza novinarima*. Radnički univerzitet, 10 September 2020, available at: <https://radnickiuniverzitet.org/view-more/novi-talas-otkaza-novinarima/170>

<sup>220</sup> Press release, BH Novinari, 13 April 2020, available at: <https://bhnovinari.ba/bs/2020/04/13/bh-novinari-javni-protest-zbog-otpustanja-novinaru-u-oslobodjenju-i-drugim-medijima/>

<sup>221</sup> Utjecaj COVID-19 na novinarke u BiH, Anketa s novinarkama, BH Novinari, 2020, available at: <https://bhnovinari.ba/wp-content/uploads/2020/07/Anketa-sa-novinarkama-BHS-compressed.pdf>

<sup>222</sup> Mišljenje Institucije Ombudsmana za ljudska prava BiH (95/20), 3 June 2020, available at: [https://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2020060813225256bos.pdf](https://www.ombudsmen.gov.ba/documents/obudsmen_doc2020060813225256bos.pdf)

<sup>223</sup> Godišnje izvješće o rezultatima aktivnosti Institucije Ombudsmana za ljudska prava BiH za 2020., available at: [https://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2021030808580995cro.pdf](https://www.ombudsmen.gov.ba/documents/obudsmen_doc2021030808580995cro.pdf)

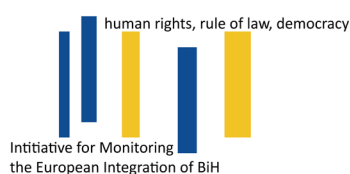
<sup>224</sup> Utjecaj COVID-19 na novinarke u BiH, Anketa s novinarkama, BH Novinari, 2020, available at: <https://bhnovinari.ba/wp-content/uploads/2020/07/Anketa-sa-novinarkama-BHS-compressed.pdf>

## 7. ENVIRONMENTAL PROTECTION

BiH has a weak infrastructure connection to the energy market, which is burdened by political instability and has a detrimental impact on energy security. There are currently no measures or policies in place to ensure that the BiH energy system is ready to respond to potential shocks in the event of a gas supply disruption or another type of energy shock. The geopolitics of energy is reflected in the influence of external actors, primarily Russia and China. Old infrastructure, lack of renovation, and inadequate maintenance in BiH's energy system during the last three decades have greatly impacted the efficiency and capacity of the energy system itself. The consequence of outdated energy infrastructure and insufficient energy system maintenance "is a low level of energy efficiency."<sup>225</sup> BiH intends to build new thermal power plants with a total capacity of 2,000 MW. Compared to the EU average, the countries of the region and BiH have three times higher CO<sub>2</sub> emissions.

During the 2019-2020, minimal progress was made in the sphere of environmental protection in BiH, owing mostly to the activity of CSOs and, to a lesser extent, to the efforts of competent institutions. The activities of the competent institutions in the period 2019-2020 were encouraged by the pressure from CSOs, and the most important results are the publication of Reports on the Register of Plants and Pollutants in the RS,<sup>226</sup> publication of a part of the FBiH Pollutant Release and Transfer Register, the adoption of the new Law on Environmental Protection of FBiH with amendments prepared and advocated for by CSOs, the adoption of the Declaration on the Protection of Rivers in the FBiH (June 2020) under pressure from CSOs, and the adoption of a Methodology for Developing an Air Quality Index for the FBiH,<sup>227</sup> as well as the start of sending air quality data to the European Environment Agency.<sup>228</sup> Unfortunately, due to political obstructions and a lack of coordination between the entity ministries of environment and the state level, there has been no progress in ratifying the PRTR protocol. The "polluter pays" principle has not yet been fully established, and unlike the FBiH, large polluters, i.e., large plants and furnaces such as thermal power plants in the RS, do not pay additional fees to the RS Fund for their emissions, because there is no regulation/instruction/rulebook on the method of calculating the fee. A draft of the new Law on Air Protection of the FBiH was adopted in June 2019 but is awaiting adoption by the House of Peoples. The Law on Chemicals of the FBiH was finally adopted at the end of 2020. There was no public debate throughout the process of adopting the law, and its implementation will require a number of bylaws.

The activities of CSOs in the period 2019-2020 were focused on environmental



<sup>225</sup> Turčalo, 2020

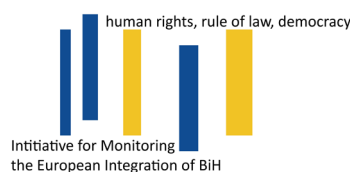
<sup>226</sup> Republic Hydrometeorological Institute, Reports available at: <https://rhmzrs.com/zivotna-sredina/registar-postrojenja-i-zagadivaca/izvjestaji/>

<sup>227</sup> Air quality index development methodology, available at: <http://www.fhmzbih.gov.ba/latinica/ZRAK/AQI-metodologija.php>

<sup>228</sup> European Environment Agency, data on BiH, available at: <https://www.eea.europa.eu/countries-and-regions/bosnia-and-herzegovina>

protection, through the campaigns of the Coalition for the Protection of Rivers in BiH directed against small hydropower plants, campaigns against the construction of thermal power plants, projects related to protected area management, awareness-raising projects on the importance and methods of air protection, monitoring and advocating for more transparent spending of public funds for environmental protection, practical implementation of the Aarhus Convention through legal instruments against illegally issued environmental permits, and campaigns to improve the legal framework implemented through the network of CSOs dealing with environmental protection “Eko-BiH”. With the help of the OSCE, the BiH Network of Aarhus Centres has been expanded with the opening of the Aarhus Centre in Zenica in 2019.

The protection of rivers and public goods in both entities needs to be harmonised and placed under unequivocal legal protection.<sup>229</sup> Also, it is necessary to abolish incentives for small hydropower plants in BiH, which are the primary commercial goal of often opportunistic companies. It is necessary to remove legal and administrative barriers to civil energy projects, as well as to provide a functional legal framework for the existence of energy cooperatives and prosumers (electricity consumers) that are connected to the electricity distribution network, and to direct the funds collected from renewable energy fees to much-needed domestic solar or wind energy production with minimal damage to the environment. At the same time, the right to access drinking water as one of the fundamental human rights must be strictly protected, while inspection bodies in both entities must provide a more adequate response. Furthermore, BiH must reduce coal subsidies through gradual decarbonisation, but also consider introducing a carbon tax or EU ETS. In the light of increasing pressure and the repercussions of climate change on the environment and society, it is necessary to initiate the harmonisation of existing and planned strategic documents, particularly those relating to environmental protection, energy, climate, protected areas and others. Greater control and prescribed sanctions for exceeding pollution emissions are also required. Furthermore, the courts competent for administrative disputes against illegal acts of public authorities, i.e., criminal prosecution bodies, must act more promptly in situations of investigation of criminal offences against the environment. At the same time, it is necessary to, both de facto and de jure, prevent the privatisation of water and other resources, as well as ensure adequate water supply to local communities, which has shown to be by far the most vulnerable category of rights in practice. Therefore, as analogous rights to life, the right to drinking water and the right to clean air,<sup>230</sup> public authorities in BiH must stop competing with any energy strategy, especially if the purpose of such a strategy is primarily commercial and exploitative, and as such is evidently to the detriment of all citizens of BiH.



