# Human Rights Papers

Paper 73

# Alternative report on Bosnia and Herzegovina's progress on the European Union membership path (April 2023 – July 2024)

Initiative for Monitoring the European Integration of Bosnia and Herzegovina
www.eu-monitoring.ba
Sarajevo, October 2024
ISSN: 2303-6079

Inicijativa za monitoring evropskih integracija BiH

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# Impressum

**Human Rights Papers Edition of Sarajevo Open Centre**

**Publication no:** 73

**Title:** ALTERNATIVE REPORT ON THE PROGRESS OF BOSNIA AND HERZEGOVINA ON THE PATH TO MEMBERSHIP IN THE EUROPEAN UNION FOR THE PERIOD APRIL 2023 – JULY 2024

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**Editors:** Alen Gudalo, Edo Kanlić, Snježana Ivandić Ninković, Vesna Iliktarević
**Language Editing:** Diwan
**Translation to English:** Context Sarajevo
**Design/Layout:** Renato Juričev
**Number of copies:** 300
**Publisher:** Sarajevo Open Centre (www.soc.ba) on behalf of the Initiative for Monitoring the EU Integration of Bosnia and Herzegovina (www.eu-monitoring.ba)
**For the Publisher:** Emina Bošnjak
ISSN: 2303-6079

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Inicijativa za monitoring evropskih integracija BiH

FRIEDRICH EBERT STIFTUNG

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 Friedrich-Ebert-Stiftung in Bosnia and Herzegovina. The contents of this publication are the sole responsibility of the Sarajevo Open Centre and do not necessarily reflect the views of Friedrich-Ebert-Stiftung.

# Abbreviations and Acronyms

Public Procurement Agency – **PPA**
Agency for the Prevention of Corruption and Coordination of the Fight against Corruption – **APIK**
Bosnia and Herzegovina – **BiH**
Brčko District of Bosnia and Herzegovina – **BD BiH**
Central Election Commission of Bosnia and Herzegovina – **CEC BiH**
Directorate for European Integration – **DEI**
European Commission – **EC**
European Parliament – **EP**
European Union – **EU**
European Court of Human Rights – **ECtHR**
Federation of Bosnia and Herzegovina – **FBiH**
Herzegovina-Neretva Canton – **HNC**
Election Law of Bosnia and Herzegovina – **EL BiH**
Sarajevo Canton – **SC**
Free Media Help Line – **FMHL**
BiH Ministry of Human Rights and Refugees – **MHRR BiH**
National Programme for the Adoption of the EU Acquis – **NPAA**
National Assembly of the Republika Srpska – **NA RS**
Civil Society Organisation – **CSO**
Parliament of the Federation of Bosnia and Herzegovina – **P FBiH**
Parliamentary Assembly of Bosnia and Herzegovina – **PA BiH**
Stabilisation and Association Parliamentary Committee – **SAPC**
Radio-Television of the Federation of Bosnia and Herzegovina – **RTV FBiH**
Public Administration Reform – **PAR**
Republika Srpska – **RS**
Strategic Lawsuit Against Public Participation – **SLAPP**
Stabilisation and Association Agreement – **SAA**
Tuzla Canton – **TC**
United Nations – **UN**
Office of the High Representative – **OHR**
Council of Ministers of Bosnia and Herzegovina – **CoM BiH**
High Judicial and Prosecutorial Council of Bosnia and Herzegovina – **HJPC BiH**
Law on Amendments to the Public Procurement Law – **LAPPL**

# Introduction

Throughout 2023 and the first half of 2024, Bosnia and Herzegovina faced a slew of political and economic challenges that diverted decision-makers' attention away from the process of EU integration, i.e. the reforms that must be adopted so that Bosnia and Herzegovina can finally catch up with the rest of the region on this path.

This period was defined by political blockades, non-transparent decision-making processes, and urgent procedures in decision-making, particularly regarding laws and reforms critical to Bosnia and Herzegovina's EU integration process.

Collateral damage was generated by the complex relationships between decision makers, specifically to the process of EU integration, which is still not recognised by decision makers as a universal value, that is, a necessity that is crucial for the entire society.

Taking into account the short-term positive momentum created by the European Council's decision to open accession negotiations between Bosnia and Herzegovina and the European Union in March 2024, this Alternative Report presents and summarises the situation from April 2023 to July 2024. Political structures did not capitalise on this momentum, and the specific task set for the country, consisting of 14 priorities, i.e. 8 steps, has yet to be completed.

Key actors must recognise that EU integration is more than just a technical process of adapting legislation; it is also a path to the country's political, economic, and social stability. The lack of progress in reform implementation not only jeopardises Bosnia and Herzegovina's European perspective, but it also undermines citizens' trust in the European project, according to research conducted in 2024.

Bosnia and Herzegovina will have to fulfil 14 key priorities outlined in the Opinion of the European Commission from May 2019, which relate to democracy/functionality, rule of law, fundamental rights, and public administration reform.

As a result, this Report serves as a guide through 14 priorities, identifying areas with major deviations from legal solutions that, if implemented, would accelerate the country's path to membership in the European Union.

# PRIORITY 1:

## Ensure that elections are 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.

### Implementation of OSCE/ODIHR and Relevant Venice Commission Recommendations

The final reports of the OSCE/ODIHR Election Observation Mission in Bosnia and Herzegovina on the 2022 General Elections[1] essentially repeat the priority recommendations made to the BiH authorities in earlier reporting cycles. **Priority recommendations include the need for a comprehensive revision of the legal framework to remove gaps and inconsistencies, as well as the execution of the judgements of the European Court of Human Rights and the BiH Constitutional Court through an open and inclusive process.**[2] In November 2023,[3] less than 11 months before the local elections scheduled for October 2024, the OSCE Mission to BiH noted that authorities in BiH have so far failed to bring the BiH Election Law in line with international standards and best practices for democratic elections. The OSCE Mission urged the responsible authorities to ensure the integrity and transparency of the 2024 Local Elections thus minimising electoral fraud, including the consistent application of procedural safeguards, the secrecy of the vote, and all other measures aimed at preventing electoral corruption, fraud and irregularities.