229 *Slučaj MHE Bjelava: Vlada strahuje od tužbe osumnjičenog investitora*. Centre for Environment, 30 December 2020, available at: <https://czzs.org/slucaj-mhe-bjelava-vlada-strahuje-od-tuzbe-osumnjicenog-investitora/>

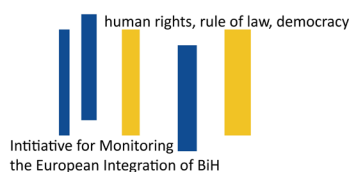
230 *Zagađenost zraka - atak na ljudska prava*. Heinrich-Böll-Stiftung, 10 February 2020, available at: <https://ba.boell.org/bs/2020/02/10/zagadenost-zraka-je-ugrozavanje-osnovnih-ljudskih-prava>

### 7.1. Air

Air quality in BiH remains poor. The permissible values of concentrations of typical pollutants (hourly, daily and annual averages) are generally equal to the values in use in the EU, but the overall amounts are significantly higher than in the EU. It is particularly concerning that the concentrations of some pollutants that are a thing of the past in the EU, such as SO<sub>2</sub>, are excessively high. In 2019, the annual average SO<sub>2</sub> concentrations at individual measuring points exceeded 110 µg/m<sup>3</sup>, which was slightly lower than in previous years, but still considerably above the permitted value of 50 µg/m<sup>3</sup>. The number of days with concentrations above the daily average goes up to 117. This is lower than in previous years, but still considerably above the permissible limit.<sup>231</sup> The average annual values of NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> in Brod were exceeded due to emissions from the Refinery. The allowed annual average is 40 µg/m<sup>3</sup>, and the measured concentrations in Brod in 2019 were 70 µg/m<sup>3</sup>. The data source for FBiH<sup>232</sup> and the RS.<sup>233</sup>

The system for calculating GHG emissions has not yet been established (in the RS this obligation is provided in the existing Law on Environmental Protection, while in FBiH the same obligation does not exist). The number of monitoring stations for air quality monitoring grew over the reporting period, but the system for informing the public remains insufficient. The capacity for measuring device maintenance and calibration is limited, resulting in frequent equipment failures and periods without readings. Part of the equipment (BTEX analyzers for monitoring organic pollutants in the air) is not being used due to issues with public procurement, late budget adoption and lack of capacity of institutions. There is still a discrepancy in reporting dust concentrations in the FBiH and the RS because some monitoring stations only detect PM<sub>10</sub> concentrations, some only PM<sub>2.5</sub> concentrations, and only a few monitoring stations detect both dust particle sizes.

The FBiH Government did not adopt the Information Proposal on the current status and necessary interventions for the smooth operation of the FBiH Pollutant Release and Transfer Register, along with the proposal of the Conclusion, because it was necessary to obtain the Opinion of the Environmental Protection Fund on the feasibility of this act. The Register was established in 2010 and was operational without maintenance (with brief interruptions) for ten years before experiencing a technical malfunction in August 2020. Due to the non-functionality of the Register, the industry/polluters are currently submitting data in a manual form on forms from the Rulebook, which includes errors in entry and processing. Domestic and EU legislation requires that data from the Register be publicly disclosed in the current year for the preceding reporting year. The data gathered thus far is open to the public and can be



231 Maximum 3 days per year with a daily average of SO<sub>2</sub> above 125 µg/m<sup>3</sup>

232 Hydrometeorological Institute of the FBiH, Reports available at: <http://www.fhmzbih.gov.ba/latinica/ZRAK/izvjestaji.php>

233 Annual report on air quality in the RS for 2019, available at: <https://rhmr.rs.com/report/godisnji-izvjestaji-o-kvalitetu-vazduha-u-republici-srpskoj-za-2019-godinu/>

found on the Ministry's website.<sup>234</sup> Data for 2019 is not published since it remained "on the server" and is currently unavailable due to a malfunction in August 2020. Since the establishment of the Register, there has been a manual entry method in the RS, and both entities have an issue with non-standardised, and in some areas incorrect, units of measurement for data entry. Furthermore, polluters at all levels are frequently "late" in submitting data for the previous year (by the end of June of the current year for the previous year), and they often submit unverified or inaccurate data.

BiH, as a member of the Energy Community, has not complied with its total emission limit values at the state level for 2018, and still nothing substantial has been done to reduce energy dependence on coal, or meet the goals of the Sofia Declaration, to which BiH is committed. On the contrary, BiH is still developing new coal-fired power plant capacity (Tuzla 7, Ugljevik 3, Gacko 2, Kakanj 8, Banovići), which is contrary to the aforesaid declaration or the Green Agenda for the Western Balkans, which is why the Energy Community Secretariat informed BiH about initiating a preliminary procedure to resolve the case of exceeding the maximum emissions defined in the National Emission Reduction Plans (NERP).

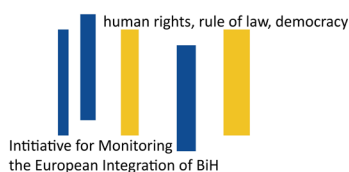
Even though local regulations for declaring intervention measures in episodes of high air pollution have not been proved to show results, there has been no effort to change existing regulations and measures. The only modestly successful measures are partial thermal insulation activities for dwellings and public buildings that are (co)financed by international organisations, local self-government units, and citizens themselves. Some industrial plants have undertaken emission reduction measures, however, the majority of thermal power plants in BiH have yet to implement emission reduction measures. In mid-2019, one of the main electricity consumers, Aluminij Mostar, ceased production, reducing electricity consumption in BiH by about 10%. Finally, throughout the reporting period, BiH produced the majority of its electricity from coal-fired thermal power plants, with a relatively small amount of energy coming from renewable sources such as solar and wind energy. According to data from the Independent System Operator in BiH,<sup>235</sup> electricity production and consumption in BiH is dropping, and it is especially concerning that in 2020, the share of dirty energy, i.e., electricity production from thermal power plants, has increased. BiH has increased renewable energy quotas in the past period (2020), however, this is still not an ambitious goal.

<sup>234</sup> Data from the Register, <https://www.fmoit.gov.ba/bs/okolisne-dozvole/registri-i-izvjesivanje>

<sup>235</sup> Reports of electricity flows, available at: <https://www.nosbih.ba/bs/trziste/izvjestaji-otokovima-el-energije/>

## 7.2. Water

Members of the Coalition for the Protection of Rivers in BiH have been active in the past period with domestic and international institutions, media, organisations, investors and the general public, intending to achieve final and adequate protection of rivers in BiH, particularly those most endangered by controversial hydropower investments. Following the adoption of the Declaration on the Protection of Western Balkan Rivers<sup>236</sup> in November 2019, which was developed as a reaction of environmental associations to the massive damage to local communities and the environment caused by small hydropower plants, the Coalition's requirements were further strengthened and articulated in 2020. On 23 June 2020, the House of Representatives of the FBiH Parliament adopted the Declaration on the Protection of Rivers in the FBiH and voted on the Conclusion on the Ban on the Construction of Small Hydropower Plants.<sup>237</sup> While the same initiative did not receive the necessary support in the NARS, river guardians focused on initiating amendments to bylaws in the FBiH, intending to formally implement the Conclusion, which had limited legal effect.<sup>238</sup> In this regard, amendments to the relevant rulebooks in the FBiH have been initiated and are currently being worked on with the help of the Coalition. However, despite these advancements, the fact of ignoring the acts enacted by the highest legislative power in the FBiH, as well as the continuation of harmful concession policy of some cantons, of which the CBC<sup>239</sup> is in the lead, which allowed and continues to envision the construction of new plants on rivers in its region, is concerning. Therefore, while effective legal protection of rivers and the environment in BiH is still questionable, as it awaits efficient and formal implementation, the political will and determination behind the adopted Declaration on the Protection of Rivers in the FBiH are also in doubt. Namely, even if the construction of new small hydropower plants on rivers in BiH is completely stopped, it is equally important to conduct a detailed audit of projects for which concessions have already been granted, given that their questionable implementation was the reason for adopting the Declaration.



<sup>236</sup> Declaration on the Protection of Western Balkan Rivers, available at: <https://czzs.org/wp-content/uploads/2020/03/DEKLARACIJA-O-ZASTITI-RIJEKA-ZAPADNOG-BALKANA.pdf>

<sup>237</sup> *Predstavnički dom Parlamenta FBiH usvojio Deklaraciju o zaštiti rijeka i izglasao zaključak o zabrani gradnje MHE*. Centre for Environment, 24 June 2020, available at: <https://czzs.org/predstavnicki-dom-parlamenta-fbih-usvojio-deklaraciju-o-zastiti-rijeka-i-izglasao-zakljucak-o-zabrani-gradnje-mhe/>

<sup>238</sup> *Održan protest u Sarajevu: Hitno primjeniti Zaključak o zabrani izgradnje MHE u FBiH*. Centre for Environment, 30 September 2020, available at: <https://czzs.org/odrzan-protest-u-sarajevu-hitno-primjeniti-zakljucak-o-zabrani-izgradnje-mhe-u-fbih/>

<sup>239</sup> *Otimanje rijeke Ugar uprkos zabrani gradnje malih hidroelektrana*. Centre for Environment, 23 September 2020, available at: <https://czzs.org/otimanje-rijeke-ugar-uprkos-zabrani-gradnje-malih-hidroelektrana/>

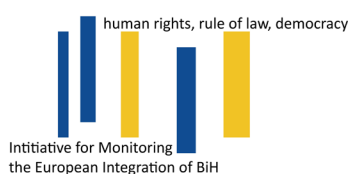
### 7.3 Waste

Several CSO campaigns concerning hazardous waste were carried out throughout the reporting period, including the initiatives Incel Banja Luka, Uborak Mostar, Drvar, Rača, and Trgovska gora. Since the start of integrated production following the privation of the iron and steel plant, the Rača industrial landfill near Zenica has been operated without an environmental permit. Almost a million tons of industrial waste is disposed of at the landfill each year, and there is an ongoing dispute between the City of Zenica and the ArcelorMittal Zenica landfill over the ownership of the property where the landfill is located. Another issue is the illegal exploitation of metal waste from the landfill, as the local road to the surrounding villages passes through the landfill which is not fenced, allowing the local population to dispose of municipal waste illegally. The Uborak landfill in Mostar is one of the hotspots of municipal and other solid waste pollution, which has resulted in numerous citizens' protests. Pyralene (PCB) pollution in the complex of the Incel Banja Luka business zone has not yet reached its epilogue; despite many measurements revealing massive concentration overruns, remediation and concrete actions are still not in sight.

## 8. SPECIAL REPORT: LOCAL ELECTIONS IN MOSTAR

The decision of the Constitutional Court of BiH No. U 9/09<sup>240</sup> of 26 November 2010 which partially adopted the request of the Croat People Caucus in the House of Peoples of the PA BiH to assess the constitutionality of the provisions of Article 19.4 of the Election Law of BiH and Article 17 of the Statute of the City of Mostar, once marked the beginning of an 11-year-long, forced “abstinence” of the citizens of Mostar from exercising one of the fundamental rights guaranteed in a democratic world - participation in democratic elections. It should be noted that the Court found that the articles of the BiH Election Law and the Statute of the City of Mostar which state that “each City area shall elect three City Councillors” are not in accordance with Article 25 of the International Covenant on Civil and Political Rights, which is an integral part of the BiH Constitution. However, 2019 saw two documents that increased pressure on key political actors in BiH to finally allow the citizens of Mostar to participate in local elections. The first is the Commission Opinion on BiH’s application for EU membership<sup>241</sup> and the accompanying Analytical Report<sup>242</sup> adopted by the EC on 29 May 2019, which states that one of the key priorities placed before our country, which must be met, is the holding of local elections in Mostar. However, many believe that the judgment of the ECtHR in the case of Baralija v. BiH, passed on 29 October 2019, was the key moment that compelled the leaders of HDZ BiH and SDA to finally offer a solution for Mostar. Following an appeal by Mostar citizen Irma Baralija, the Court unanimously found that “there had been a violation of Article 1 of Protocol No. 12 (General Prohibition of Discrimination) to the European Convention on Human Rights” and that “in this case there is a legal void which has made it impossible for the applicant, a local politician residing in Mostar, to exercise her voting rights and her right to stand in local elections”. Apart from the fact that, among other things, the Court ordered the respondent State to “amend the Election Law within six months”, the section of the judgment that cornered key actors in the BiH political scene, stating that if the lawmaker does not complete the task by the deadline, the Constitutional Court of BiH “has the power to set up interim arrangements”.