**1** General Elections, 2, ODIHR Election Observation Mission Final Report, 2 February 2023 https://www.osce.org/files/f/documents/0/2/536993_0.pdf **2** The authorities should provide adequate funding and resources to ensure the functionality of the Central Election Commission, review the methods of appointing Polling Station Commissions to ensure impartiality and professionalism, ensure that members of the election administration are not recalled for arbitrary reasons, take measures to protect voters from pressure, encourage gender equality in politics, strengthen the protection of journalists from threats and intimidation, and ensure free and secret voting by improving the layout of polling stations and preventing undue influence on voters. **3** OSCE statement. "OSCE urges authorities in BiH to ensure integrity and transparency of the 2024 Local Elections". 11 November 2023. https://www.osce.org/mission-to-bosnia-and-herzegovina/557769

## Elections and the BiH Election Law

**Despite all the recommendations of the OSCE/ODIHR, GRECO, and the Venice Commission, BiH leaders and institutions failed to reach an agreement in 2023 on the direction of reforms** related to the implementation of recommendations for improving electoral integrity, transparency of political party funding, and the execution of judgements of the European Court of Human Rights and the BiH Constitutional Court. Previous initiatives by the Central Election Commission to improve electoral integrity have been ignored, while the SDA's initiative[4] to the parliamentary procedure, which is partially aligned with the CEC's proposal, was rejected by the House of Peoples after being adopted in the PA BiH House of Representatives. At the same time, HDZ announced its proposal, which, in addition to technical provisions, addresses the candidacy and election of BiH Presidency members, essentially proposing further discrimination and the establishment of a *de facto* new electoral unit for voters from among the Croatian people. **The BiH Ministry of Justice drafted the Law on Amendments to the Election Law of Bosnia and Herzegovina. This Draft Law was submitted to public consultations on March 22, 2024,**[5] **but so far**[6] **it has not been considered at the session of the BiH Council of Ministers because it was withdrawn from the agenda for harmonisation.** It is particularly concerning that this proposal was proposed by the BiH Ministry of Justice, and then published on the e-Consultations portal. On March 26, 2024, the High Representative for BiH issued a **Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina,**[7] **and the Corrigenda of the High Representative Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina (17/24).**[8] This decision focuses on improving election integrity in order to create necessary technical and organisational conditions for fair and transparent elections while preserving the political substance of the BiH election system. These measures are expected to be implemented gradually in selected pilot locations during the 2024 Municipal Elections, allowing for testing and widespread implementation for the 2026 General Elections.

However, **the question remains whether the amendments provide sufficient safeguards for CEC members' independence, the prevention of political pressures and appointments, and whether CEC has the capacity to assume new responsibilities.** Differences in interpretation emerged early on in the implementation of the new provisions, particularly in the appointment of presidents and deputy presidents of polling station commissions, as well as prohibitions on political entities' pre-election behaviour and misuse of public resources. It is questionable whether the ruling political structures that obstructed the adoption of the legal framework aimed at improving integrity consistently implement the imposed solutions. This was followed by the RS authorities' initiative to adopt the Election Law of the Republika Srpska, in which the NA RS adopted the Draft Law only a few days after the High Representative's decision, with the goal of transferring competence for the conduct of elections to the entity commission, and then the RS Government's conclusion calling on all members of the existing electoral bodies in the RS to resign. Although political entities from Republika

**4** Use of election technology in polling stations and counting centres.
**5** https://ekonsultacije.gov.ba/legislativeactivities/details/122190- **6** October 2024 **7** Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina, 17/24, March 26, 2024, Office of the High Representative: https://www.ohr.int/decision-enacting-the-law-on-amendments-to-the-election-law-of-bosnia-and-herzegovina-11/ **8** Corrigenda of the High Representative Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina 3 (17/24), April 2, 2024, Office of the High Representative: https://www.ohr.int/corrigenda-of-the-high-representative-decision-enacting-the-law-on-amendments-to-the-election-law-of-bosnia-and-herzegovina-no-1724/

Srpska applied to participate in the Local Elections under the current BiH Election Law, the authorities in the RS continued with their initiative, publishing the Law in the Official Gazette of the RS in July 2024. The Law entered into force eight days after it was published in the Official Gazette, which continues to raise questions about how elections would be organised and conducted in the next election cycle.

## Political Party Funding

The 2022 financial reports of political parties confirmed that **the parties are still concealing the actual funds they have at their disposal,** but also that the companies that provided donations to the parties the previous year earned more than BAM 55 million in state contracts.[9] **Over 800 people who serve in executive or legislative bodies,** or who sit on the boards of public companies and institutions, **donated funds to the parties**, accounting for **40% of the total number of donations received from natural persons.**

## 2024 Local Elections Monitoring

The Central Election Commission keeps records[10] of all received complaints about election irregularities, the course of the procedure, and the sanctions imposed, and makes them publicly available. According to the available data, almost all sanctions and established **irregularities are related to premature campaigning, whereas for the reported 70 irregularities involving the misuse of public resources**, all procedures were terminated by dismissing or rejecting the complaint. Only two sanctions were imposed, one for the misuse of means of communication, which is also linked to premature campaigning.[11] **The practice of the so-called official campaign continues**, and of the 161 public institution events monitored by TI BiH observers, more than 73% were attended by local election candidates, while political messages were conveyed at 16% of events, which is prohibited by law. The SNSD candidates for mayor of Banja Luka and their list bearer addressed citizens at a concert commemorating the Day of the Municipality of Čelinac. The political messages expressed were reported to the CEC. Although the BiH Election Law explicitly prohibits members or persons associated with the work of political parties from being appointed as presidents and deputy presidents of polling station commissions, a large number of people ran for this position and are clearly members, activists, former candidates, or even current officials in the bodies of political parties throughout BiH.[12] So far, around 1,000 people have been registered in over 20 local communities, including those who ran in the previous General and Local Elections.