Following the EC Opinion and the Baralija v. BiH judgment, and with additional pressure from key actors in the international community in BiH, an agreement<sup>243</sup> was signed on 17 June 2020 between SDA and HDZ BiH, in the presence of US Ambassador to BiH Eric Nelson, Ambassador of the EU



240 Available at: <https://www.izbori.ba/Documents/documents/ZAKONI/Rjesenja/DOCU9-9-bos.pdf>

241 Available at: <http://europa.ba/wp-content/uploads/2019/06/Misljenje-Komisije-o-zahtjevu-Bosne-i-Hercegovina-za-%C4%8Dlanstvo-u-Evropskoj-uniji.pdf>

242 Available at: <http://europa.ba/wp-content/uploads/2019/06/Analiti%C4%8Dki-izvje%C5%A1taj-Mi%C5%A1ljenje-Komisije-o-zahtjevu-Bosne-i-Hercegovine-za-%C4%8Dlanstvo-u-Evropskoj-uniji.pdf>

243 *Pročitajte šta su potpisali HDZ BiH i SDA u Mostaru*. TIP.ba, 17 June 2020, available at: <https://web.archive.org/web/20200619121248/https://tip.ba/2020/06/17/procitajte-sta-su-potpisali-hdz-bih-i-sda-u-mostaru/>

Delegation to BiH Johann Sattler, Ambassador of Great Britain and Northern Ireland to BiH Matthew Field, High Representative to BiH Valentin Inzko and Head of the OSCE Mission to BiH Kathleen Kavalec. Thus, SDA and HDZ BiH used a section of the agreement titled Political Agreement for the City of Mostar and the Law on Amendments to the Election Law of BiH - City of Mostar - MODEL B to harmonise the amendments to the Election Law of BiH required for holding local elections in Mostar. The PA BiH adopted the amendments on 8 July 2020, which helped to create the prerequisites for holding local elections in Mostar. However, the period following the resolution of the question of holding elections in Mostar was not without messages, this time attempting to place possible amendments to the Statute of the City of Mostar in a context where they do not belong, i.e., the question of amendments to the BiH Election Law. Although the previously mentioned agreement between SDA and HDZ BiH includes documents titled the Statute of the City of Mostar and the Political Agreement on the Principles of Amendments to the Election Law of BiH, it is apparent that it can only bind the signatory parties. Furthermore, it is important to call attention to possible amendments to the Statute of the City of Mostar and amendments to the BiH Election Law that cannot be linked in any manner, because amendments to the Statute are made by the City Council of Mostar and amendments to the BiH Election Law are solely in the competence of PA BiH.

The CEC BiH, in its decision<sup>244</sup> reached on 23 July 2020, announced direct elections for councillors to the City Council of the City of Mostar on 20 December 2020. The President of the CEC BiH, Željko Bakalar, emphasised that the elections could not be held on 13 December since the deadline of 150 days from the announcement to the elections<sup>245</sup> could not be met, reminding that local elections in Mostar could not be called earlier because there were no election rules, and now that the amendments to the Election Law have been adopted by the BiH Parliament, such a legal possibility is finally open. In a series of public calls and debates, the international community in our country called on the citizens of Mostar to participate in the electoral process in whatever way they could, but also urged political entities to “refrain from language leading to divisions and to focus on actual problems of citizens in their campaigns”. According to the CEC BiH’s official data, 54,288 people out of a total of 100,864 registered in the voter list exercised their right to vote in the local elections in Mostar on 20 December 2020, with 53,467 valid ballots. Voters could cast ballots for a total of 370 candidates within 31 political subjects, and they were able to do so at 150 polling stations spread among seven basic constituencies: South, Southeast, Southwest, North, West, Stari Grad, and the city-wide electoral constituency.

<sup>244</sup> Decision available at: [https://www.izbori.ba/Documents/Lokalni\\_izbori\\_2020/Mostar/Odluka\\_o\\_raspisivanju\\_i\\_odrzavanju\\_Lokalnih\\_izbora\\_2020\\_godine-bos.pdf](https://www.izbori.ba/Documents/Lokalni_izbori_2020/Mostar/Odluka_o_raspisivanju_i_odrzavanju_Lokalnih_izbora_2020_godine-bos.pdf)

<sup>245</sup> *Rogić smatra da je neprihvatljivo održavanje izbora u Mostaru pet dana pred Božić*. Dnevni Avaz, 23 July 2020, available at: [https://avaz.ba/vijesti/bih/583551/rogic-smatra-da-je-neprihvatljivo-odrzavanje-izbora-u-mostaru-pet-dana-pred-bozic?fb\\_comment\\_id=4142969525773067\\_4143003519103001](https://avaz.ba/vijesti/bih/583551/rogic-smatra-da-je-neprihvatljivo-odrzavanje-izbora-u-mostaru-pet-dana-pred-bozic?fb_comment_id=4142969525773067_4143003519103001)

The Coalition for Free and Fair Elections – Pod lupom, which actively collaborated with 85 CSOs on the organising of the election observation process throughout BiH, declared in its preliminary assessment<sup>246</sup> the day after the elections in Mostar that “the Election Day was peaceful, with a small number of electoral irregularities that repeat in every election.” Noting that all recorded irregularities require the attention of the election administration and competent bodies, as well as the need to improve election legislation, the organisation stated, among other things, that at 9 polling stations, observers objected to the determination of the results for the City Council elections, and that more serious irregularities that could affect the results were recorded at one polling station. On the other hand, on the same day, the City Board of the HDZ BiH Mostar published a public statement.<sup>247</sup> On that occasion, the HDZ BiH stated that “even after 16 hours from the closing of the polls, the votes for the City of Mostar were not counted.” Shortly afterwards, on 23 December 2020, the spokesperson for the HNC Prosecutor’s Office, Ana Rajić, confirmed that, based on the criminal report of the Croatian National Assembly of BiH, the HNC Prosecutor’s Office requested verification of claims of “fraud in the elections held in Mostar on Sunday, 20 December after a 12-year break”.<sup>248</sup>

On 23 December 2020, the ballots with the complete election material from Mostar were taken to the CEC BiH in Sarajevo, after the City Election Commission in Mostar recounted, i.e., controlled the ballots from particular polling stations. After some of the polling stations were counted again, the CEC BiH issued revised results for Mostar on 14 January 2021.<sup>249</sup> On 19 January 2021, the Court of BiH rejected the appeals of SDP BiH, Naša stranka and the Platform for Progress against the decision of the CEC BiH on the results of the elections in Mostar and their demands for a new vote count, and on the same day, the CEC BiH passed the Decision on Determination and Announcement of the 2020 Local Elections Results in the City of Mostar.<sup>250</sup> However, once the City Council of the City of Mostar was formed, there was a need to involve the OHR itself in the electoral process, this time for the mayor. Although Article 36 - Other Elections in the City Council of the Statute of the City of Mostar<sup>251</sup> states that “the Elections in the City Council are conducted by secret ballot unless provided otherwise in this Statute”, 35 elected councillors voted publicly in the first round of voting, selecting between candidates Mario Kordić (HDZ BiH), Zlatko Guzin (Coalition for Mostar), and Irma Baralija (BH blok). In his response on 8 February 2021, Valentin Inzko, “as the final