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**9** Transparentno. 2023. "Kako Stranke Finansiraju Kampanju: 19,4 Miliona Iz Budžeta, Velike Donacije Javnih Funkcionera I Privatnih Firmi Koje Posluju Sa Državom." TransparentnoBa. May 22, 2023. https://transparentno.ba/2023/05/22/kako-stranke-finansiraju-kampanju-194-miliona-iz-budzeta-velike-donacije-javnih-funkcionera-i-privatnih-firmi-koje-posluju-sa-drzavom/. **10** Available at: https://www.izbori.ba/Default.aspx?Lang=5&CategoryID=1338&PodmId=1371. **11** Transparency International has published an interactive map of field monitoring of political subjects' pre-election activities in Bosnia and Herzegovina, providing an overview of observed phenomena that can be linked to the misuse of public resources for the purpose of promoting a party, candidate, or political subject. Field monitoring revealed examples of one-time aid payments to social categories in Nevesinje and Istočno Novo Sarajevo, as well as the mayor of Sarajevo organising a free excursion for pensioners and the mayor of Banja Luka distributing free transport cards to pensioners. According to the CEC, these do not constitute a misuse of public resources. Sanctions were imposed against SDA, Naša stranka, SDP, and SNSD for premature campaigning after TI BiH reported their use of social media to promote political parties through infrastructure projects and social benefits. With this type of approach, it is unlikely that anyone will be sanctioned for the misuse of resources. **12** Transparentno. 2024 "Uprkos Zakonskoj Zabrani: Stranačka Lica Na Čelu Biračkih Odbora." Transparentno.ba. August 13, 2024. https://transparentno.ba/2024/08/13/stranacka-lica-na-celu-birackih-odbora/

# PRIORITY 2:

## Ensure a track record in the functioning at all levels of the coordination mechanism on EU matters including by developing and adopting a national programme for the adoption of the EU acquis.

### Coordination Mechanism and Integration Programme

The Coordination Mechanism established in 2016 was intended to enable BiH to "speak with one voice" with the EU.[13] However, representatives from the state, entities, cantons, and Brčko District of BiH can still block decision-making, regardless of their competencies in the area. The most striking instances are the responses to the European Commission's questionnaire[14] and the establishment of the Integration Program, also known as the National Programme for the Adoption of the EU Acquis (NPAA).

The adoption of the Integration Programme is an important step towards planning and simplifying the process of harmonising EU legislation with the legal frameworks of all levels of government in BiH, and it represents an important instrument for monitoring the work of the executive power and BiH's accession to the EU for civil society organisations (CSOs) and legislative power. The Methodology-defined programme development deadline expired in December 2021. The criteria and practice of appointing and delegating tasks to working group members by the institutions they represent are inconsistent. While some institutions have issued decisions governing the rights and obligations of working group members within the coordination mechanism (e.g. BiH Ministry of Communications and Transport), others address this issue in an *ad hoc* manner, depending on the situation. **The PA BiH Joint Committee on European Integration discussed the dysfunctionality of the working groups within the coordination mechanism.**[15] Despite the fact that the work was not completed, DEI sent a draft version of the Integration Programme to the European Commission in February 2024. This version contains only agreed-upon elements, which means that all issues

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**13** Cvjetićanin, Tijana, and Inela Hadžić, ed. 2016. BiH Alternative Report 2016. eu-monitoring.ba. Sarajevo: Initiative for Monitoring the EU Integration of BiH. https://eu-monitoring.ba/site/wp-content/uploads/2016/07/HRP_alternativni-izvjestaj_ENG-_web.pdf **14** Cvjetićanin, Tijana, Dragana Dardić and Inela Hadžimešić, ed. 2018. 2018 Alternative Analytical Report on the Application of Bosnia And Herzegovina for EU Membership: Political Criteria. eu-monitoring.ba. Sarajevo: Initiative for Monitoring the EU Integration of BiH. https://eu-monitoring.ba/site/wp-content/uploads/2018/04/APR-ENG_2018_web-1.pdf **15** In July 2023, Saša Magazinović's parliamentary questions to the Directorate for European Integration revealed the status of the drafting process, which working groups are experiencing difficulties, and which representatives of institutions are preventing the document from being drafted. These responses also revealed that several other deadlines set for the working groups to complete their part of the work had been breached.

that were not agreed upon at all levels of government have been left out from the programme (for example, certain negotiation chapters have been left out entirely or in significant part; the budget projection for programme implementation has been left out, and so on). The European Commission submitted comments on the Programme in May 2024, but decided not to make them public. Given that the director of DEI, Elvira Habota, announced an amendment to the Methodology for the Preparation of the Integration Programme at the Ministerial Conference on June 27, 2024, it is reasonable to conclude that the draft version does not meet the European Commission's criteria and that significant changes will be required. The draft of the Reform Agenda, which was not adopted by BiH alone in the Western Balkans, states that by December 2024, the joint bodies within the Stabilisation and Association Agreement (SAA) will function properly, and that the coordination mechanism will be improved by strengthening the quality assurance process in order to prepare for accession negotiations. The public is unaware of the activities aimed at fulfilling this obligation. With the same draft, BiH undertakes to adopt the NPAA by June 2025 in compliance with the SAA requirements, which include the full EU acquis, adequate implementation competences, distribution of funds and sources of financing, as well as administrative capacities.

According to current decision-making dynamics, BiH will be unable to begin negotiations without adopting the NPAA, as bilateral screening will not be possible until the end of 2024. At the same time, in the summer of 2024, it was speculated about BiH's main negotiator in negotiations with the EU, with the appointment of three negotiators being proposed as a possibility. Given that this option has not been publicly and unequivocally rejected by the EU, **it is apparent that the goal of BiH to speak with one voice through the coordination mechanism has not been met.**

# PRIORITY 3:

## Ensure the proper functioning of the Stabilisation and Association Parliamentary Committee

The report on BiH's progress on the road to the EU from November 2023[16] provided a brief overview of the implementation of 14 key priorities, with the European Commission determining that one of the two fully fulfilled priorities is number 3 – Ensure the Proper Functioning of the Stabilisation and Association Parliamentary Committee (SAPC). In the Rules of Procedure of this body, it is stated that "the EU – BiH Stabilisation and Association Parliamentary Committee shall meet in principle twice a year, once in one of the workplaces of the European Parliament and once in Bosnia and Herzegovina."

However, contrary to the provisions of the Rules of Procedure, **only four SAPC sessions were held from the start of the Committee's work in July 2020 until the end of August 2024. The Committee's first session of the current convocation was held in Sarajevo in October 2023, and it was the third overall.**[17] The session was co-chaired by Snježana Novaković Bursać (PA BiH) and Romeo Franz (European Parliament). As stated in the session report, the discussion was about the fulfilment of 14 key priorities from the Opinion of the European Commission, and the co-chairs adopted a joint statement[18] expressing their determination "not to lose the regained momentum in the interparliamentary relations between PA BiH and the European Parliament and to breathe new life into the parliamentary dimension of the EU – Bosnia and Herzegovina Stabilisation and Association Agreement". **The fourth SAPC session was held in Strasbourg in March 2024,**[19] for the first time in the European Parliament, again contrary to the provisions of the Committee's Rules of Procedure. According to the report, the agenda included the matter of fulfilling 14 key priorities from 2019, eight steps specified in the European Commission's recommendation for candidate status from 2022, and media freedom and disinformation.