<sup>246</sup> *Koalicija “Pod lupom”*: Izborni dan u Mostaru protekao uz manji broj nepravilnosti. Anadolu Agency, 21 December 2020, available at: <https://www.aa.com.tr/ba/balkan/koalicija-pod-lupom-izborni-dan-u-mostaru-protekao-uz-manji-broj-nepravilnosti/2083998>

<sup>247</sup> *HDZ BiH traži istragu zbog navodne izborne prevare u Mostaru*. Radio Free Europe, 21 December 2020, available at: <https://www.slobodnaevropa.org/a/31011498.html>

<sup>248</sup> *Tužilaštvo HNK formiralo predmet o izbornim prevarama u Mostaru*. Klix.ba, 23 December 2020, available at: <https://www.klix.ba/vijesti/bih/tuzilastvo-hnk-formiralo-predmet-o-izbornim-prevarama-u-mostaru/201223161>

<sup>249</sup> Decision of the CEC BiH available at: [https://www.izbori.ba/Documents/Lokalni\\_izbori\\_2020/Mostar/SKM\\_28721011421440-bos.pdf](https://www.izbori.ba/Documents/Lokalni_izbori_2020/Mostar/SKM_28721011421440-bos.pdf)

<sup>250</sup> Decision of the CEC BiH available at: [https://www.izbori.ba/Documents/Lokalni\\_izbori\\_2020/Mostar/Odluka\\_o\\_potvrđivanju\\_rezultata\\_Grad\\_Mostar-bos.pdf](https://www.izbori.ba/Documents/Lokalni_izbori_2020/Mostar/Odluka_o_potvrđivanju_rezultata_Grad_Mostar-bos.pdf)

<sup>251</sup> Statute of the City of Mostar available at: <http://www.mostar.ba/statut-96.html>

authority in the country regarding the interpretation of the Agreement on Civilian Implementation of the Peace Settlement”, urged the City Council to “take the necessary steps to rectify this situation by repeating the existing procedural steps regulating the election of the Mayor of the City of Mostar, including the first round of voting for the election of the Mayor, and thus harmonise the election procedure in full with the Statute of the City of Mostar, and in particular with paragraph 1 of Article 36 of the said Statute”.

After more than ten years, in the negative political environment that has governed BiH for a long time, only fulfilling the conditions for holding local elections in Mostar is presented as a success of key political subjects in BiH, but also of the international community. However, once the citizens of Mostar were finally allowed to re-exercise their basic democratic right to vote and to be elected, the electoral process in Mostar revealed all of the flaws of the electoral process in BiH, indicating the urgent need for change, but also the necessity for further international community mediation, primarily the OHR. One of the most pressing issues is the necessity to change the method of appointing polling station committees, to make technical adjustments to the BiH Election Law that would prevent fraud in voter registration and vote count, and to take a far more serious approach and include all relevant entities in preventing fraud by voting outside BiH and correcting irregularities in voter lists. All of the above and much more, along with the proposed solutions, and in the form of clear recommendations, have been contained for years in a series of ODIHR<sup>252</sup> reports presented to relevant institutions in BiH, political subjects, NGOs and the public in BiH, and it is now time to adopt them through amendments to the Election Law of BiH, which would improve the integrity of the electoral process and the trust of citizens.

252 General Elections 7 October 2018, ODIHR Election Observation Mission, Final Report. ODIHR, 25 January 2019, available at: [https://www.osce.org/files/BiH%202018%20General%20-%20FR\\_Bosnian.pdf](https://www.osce.org/files/BiH%202018%20General%20-%20FR_Bosnian.pdf)

## 9. SPECIAL REPORT: COVID-19 RESTRICTIONS

The first case of infection with the COVID-19<sup>253</sup> virus in BiH was recorded on 5 March 2020 in Banja Luka, and on 17 March 2020, the CoM BiH decided to declare a state of natural or other disaster on the state's territory.<sup>254</sup> Because the BiH Constitution does not allow for a state of emergency at the state level, a state of natural disaster has been declared at the state level, while sub-state units have made their own decisions - the RS<sup>255</sup> has declared a state of emergency, while the FBiH and BDBiH have declared a state of natural or other disaster.<sup>256</sup> This uncoordinated approach is in line with BiH's constitutional and legal order, but not with European standards, primarily due to the difficulty of coordinating within national frameworks. Certainly, the fight against the COVID-19 pandemic has further highlighted all of the problems that have previously existed in the country, leaving many people unemployed and putting state capacities and medical staff to the test. The events and scandals that occurred in BiH throughout 2020, clearly demonstrated all the flaws of the democratic system in BiH.

Since the declaration of the pandemic, BiH has responded following global recommendations to protect the health of its citizens. However, inconsistent coordination between all levels of government has resulted in different decisions and measures. The response to the situation mainly involved the implementation of social distance measures as well as a ban on movement and gathering, which initially slowed the spread of the virus. However, following the summer of 2020, the number of cases of infection has increased again. This resulted in the intensification of previously relaxed measures, and on 10 November 2020, the FBiH<sup>257</sup> introduced a curfew, which included a ban on movement and gathering between 11 p.m. and 5 a.m., as well as the mandatory wearing of a protective mask. The RS,<sup>258</sup> on the other hand, introduced similar measures in October, but without restrictions on movement. The majority of the adopted measures limited the fundamental rights and freedoms of citizens. Despite being introduced for health reasons, certain measures violated the rights guaranteed by the BiH Constitution and the European Convention on Human Rights.

253 *Prvi slučaj virusa korona u Bosni i Hercegovini, zaraženi otac i dijete*. Radio Free Europe, 2020, available at: <https://www.slobodnaevropa.org/a/30469735.html>

254 Official Gazette of BiH, 18/20, available at: <http://www.sluzbenilist.ba/page/akt/bTsBUE4N5GM=>

255 Decision on declaring a state of emergency for the territory of the Republika Srpska (Official Gazette of the RS, 25/2020)

256 Decision on declaring a state of natural or other disaster caused by the outbreak of the Coronavirus (COVID-19) in the Federation of BiH (Official Gazette of the FBiH, 21/2020)

257 *Federalno ministarstvo zdravstva BiH, Instrukcija o provođenju mjere ograničenog kretanja na području FBiH od 23h do 05h*, available at: <https://covid19.fmoh.gov.ba/uploads/files/naredba10112020-dc08ea72e1adc6098177a1a2db8866401419147a.pdf>

258 Conclusion on mandatory implementation of measures to respond to the occurrence of diseases caused by the new corona virus (COVID-19) in the Republika Srpska, number: 59-1/20 of 20 October 2020, available at: <https://www.paragraf.ba/propisi/republika-srpska/zakljucak-o-obaveznom-sprovođenju-mjera-za-reagovanje-na-pojavu-bolesti-izazvane-novim-virusom-korona-covid-19-u-republici-srpskoj.html>

The international community has provided enormous help to BiH in order for it to respond adequately to the pandemic caused by the COVID-19 virus. In addition to individual donations from other countries (such as China, Russia, Serbia, and Turkey), BiH was approved for a loan from the International Monetary Fund in the amount of 330 million euros for the health system and economy of BiH, as well as significant financial support<sup>259</sup> from the EU in the amount of 3.3 billion euros, which includes direct aid and 9 billion euros under the EU Economic and Investment Plan for the Western Balkans. It is important to note that the EU support arrived only after the borders to the region were opened, solely due to the delivery of vital equipment and funds, and therefore remained the largest donor among Western Balkan countries. However, the same is not recognised in the public sphere, owing primarily to media coverage, but also to the conditions that frequently accompany EU donations. These conditions, however, are a good indicator for analysing the current situation in BiH, which has failed to provide an adequate response to the crisis.

One of the key human rights issues following the implementation of the measures is discrimination as a direct consequence of the highly decentralised and complex state government structure, which has ramifications for crisis management. As of 22 March 2020, ‘stay home campaigns’ have targeted the entire population, with limits imposed on individuals under the age of 18 (in FBiH) and over the age of 65. Some CSOs and institutions spoke out against this, calling for a more coordinated approach to decision-making. The MHRR BiH urged members of the FBiH and RS crisis headquarters to follow the BiH Law on Prohibition of Discrimination, and to avoid discrimination based on age or any other factor when adopting measures.<sup>260</sup>

### 9.1. Public Procurement in BiH - COVID-19 Pandemic

The COVID-19 pandemic further highlighted existing shortcomings in the functioning of public procurement. When it comes to the legal framework for public procurement in BiH, there were no legal barriers to conducting procurement in situations of extreme urgency required by the new pandemic. Nevertheless, even in the early days of the crisis, there were unfounded public demands to temporarily suspend or make certain amendments to the Law on Public Procurement in order to avoid “many months of tender procedures”. Back in March 2020, the Public Procurement Agency of BiH issued guidelines, referring to public procurement required to prevent the spread and mitigate the consequences of the Coronavirus for reasons and in conditions of extreme urgency. However, soon after the guidelines were issued, it was discovered that many contracting authorities, taking advantage of the new situation, used negotiated procedures without publishing a notice of extreme urgency and exemption from the application of the Law on Public Procurement due to

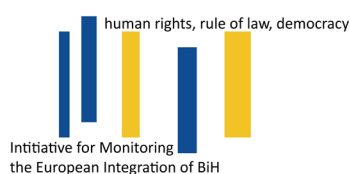
259 Aspen Institute Germany (2020), *The COVID-19 Pandemic in the Western Balkans: Consequences and Policy Approaches*, Edited by Valeska Esch and Viktoria Palm, available at: <https://www.aspeninstitute.de/wp-content/uploads/2020-The-Covid-19-Pandemic-in-the-Western-Balkans.pdf>

260 Statement of the Ministry of Human Rights and Refugees of BiH, available at: <http://www.mhrr.gov.ba/Saopcenja/default.aspx?id=9056&langTag=bs-BA>.

special security measures, for procurement that could not be directly linked to the measures required to prevent the spread and mitigate the effects of the Coronavirus. Based on a comparison of statistical data, it can be concluded that exemptions from the application of the Law on Public Procurement were used less in March 2020, when they were most justified in the context of urgency, and nearly seven times more in April of the same year, when there was an objective possibility for the procurements to be realised using the procedures provided by the Law, including the negotiated procedure without the publication of the procurement notice.

When it comes to the procurement of necessary medical equipment for the treatment of COVID-19 patients, the crisis behaviour is best exemplified by the “Ventilators” affair<sup>261</sup> - public procurement of unusable ventilators that occurred in late April 2020, resulting in a lawsuit against FBiH Prime Minister Fadil Novalić, Director of the FBiH Administration of Civil Protection Fahrudin Solak, owner of the company “Srebrena malina” Fikret Hodžić, and Minister of the FBiH Ministry of Finance Jelka Milićević. The state experienced another “attack” as a result of the slow process of procuring vaccines, which caused mass immunisation in BiH to be delayed, and the Chairman of the CoM BiH, Zoran Tegeltija, is held responsible for this. Because of the country’s decentralised organisation, at least four governments in BiH have been able to participate in the direct procurement of vaccines. However, aside from a few donations and individual vaccinations in Serbia, so far only one level of government has been able to directly procure and receive 42,000 doses of Sputnik V.<sup>262</sup> Abuse of position and political competition led to constant anticipation of donations, which ultimately demonstrated the inability of state institutions to properly respond to the needs of citizens.

Aside from the adoption of unique mechanisms that will be harmonised at the entire state level and a single E-government register that will enable transparency in vaccination, a single campaign at all levels of government is required to inform citizens and rebuild their trust in authorities. This mistrust is exacerbated by the fact that vaccines were not procured on time, although mass immunisation has been promised since December 2020. This should be one of the priorities of the public administration to achieve transparency. Also, because of the widespread scepticism about the very safety of vaccines, a campaign to raise awareness of the importance of mass immunisation is required.



261 The accused are charged with committing criminal offenses in connection with the procurement of 100 ventilators from China for BAM 10,530,000.00 (EUR 5.38 million), and protective equipment for BAM 2,900,000.00 (EUR 1.48 million) to fight Coronavirus in the Federation of Bosnia and Herzegovina.

262 *Zašto je balkansko zdravstvo smrtonosno?*, April 2020, available at: <https://kosovotwopointzero.com/sr/zasto-je-balkansko-zdravstvo-smrtonosno/>

## 9.2. COVID-19 Pandemic Impact on the Media in BiH

During the COVID-19 pandemic and the protection measures imposed by the state, access to public information<sup>263</sup> for the purpose of objective and transparent informing of the public was considerably hampered for media workers.<sup>264</sup> Media and journalist associations<sup>265</sup> proposed to crisis headquarters across BiH the establishment of a media pool and live streaming as a safe and efficient way to organise press conferences in a pandemic, with a smaller number of journalists and cameramen present.<sup>266</sup> Particularly worrying were the attempts and decisions of the crisis headquarters to restrict access to information related to the pandemic under the pretence of protecting the safety and health of journalists and other citizens, as well as all other decisions and actions in the domain of public authority. In 12 cases, BH Novinari responded to violations of journalists' rights to attend public events and get public information held by crisis headquarters. The Institution of the Human Rights Ombudsman also issued a warning, requesting that the crisis headquarters allow the media to perform free and unhindered work.<sup>267</sup> More than 83% of journalists in BiH felt that the crisis headquarters did not provide citizens with objective and thorough information about COVID-19 and that collecting information via e-mail was unsuitable for journalists due to incomplete answers or complete denial of information from competent authorities.