Representatives of the European Parliament declared that **BiH is expected to make additional progress in the integration process, adopt the negotiation framework, and prepare an analytical review of its legislation.** In the joint statement,[20] co-chairs Snježana Novaković Bursać (PA BiH) and Željana Zovko (European Parliament) emphasised the need to adopt amendments to the Election Law "in accordance with the judgements of domestic and international courts" and support the road to EU membership "while fully respecting the coordination mechanism".

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**16** European Commission. 2023. Bosnia and Herzegovina 2023 Report. https://neighbourhood-enlargement.ec.europa.eu/document/download/e3045ec9-f2fc-45c8-a97f-58a2d9b9945a_en?filename=SWD_2023_691%20Bosnia%20and%20Herzegovina%20report.pdf
**17** BiH Parliamentary Assembly. October 31, 2023. https://www.parlament.ba/Publication/Read/24175?title=u-parlamentarnoj-skupstini-bih-odrzana-3.-sjednica-parlamentarnog-odbora-za-stabilizaciju-i-pridruzivanje-&pageId=0&lang=en **18** BiH Parliamentary Assembly. October 31, 2023. https://www.europarl.europa.eu/cmsdata/279400/Joint%20statement%20by%20Co-Chairs%20Snjezana%20Novakovic-Bursac%20and%20Romeo%20Franz%20-%20FINAL%20VERSION%20AS%20AGREED%20BETWEEN%20CO-CHAIRS%2031102023.pdf **19** BiH Parliamentary Assembly. March 14, 2024. https://www.parlament.ba/publication/read/24487?pageId=238
**20** BiH Parliamentary Assembly. March 14, 2024. https://www.parlament.ba/data/dokumenti/prilozi-uz-vijesti/140324%20zajednicka%20izjava%20POSP%20-%20H.pdf.

# PRIORITY 4:

## Fundamentally improve the institutional framework, including at constitutional level, in order to:

**a)** Ensure legal certainty on the distribution of competences across levels of government;

**b)** Introduce a substitution clause to allow the State upon accession to temporarily exercise competences of other levels of government to prevent and remedy breaches of EU law:

During the reporting period, no progress was made in areas a) and b).

**c)** Guarantee the independence of the judiciary, including its self-governance institution;

**The BiH Parliamentary Assembly adopted Amendments to the Law on the High Judicial and Prosecutorial Council (HJPC) in September 2023**,[21] and a special provision requires that this law be harmonised with EU standards within one year of its entry into force.

These amendments to the Law require the verification of judges' and prosecutors' assets, as well as the disciplinary accountability of Council members.[22] **In practice, the integrity of the holders of judicial functions has not improved because the Council of Ministers, in contrast to the original draft of amendments, narrowed the provisions on conflict of interest by requiring partners and children to submit information on their assets, but only those with whom they live in the same household, leaving the possibility of asset concealment.** The amount of information that holders of judicial functions and members of the HJPC must report in their asset records has also been lowered. Another issue is the method of verifying the reported data, which may involve subjective assessment of risk criteria and unequal treatment when selecting the holders of judicial functions whose data will be verified. **Sanctions for untimely or intentional provision of incorrect and incomplete data in property records are inadequately regulated.** There is also a possibility of publication and verification of assets of judges and prosecutors through the HJPC Integrity Department.[23] **Implementation of the Amendments to the Law on the HJPC began on December 23, 2023, however there were numerous issues that prevented the Law from being fully**

**21** Trepanić, Aida. 2023. "Dom Naroda Usvojio Prijedlog O Izmjenama I Dopunama Zakona O VSTV-u." Detektor. September 6, 2023. https://detektor.ba/2023/09/06/dom-naroda-usvojio-prijedlog-o-izmjenama-i-dopunama-zakona-o-vstv-u/ **22** Emina Dizdarević Tahmiščija. 2023. "Donose Li Izmjene Zakona O VSTV-u Više Problema Ili Rješenja U Disciplinskim Postupcima?" Detektor. October 12, 2023. https://detektor.ba/2023/10/12/donose-li-izmjene-zakona-o-vstv-u-vise-problema-ili-rjesenja-u-disciplinskim-postupcima/ **23** Azra Husarić Omerović. 2023. "Šta Trebate Znati O Nedostacima I Prednostima Izmjena I Dopuna Zakona O VSTV-u BiH." Detektor. September 28, 2023. https://detektor.ba/2023/09/28/sta-trebate-znati-o-nedostacima-i-prednostima-izmjena-i-dopuna-zakona-o-vstv-u-bih/

**implemented.** Due to political political obstructions to budget adoption, i.e. a lack of financial resources, the **Department for Conducting Procedures based on Reports was not constituted even a year after the Law amendments were adopted.**[24] Due to the inability of forming this department, two more amendments were made to this Law, delaying the verification of newly appointed judges and prosecutors until the department is formed. Newly appointed judges and prosecutors assume office without being checked, which should have been one of the most significant outcomes of this Law. **If the department is constituted by the deadline of February 2025, it will review property records retroactively**, and disciplinary proceedings will be initiated against newly appointed judges and prosecutors with a negative report. At the **HJPC** session held **in July of this year**,[25] the Council **stated that the deadline for submitting the final version of the Draft Law on HJPC to the Venice Commission** – scheduled for September 2024 – is short, and that it will notify the BiH Ministry of Justice and the EU Delegation about this, as well as about the potential consequences.
T**he work on amendments to the Law was mainly non-transparent** with no opportunity for civil society or the general public to participate. These amendments did not comply with all of the EU and Venice Commission recommendations.

**d) Reform the Constitutional Court, including addressing the issue of international judges, and ensure enforcement of its decisions;**

Although the BiH Constitutional Court remains the primary source of legal interpretation, there are ongoing initiatives to replace international judges with local ones. Such proposals, primarily supported by political parties in Republika Srpska, have sparked opposition from other ethnic groups and international actors, who fear they will compromise the court's independence. **The reform of this court and other judicial institutions to better conform with EU standards is crucial for BiH's accession to the EU, but political divisions and a lack of inter-ethnic consensus continue to impede progress.**

The High Judicial and Prosecutorial Council (HJPC) plays an important role in the supervision of the judiciary. However, the body has encountered significant challenges, including allegations of corruption, inefficiency, and political influence. HJPC reforms, including legal amendments to increase accountability and independence, are a key priority for Bosnia and Herzegovina's EU integration process, but they have made limited progress due to political obstruction and internal resistance within the judiciary.

**e) Guarantee legal certainty, including by establishing a judicial body entrusted with ensuring the consistent interpretation of the law throughout Bosnia and Herzegovina;**

The current situation in BiH in terms of consistency and safety of the judiciary is marked by challenges, particularly in connection with the establishment and functioning of the judicial body capable of ensuring a uniform interpretation of the law throughout the country. **BiH still lacks a state-level Supreme Court, which is necessary to ensure case law harmonisation and consistency**. As before, this duty is carried out

**24** Nino Bilajac. 2024 "Vijeće ministara BiH odgodilo provjeru imovine sudija i tužilaca" Detektor, July 9, 2024. https://detektor.ba/2024/07/09/vijece-ministara-bih-usvojilo-izmjene-zakona-o-vstv-u/ **25** Lamija Grebo. 2024. "Kratak Rok Za Dostavljanje Finalnog Nacrta Zakona O VSTV-u Venecijanskoj Komisiji." Detektor. July 17, 2024. https://detektor.ba/2024/07/17/kratak-rok-za-dostavljanje-finalnog-nacrta-zakona-o-vstv-u-venecijanskoj-komisiji/

by panels for the harmonisation of case law in civil, criminal, and administrative matters, which include representatives from the Court of BiH, the FBiH Supreme Court, the RS Supreme Court, and the BD BiH Appellate Court.[26] The competencies of the future Appellate Court were the topic of the public hearing.[27]

**The Law on the Courts of Bosnia and Herzegovina,** although proposed by the Ministry of Justice in November 2022, was withdrawn from the agenda of the BiH Council of Ministers session to harmonise disputed issues. To date, no new or **harmonised text of the draft law has been submitted to the BiH Council of Ministers for consideration.**[28] Transparency International stated that the draft text from 2022 represented progress in terms of defining the competence of the Supreme Court and fulfilling this priority, certain provisions may lead to doubt in their application and limit the competence of the Court of Bosnia and Herzegovina in terms of certain criminal offences, primarily in the field of terrorism, human trafficking and sexual exploitation of women and children, illicit drug trade, illegal arms trafficking, money laundering, corruption, forgery of means of payment, computer and organised crime established by the laws of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina.[29]

### **f)** Ensure equality and non-discrimination of citizens, notably by addressing the Sejdić-Finci ECtHR case law;

**BiH authorities still do not take concrete measures to amend the Constitution of BiH in order to ensure equality and non-discrimination of BiH citizens, especially considering the judgement of the European Court of Human Rights in the Sejdić and Finci v. BiH group of cases.**[30] In August 2023, the European Court of Human Rights ruled in the case of *Kovačević v. BiH*[31] concerning the right to vote, i.e., the right of the citizens of BiH who do not declare affiliation with any "constituent people" in BiH in legislative and presidential elections at the state level. The judgement is not final, given that BiH requested a referral to the Grand Chamber in October 2023.

Despite the obligation stemming from this group of judgements and multiple resolutions by the Committee of Ministers of the Council of Europe urging BiH to accelerate constitutional and electoral reforms,[32] a lack of political consensus remains a major obstacle. Although the coalition agreement from November 29, 2022, proposed limited amendments to the Constitution and electoral legislation within six months after

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**26** https://csd.pravosudje.ba/vstvfo/B/142/kategorije-vijesti/11944. **27** According to the most recent published version of the law, the Court of BiH has jurisdiction over criminal offences committed in both entities or one entity and the Brčko District. In this way, entities' ability to transfer certain cases to the jurisdiction of the Court of BiH is curtailed. The BiH Ministry of Justice refused to publish the last version of the draft, referring to the provision of the new BiH Law on Freedom of Access to Information that allows institutions to limit access to information if its publication "could seriously disrupt the process of its creation". It has not been explained why the publication of the content could disrupt the process of adopting one of the most important reform laws in the public interest. **28** The drafting and adoption processes have provided room for content speculation and interpretation, even though the last version is not public. The law was placed on the agenda for multiple Council of Ministers sessions before being removed due to a lack of political consensus. The adoption of this law by the ruling coalition is frequently conditioned by amendments, such as the adoption of the new Law on the Constitutional Court of BiH, which would redefine the issue of foreign judges. **29** Transparency International, The Integration Process of BiH to the EU: 14 Priorities from the Opinion of the European Commission – 4 years later, p.16, available at: https://ti-bih.org/wp-content/uploads/2023/07/ispunjavanje-prioriteta-2023-prelom-WQ-ENG.pdf **30** This group of cases includes: Sejdić and Finci v. Bosnia and Herzegovina, app.no. 27996/06, judgement of December 22, 2009; Zornić v. Bosnia and Herzegovina, app.no. 3681/06, judgement of July 15, 2014; Šlaku v. Bosnia and Herzegovina, app.no. 56666/12, judgement of May 26, 2016; Pilav v. Bosnia and Herzegovina, app.no. 41939/07, judgement of June 9, 2016 and Pudarić v. Bosnia and Herzegovina, app.no. 55799/18, judgement of December 8, 2020. **31** Kovačević v. Bosnia and Herzegovina, judgement, application no. 43651/22 of August 29, 2023..
**32**https://hudoc.exec.coe.int/#{%22fulltext%22:[%22sejdi%C4%87%22],%22execdocumenttypecollection%22:[%22

government formation, BiH's failure to execute these judgments impedes compliance with its international obligations under Article 46 of the European Convention on Human Rights.