During the pandemic, BH Novinari reported over 50 cases of violations of journalists' rights and media freedoms. Bans on access to public information imposed by the directors of the largest health care institutions in BiH - clinical centres in Sarajevo and Banja Luka, sparked an especially tumultuous reaction from the press community.<sup>268</sup> In April 2020, the RS government issued a Decree on the prohibition of causing panic and riots during the state of emergency, and the BDBiH crisis headquarters issued an Order prohibiting the dissemination

263 Access to public information regarding COVID-19, Journalist Survey, BH Novinari, 2020, available at: [https://bhnovinari.ba/wp-content/uploads/2020/06/Anketa-BH-novinara-Pristup-javnim-informacijama-u-vezi-sa-COVID-19-BHS\\_compressed.pdf](https://bhnovinari.ba/wp-content/uploads/2020/06/Anketa-BH-novinara-Pristup-javnim-informacijama-u-vezi-sa-COVID-19-BHS_compressed.pdf)

264 Press release, BH Novinari, April 2020, available at: <https://bhnovinari.ba/bs/2020/04/07/bh-novinari-zaustavite-cenzuru-informacija-o-covidu-19-i-institucionalnu-represiju-nad-slobodom-izrazavanja/>

265 BH Novinari, the Association of Journalists of BiH, the Press Council and the Communications Regulatory Agency have sent a joint appeal to the relevant governments, crisis headquarters, journalists and the media, available at: <https://bhnovinari.ba/bs/2020/03/19/apel-urednicima-i-institucijama-ne-izlazite-se-bespotrebnom-riziku-solidarno-dijelite-informacije-obustavite-press-konferencije-sa-vecim-brojem-novinara/>

266 Press release, April 2020, BH Novinari, available at: <https://bhnovinari.ba/bs/2020/03/20/bh-novinari-uputili-molbu-nadleznima-formirajte-medijski-pool-i-zastitite-novinarske-ekipe/>

267 Press release, BH Novinari, April 2020, available at: <https://bhnovinari.ba/bs/2020/04/22/bh-novinari-protest-kriznom-stabu-stozeru-hercegovačko-neretvanskog-kantona-zbog-kršenja-prava-na-slobodu-izrazavanja/>, <https://bhnovinari.ba/bs/2020/04/20/bh-novinari-javni-zahtjev-općinskom-stabu-cz-stari-grad-sarajevo-za-povlačenje-naredbe-o-cenzuri-medija/>, <https://bhnovinari.ba/bs/2020/04/30/bh-novinari-javni-protest-fahrudin-solaku-direktoru-federalne-uprave-civilne-zastite/>

268 Press release, BH Novinari, 6 May 2020, available at: <https://bhnovinari.ba/bs/2020/05/06/bh-novinari-javni-protest-direktoru-ukc-rs-vladi-djajicu-i-njegovom-zamjeniku-nenad-stevandicu/>, <https://bhnovinari.ba/bs/2020/04/03/bh-novinari-javni-protest-direktorici-kuc-a-dr-sebiji-izetbegovic/>

and transmission of false information about COVID-19 a few days later. Most of the provisions were overly broad, laying the groundwork for political persecution and repression. Council of Europe Commissioner for Human Rights Dunja Mijatović stated that measures to suppress misinformation regarding the Coronavirus must not infringe media freedom, and she urged Council of Europe members to urgently withdraw measures that hinder the work of the media and unnecessarily prohibit content on the Internet.<sup>269</sup> The RS decree is highlighted as an example of restricting the work of journalists and freedom of expression on social networks. Under public pressure, at the end of May 2020, the RS Government withdrew the said decree, as well as misdemeanour charges against 18 citizens for acts that might have resulted in misdemeanour fines of up to BAM 1,000. There were no journalists among them.<sup>270</sup>

According to a survey conducted by BH Novinari,<sup>271</sup> more than 88 per cent of public and private media in BiH suffered financial losses, and earnings from marketing and other commercial activities decreased by 30 to 50 per cent during the COVID-19 pandemic.<sup>272</sup> Due to the drastic drop in revenue, the quality and quantity of original content in most electronic and print media decreased, and a significant number of media outlets struggled to provide funding to pay the contributions for employed journalists. Because BiH is the only country in the Western Balkans that has not provided special funds to help the media,<sup>273</sup> a group of media and journalist associations assembled under the Media Coalition recommended the establishment of a Fund to help the media in overcoming the consequences of COVID-19, but also for general support for information pluralism and the production of a range of content in the public interest.<sup>274</sup> Spreading misinformation and conspiracy theories, as well as preventing trustworthy sources of information on the COVID-19 virus from reaching the general public, are ongoing issues that must be addressed.

269 *Lažne vijesti i panika: Uredba koja zabranjuje, ali ne uređuje*. Mondo.ba, 7 April 2020, available at: <https://mondo.ba/Info/Drustvo/a948316/Uredba-izazivanje-panike-u-RS-kazne-objasnjenje.html>

270 Press release, BH Novinari, April 2020, available at: <https://bhnovinari.ba/bs/2020/04/07/bh-novinari-zaustavite-cenzuru-informacija-o-covidu-19-i-institucionalnu-represiju-nad-slobodom-izrazavanja/>

271 COVID-19 and Economic Consequences for the Media in BiH, Survey with Media Owners, BH Novinari, 2020, available at: [https://bhnovinari.ba/wp-content/uploads/2020/07/Anketa-sa-vlasnicima-medija\\_-COVID-19-i-ekonomske-posljedice-na-medije-u-BiH-BHS.pdf](https://bhnovinari.ba/wp-content/uploads/2020/07/Anketa-sa-vlasnicima-medija_-COVID-19-i-ekonomske-posljedice-na-medije-u-BiH-BHS.pdf)

272 Konferencija BH novinara, Urednici i vlasnici medija: BH vlasti moraju donijeti poseban program podrške medijima, 21 December 2020, available at: <https://bhnovinari.ba/bs/2020/12/21/urednici-i-vlasnici-medija-bh-vlasti-moraju-donijeti-poseban-program-podrske-medijima/>

273 The media, like all other legal entities, were able to apply for state aid using the opportunities provided by the entity and Brčko District governments. Due to such approach of state authorities, it remained utterly non-transparent how much money was allocated for the media and how fair, politically independent, and in the interest of upholding the essential functions of the media and working in the interest of all citizens those funds were.

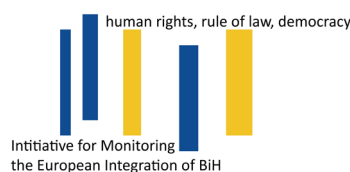
274 Urednici i vlasnici medija: Bh. vlasti moraju donijeti poseban program podrške medijima. BH Novinari, 21 December 2020, available at: <https://bhnovinari.ba/bs/2020/12/21/urednici-i-vlasnici-medija-bh-vlasti-moraju-donijeti-poseban-program-podrske-medijima/>

The importance of safe and free media coverage, free of censorship and restrictions on access to information about the pandemic, was underlined, as was the greater need to protect the personal information and data, human dignity, and integrity of those infected with Coronavirus or in contact with those who tested positive for COVID-19. On 24 March, the Personal Data Protection Agency in BiH issued a decision prohibiting the public disclosure of this data.<sup>275</sup>

During the pandemic, media outlets did not ensure safety measures for journalists at work, nor did they provide any other sort of help or purchase of necessary technical aids for work at the media headquarters or from home in different working conditions.<sup>276</sup> The unique working environment, everyday interaction with a larger number of people, and a lack of appropriate protection all contributed to the fact that between 20 and 40% of media workers were infected with COVID-19.

### 9.3. COVID-19 Pandemic Impact on Environmental Protection Activities

The COVID-19 pandemic has limited the activities of all actors in the field of environmental protection, but IT opportunities have been used to continue holding meetings, consultations, public hearings and educational activities, although on a reduced scale and with all the restrictions that such a way of working entails. The adoption of key strategic documents such as the NECP (National Energy and Climate Plan) and the Climate Change Adaptation and Low-Emission Development Strategy of Bosnia and Herzegovina for the period 2020-2030 has been postponed and the public has been denied transparent and fair involvement. The pandemic also had an impact on the activities of business entities - polluters, who slowed down or delayed the construction of filter plants, as well as testing and measuring laboratory activities, which were unable to perform regular maintenance and calibration of measuring devices due to travel restrictions abroad. The pandemic also affected the financing of environmental protection activities, as budget funds were redirected to combat the pandemic, mitigate economic repercussions, and address social issues, thus pushing environmental protection into the background. Furthermore, the work of all inspectors, including those in the field of environment, was redirected to border areas and other controls, so the capacities and control of polluters were significantly limited, while at the same time illegal activities increased. The unpredictability of the situation with the COVID-19 pandemic made it significantly more difficult to monitor the legality of the implementation of concessions granted on rivers in BiH, and as a result of the emergency, citizens could not act publicly. This had a considerable impact on the promptness and adequacy of public authorities'



<sup>275</sup> Decision of the Personal Data Protection Agency in Bosnia and Herzegovina, available at: [http://www.azlp.ba/default.aspx?langTag=bs-BA&template\\_id=147&pageIndex=1](http://www.azlp.ba/default.aspx?langTag=bs-BA&template_id=147&pageIndex=1)

<sup>276</sup> Thanks to donor support, BH Novinari distributed over 8,000 protective masks, 1,000 protective gloves and significant quantities of disinfectants to the media; <https://bhnovinari.ba/bs/2020/03/28/drustveno-odgovorne-kompanije-doniraju-zastitnu-opremu-za-bh-medije/> <https://bhnovinari.ba/bs/2020/03/25/hifa-petrol-donirala-1000-zastitnih-maski-i-1000-pari-rukavica-za-bh-medije/>

reaction, primarily inspection bodies in the RS. Citizens, on the other hand, prevented substantially bigger damage to public goods in BiH, particularly the water and forest resources, by defending the Neretvica,<sup>277</sup> Bjelava,<sup>278</sup> and other rivers, without which the extent of the damage would have been greater if citizens had not acted quickly enough.

<sup>277</sup> *Više od 300 ljudi blokiralo most na Neretvici: Za rijeku spremni dati život!*. Centre for Environment, 1 June 2020, available at: <https://czzs.org/vise-od-300-ljudi-blokiralo-most-na-neretvici-za-rijeku-spremni-dati-zivot/>

<sup>278</sup> *Mještani blokirali nelegalno gradilište malih hidroelektrana na rijeci Bjelavi*. Centre for Environment, 29 April 2020, available at: <https://czzs.org/mjestani-blokirali-nelegalno-gradiliste-malih-hidroelektrana-na-rijeci-bjelavi/>

## ABOUT THE INITIATIVE

The **Initiative for Monitoring the European Integration of Bosnia and Herzegovina** is an informal coalition of forty civil society organisations that contributes to the monitoring of the reforms and overviews the application of EU policies, laws and standards, focusing on issues of democratisation, rule of law and human and minority rights. Find out more about the Initiative at: <http://eu-monitoring.ba/o-inicijativi/>.

### *Active members of the Initiative are:*

Aarhus Centre in BiH, Sarajevo  
Association for Democratic Initiatives, Sarajevo  
Balkan Investigative Reporting Network in Bosnia and Herzegovina, Sarajevo  
Centre for Investigative Reporting, Sarajevo  
Youth Centre KVART, Prijedor  
Centre for Political Studies, Sarajevo  
Centre for Civil Society Promotion, Sarajevo  
CURE Foundation, Sarajevo  
Foundation 787, Sarajevo  
Forum Civil Peace Service, Sarajevo  
Helsinki Citizens' Assembly, Banja Luka  
Hope and Homes for Children, Sarajevo  
Youth Initiative for Human Rights in BiH, Sarajevo  
Association Kali Sara, Sarajevo  
MyRight – Empowers People with Disabilities, Sarajevo  
Oštra Nula, Banja Luka  
Transparency International u BiH, Banja Luka/Sarajevo  
Transitional justice, responsibility and memory, Sarajevo  
TRIAL International – Office in Bosnia and Herzegovina, Sarajevo  
BH Novinari Association, Sarajevo  
Sarajevo Open Centre, Sarajevo  
Vaša prava BiH, Sarajevo  
Citizens' Association "Zašto ne", Sarajevo  
Association "Land of Children in BiH", Tuzla  
Association Women to Women, Sarajevo

### *Initiative coordinated by:*

Sarajevo Open Centre  
[dajana@soc.ba](mailto:dajana@soc.ba)

### *Initiative supported by:*

ACIPS, Sarajevo; Student Association of the Faculty of Law, University of Tuzla; 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, 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 BH, Sarajevo; Green Neretva, Konjic