**Azra Zornić**, one of the applicants who won the ECtHR judgement[33] for discrimination in the Constitution of BiH, filed a criminal complaint against Dragan Čović with the BiH Prosecutor's Office in February 2024 due to the non-execution of her judgement and other cases from the Sejdić-Finci[34] group of cases. In April 2024, based on the complaint of the Initiative "Women Citizens for Constitutional Reform",[35] the Institution of the Human Rights Ombudsman of BiH issued a recommendation confirming the presence of language discrimination against women in the text of the Constitution of BiH. With this recommendation,[36] the BiH Parliamentary Assembly was instructed "to take measures within its competence with the aim of using gender-sensitive language in drafting, amending or translating the Constitution of BiH".

It is important to note that the High Representative Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina, the Corrigenda of the High Representative Decision Enacting the **Law on Amendments to the Election Law of Bosnia and Herzegovina (17/24)**[37] **and the Draft Law prepared by the BiH Ministry of Justice, do not address issues of discrimination and implementation of relevant judgements of the BiH Constitutional Court and the European Court of Human Rights, including Sejdić-Finci.**[38] BiH still lacks a comprehensive policy framework on the promotion and enforcement of human rights, including countrywide strategies on human rights, non-discrimination, and the protection of minorities. Consequently, the protection of human rights continues to be uneven across the country.[39]

### g) Ensure that all administrative bodies entrusted with implementing the acquis are based only upon professionalism and eliminate veto rights in their decision-making, in compliance with the acquis;

**Ensuring the efficient functioning of the coordination mechanism** on EU matters in BiH, **including the preparation and adoption of the national programme for the adoption of the acquis, remains a significant challenge.** In order to achieve visible results in this process, it is crucial to ensure that the administrative bodies entrusted with implementing the acquis are based only upon professionalism and eliminate veto rights in their decision-making. The current situation in BiH indicates that the **administrative bodies responsible for ensuring compliance with the acquis frequently lack professionalism.** These include a **lack of expertise, political influence, and**

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**33** Official Gazette of BiH, 17/15, http://www.sluzbenilist.ba/page/akt/LmZmjnprVGE= **34** Buka. "Podnesena krivična prijava protiv Dragana Čovića", February 28, 2024. https://6yka.com/bih/podnesena-krivicna-prijava-protiv-dragana-covica/ **35** The Initiative "Women Citizens for Constitutional Reform" has consolidated the demands and priorities of BiH citizens on the Constitution of BiH into the document Our Constitution of BiH, which improves the protection of human rights and freedoms and ensures gender equality through constitutional amendments. **36** The Initiative "Women Citizens for Constitutional Reform" has consolidated the demands and priorities of BiH citizens on the Constitution of BiH into the document Our Constitution of BiH, which improves the protection of human rights and freedoms and ensures gender equality through constitutional amendments. **37** Corrigenda of the High Representative Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina 3 (17/24), April 2, 2024, Office of the High Representative: https://www.ohr.int/corrigenda-of-the-high-representative-decision-enacting-the-law-on-amendments-to-the-election-law-of-bosnia-and-herzegovina-no-1724/ **38** Transparency International, The Integration Process of BiH to the EU: 14 Priorities from the Opinion of the European Commission – 4 years later, p.17, available at: https://ti-bih.org/wp-content/uploads/2023/07/ispunjavanje-prioriteta-2023-prelom-WQ-ENG.pdf **39** European Commission, Bosnia and Herzegovina 2023 Report, November 8, 2023, page 38, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_691%20Bosnia%20and%20Herzegovina%20report.pdf

**insufficient institutional capacity.** To improve the situation, administrative bodies' capacities must be strengthened through training and improvement of professional skills. Legislative changes and procedural improvements are critical to ensuring that candidates for key positions possess the relevant expertise and experience.

In BiH, the veto right, which is used at different levels of government, can make decision-making and harmonisation with the acquis problematic. It is **necessary to consider amending the legislation to modify or eliminate the veto right on key matters, which can contribute to faster and more efficient decision-making.** It is also necessary to implement administrative structure reform, which entails strengthening institutional capacities through training and professional skill development, as well as legislative changes to allow professional functioning while reducing political influence. Improving coordination includes reforming the coordination mechanism to establish clear guidelines and responsibilities for all levels of government, as well as considering the modification or elimination of the veto right in deciding on key issues for harmonisation with the acquis. **Efforts in these areas require continuous work and commitment from the authorities in Bosnia and Herzegovina, and with support from the EU.**

# PRIORITY 5:

## Take concrete steps to promote an environment conducive to reconciliation in order to overcome the legacies of the war

### War Crimes Prosecution

During the reporting period, **BiH made no substantial progress towards establishing any preconditions for reconciliation.** War crime prosecution[40] has slowed down significantly. **The Prosecutor's Office of Bosnia and Herzegovina filed only 11 indictments in 2023, and the State Court sentenced a total of 39 persons to 442 and a half years in prison and acquitted 40 accused of war crimes.** On average, the number of indictments filed drops year after year; in 2021, 21 indictments were filed against 56 persons, while 19 indictments were filed against 60 persons the next year. In 2023, the Prosecutor's Office charged 43 persons in 11 indictments, excluding those who were unavailable, as was the previous practice, although the indictment of previously convicted individuals remained. At the same time, the trend of shifting deadlines for resolving the most complex cases continued.

### Denial and Glorification of Genocide and War Crimes Established by Court Facts

**Only three indictments have been filed** in the three years since High Representative Valentin Inzko imposed amendments to the BiH Criminal Code that criminalise glorification of war crimes and war criminals, denial of judicially established facts, and trivialisation, **despite the fact that these criminal offences are openly committed in the public sphere by political structures in the Republika Srpska.**[41] One indictment was filed against Vojin Pavlović from Bratunac for denying, condoning, grossly trivialising or justifying genocide, crimes against humanity or war crimes.[42] In the period between April 2023 and July 2024, the BiH Prosecutor's Office issued an order not to conduct an investigation for five criminal reports under Article 145a of the BiH Criminal Code (causing or inciting national, racial or religious hatred).[43] It is worrying that Milorad Dodik, the current president of Republika Srpska, is among the ten people who most frequently deny the genocide. Other former and present public officials on the list include Zoran Milanović, Nenad Kecmanović, and Radovan Kovačević.[44] **Simultaneously, the**

**40** Haris Rovčanin, "Povećan broj oslobađajućih presuda za ratne zločine, smanjen broj optužnica." Detektor. December 27, 2023. https://detektor.ba/2023/12/27/povecan-broj-oslobadjajucih-presuda-za-ratne-zlocine-smanjen-broj-optuznica/ **41** The Srebrenica Memorial Centre's "2023 Srebrenica Genocide Denial Report" identified 90 incidents of genocide denial in the media in BiH, Serbia, Croatia, and Montenegro. Although this figure is lower than the 2022 report's analysis period (240 denials), the authors point out that it is not the only indicator of awareness of the Srebrenica genocide. **42** The Srebrenica Memorial Centre's "2023 Srebrenica Genocide Denial Report" identified 90 incidents of genocide denial in the media in BiH, Serbia, Croatia, and Montenegro. Although this figure is lower than the 2022 report's analysis period (240 denials), the authors point out that it is not the only indicator of awareness of the Srebrenica genocide. **43** Tužilaštvo Bosne i Hercegovine. 2024. Tuzilastvobih.gov.ba. 2024. https://www.tuzilastvobih.gov.ba/?opcija=sadrzaj&kat=12&id=100&jezik=b. **44** Džananović, Muamer. 2023. Srebrenica Genocide Denial Report. Editors Muamer Džananović and Monica Green. Srebrenicamemorial.org. Srebrenica, Bosnia and Herzegovina: Srebrenica Memorial Centre. https://srebrenicamemorial.org/assets/photos/editor/_MCS_izvjestaj_2023_ENG%20-%20Copy%201.pdf

**systematic denial of war crimes and genocide in Srebrenica persisted,**[45] **as did the State Prosecutor's Office's failure to employ legal solutions to charge those responsible for initiating such narratives.** According to data from the OSCE Mission to BiH, **the number of hate attacks grew in 2023,**[46] but the number of prosecutions did not. It is concerning that members of the police force participated in certain hate attacks, further undermining citizens' trust in the institutions.

## Lack of a State Reparation Mechanism for War Crimes Victims

**BiH has not made any steps towards adopting a state-level law that would govern the procedure of collecting reparations for victims of torture, including victims of sexual violence in war.** The United Nations Human Rights Council and the UN Committee against Torture both highlighted the lack of legislative measures.

## Statutes of Limitations in Lawsuits for Non-Material Damage Compensation

**The practice of applying statues of limitations is still in force** in cases of requests for non-material damage compensation against the state or entity, and war crime victims are automatically denied based on the application of statutes of limitations. In this regard, **upon the rejection of the request for non-material damage compensation, the decision on the collection of court expenses is nonetheless issued to the victims.** This interpretation is clearly opposed to international law and human rights, and *de facto* denies victims of war torture and other types of war crime victims any right to compensation. This practice continued, and at the beginning of 2024, TRIAL International saw an increase in the number of survivors reaching out for support. Such situations cause severe retraumatisation and increase the financial burden on survivors.

## The Pursuance of Property Claims in Criminal Proceedings

In March 2024, the Prosecutor's Office of the Republika Srpska adopted mandatory instructions on prosecutors' actions in relation to victims' property claims in war crime cases – the act of committing rape and sexual violence – defining a series of actions that prosecutors in the RS must take in cases of war crimes, specifically cases involving wartime sexual violence. Mandatory instructions provide a precise framework for prosecutors in these cases that must be properly followed, eliminating any omissions by prosecutors when dealing with such cases. In May 2024, the FBiH Prosecutor's Office adopted the same mandatory instructions, and the Brčko District Prosecutor's Office is currently drafting this document. In recent years, there has been a considerable increase in the number of cases in which the perpetrator has died, implying that granted property claims cannot be collected. Procedurally, the problem of ensuring the right to compensation in such cases is still unsettled.

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**45** Azra Husarić Omerović, "Zašto su nekažnjiva najmanje 23 negiranja genocida Milorada Dodika?" Detektor. May 23, 2024. https://detektor.ba/2024/05/23/zasto-je-nekaznjivo-najmanje-23-negiranja-genocida-milorada-dodika/ **46** Fokus.ba, "Strah i nepovjerenje prepreka prijavljivanju krivičnih djela počinjenih iz mržnje". April 2024 https://www.fokus.ba/vijesti/bih/strah-i-nepovjerenje-prepreka-prijavljivanju-krivicnih-djela-pocinjenih-iz-mrznje/2861016/

## Implementation of the UNCAT Decision

Despite being passed in 2019, the UNCAT Decision in Ms. A's case has yet to be enforced. One of the Decision's provisions, the payment of monetary compensation of BAM 30,000, was on the agenda of the Council of Ministers' regular 50th and 52nd sessions in early and mid-2024, but this Proposal was not supported by the required two-thirds majority.

## Legislative Framework and Access to Rights for Civilian Victims of War and Victims of War Torture in the Entities

According to the Law on the Protection of Victims of War Torture **in the Republika Srpska, the deadline for submitting an application for the status of a victim of war torture expired in October 2023.** As a result, many survivors, particularly victims of wartime sexual violence who did not apply for status within this period owing to a lack of information, the impact of trauma or stigmatisation, were denied access to rights under this Law.[47] **Access to medical rehabilitation for victims of war torture was first implemented in April 2024,** despite the fact that this right is guaranteed by the Law on the Protection of Victims of War Torture, which has been in force since 2018. The public call for medical rehabilitation in 2024 was published in a non-transparent manner, mostly through notice boards in local administrations. **The FBiH Parliament adopted the Law on the Protection of Civilian Victims of War**, which entered into force in **January 2024** and expands the extent of the rights of civilian victims of war. Although the FBiH law guarantees a wider range of rights compared to the previous legal solution, the issue of implementing the guaranteed rights remains, given the involvement of multiple levels of government and the need for coordination by the relevant ministry. **Children born as a result of wartime rape were first recognised by BD BiH in 2022, when they were included in the Law on the Protection of Civilian Victims of War.** Although this act marked a historical moment, the law does not provide for material rights for this category, and no progress has been made in this area thus far. The FBiH took a significant step forward by not only recognising children born as a result of wartime rape as a special category of civilian victims of war, but also by ensuring adequate material rights. It is now necessary to harmonise the other two administrative units with the current law in the FBiH.

## A Memorialisation That Would Testify to How Much BiH Women were Affected by Wars

BiH has ratified almost all national and international frameworks requiring women's participation in peacebuilding.[48] **Unfortunately, to date, no significant institutional steps have been taken to ensure the visibility of women's and feminist-peace culture of remembrance.** According to data from The Bosnian Book of the Dead,[49] 9901 women were killed in the 1990s war in BiH.

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**47** It is critical to emphasise that victims of war torture require individualised treatment including psychological support. **48** Following the adoption of United Nations Security Council Resolution 1325 "Women, Peace and Security" on October 31, 2000, the Secretary General issued a directive in 2008 referring to the process of implementation and reporting in accordance with UN Security Council Resolution 1325 "Women, Peace and Security", which requires signatory states to develop national action plans for the implementation of UNSCR 1325. **49** The Bosnian Book of the Dead 1. 2021. "The Bosnian Book of the Dead 1." MediaFire. 2021. https://www.mediafire.com/file/0deqw5yeqegjoat/Bosanska_knjiga_mrtvih_1..pdf/file

Memorialisation that would testify to how much BiH women were affected by wars does not exist, or is only obvious through a specific segment of commemoration by the non-governmental sector. For years, the "Peace with a Female Face" Initiative has attempted to institutionalise December 8 – the Day of Remembrance for Women Killed in War,[50] but without institutional support in the process. Member organisations of the Initiative have frequently urged that streets and other public spaces in their local communities be named after deserving women, but very few of their initiatives have been adopted.[51] Women's contributions in the pre-war period, as well as the entire segment of peacebuilding and transitional justice now, are erased by their invisibility in the memorialisation process. Their contributions are immeasurable; hence it is vital to give the current memorialisation a "female face".

In the context of other transitional justice mechanisms, a large-scale analysis by the Balkan Investigative Reporting Network shows that **nearly five million BAM were spent on memorialisation**[52] **over the last five years, but that the practice of prohibiting construction and marking continued in numerous cities throughout BiH,** and that monuments frequently cause further divisions.

**50** Arena, NTV, and NTV Arena. 2023. "Obilježen 8. Decembar - Dan Sjećanja Na Stradanje Žena U Ratu /VIDEO/ | NTV Arena." NTV Arena. December 8, 2023. https://ntvarena.com/obiljezen-8-decembar-dan-sjecanja-na-stradanje-zena-u-ratu/ **51** Jasmina Čaušević. 2023. "Inicijative Za Imenovanje Ulica I Javnih Prostora Po Ženama U BiH – Dvije Godine Kasnije - DWP-BALKAN." DWP-BALKAN. September 21, 2023. https://dwp-balkan.org/bs/inicijative-za-imenovanje-ulica-i-javnih-prostora-po-zenama-u-bih-dvije-godine-kasnije/
**52** Emina Dizdarević Tahmiščija, "Više od deset miliona za spomenike u deceniji izgubljenoj za memorijalizaciju i reparacije" Detektor. https://tranzicijskapravda.detektor.ba/reparacije/

# PRIORITY 6:

## Improve the functioning of the judiciary by adopting new legislation on the High Judicial and Prosecutorial Council and of the Courts of Bosnia and Herzegovina in line with European standards

### New Law on the High Judicial and Prosecutorial Council

The new **BiH Law on the High Judicial and Prosecutorial Council,** which the state government was supposed to adopt a year following last year's amendments to the current law, was not adopted. The working group[53] in charge of drafting the text of the new law submitted a preliminary draft to the Venice Commission in the spring of 2024. The work of this group was non-transparent, **and civil society representatives were prevented from attending, even as observers.** The public learned about the content of the new Law only through the Interim Follow-up Opinion[54] of the Venice Commission, published in June 2024.

The Venice Commission validated some of the concerns made by civil society organisations[55] during the current and previous attempts to draft a new law. It was suggested that when appointing Council members, objective criteria based on measurable competencies take precedence over ethnic criteria. The preliminary draft does not specify how members who conduct interviews, score and test candidates for judicial positions are appointed, or how qualification and written tests are administered. This allows for manipulation and increases the risk of undue influence, both of which can undermine the judiciary's independence. The law does not specify Council members' disciplinary responsibilities, and the provisions governing conflict of interest have not been improved. As with previous amendments to the current law, the obligation to report on the assets and interests of judges, prosecutors, and Council members including all close relatives, even those who do not live in the same household, to whom assets are most often transferred, has been omitted. Sanctioning of untimely submission and intentional submission of incomplete and/or incorrect information in property records is not adequately prescribed. The preliminary draft does not include transitional and final provisions.

The proponents' tendency to subsequently specify the key provisions of the law through by-laws was noticed, which practically allows for manipulations and meaningless reforms. The text of the preliminary draft indicates that the legislator did

**53** The working group was formed by the BiH Ministry of Justice and included representatives from this institution, the HJPC, entity ministries of justice, the Judicial Commission of Brčko District of BiH, and the Directorate for European Integration of BiH. Members of the judicial community criticised the working group's composition, arguing that more judicial community representatives should have been involved. Representatives from civil society organisations are also excluded from this group's activities. **54** (CDL-AD(2024)009-e Bosnia and Herzegovina - Interim Follow-up Opinion to previous Opinions on the High Judicial and Prosecutorial Council, adopted by the Venice Commission at its 139th Plenary Session (Venice, 21-22 June 2024)); available at: https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2024)009-e **55** "The Preliminary Draft of the New Law on the HJPC is Flawed in Many Ways, the Drafting Process is Non-Transparent." Transparency International in Bosnia and Herzegovina. July 5, 2024. https://ti-bih.org/the-preliminary-draft-of-the-new-law-on-the-high-judicial-and-prosecutorial-council-is-flawed-in-many-ways-the-drafting-process-is-non-transparent/?lang=en

not adequately address international recommendations and key problems in the functioning of the judiciary.

Representatives of competent institutions **send contradictory messages about deadlines** in the process of drafting a new law. In their statements,[56] officials often emphasise that the law will be adopted by the end of 2024, although the Draft Reform Agenda, which is part of the Growth Plan for the Western Balkans, specifies June 2025 as the deadline for the adoption of the new Law on the HJPC. Due to the delay in implementing the new provisions of the existing law on verification of reports on interests and assets, it will be impossible to incorporate the effects of these measures into the new law. The Venice Commission urged BiH institutions to hold broad consultations during the law's drafting process, allowing all interested actors the time to prepare comments and recommendations. It is unclear whether the law will be adopted in a regular procedure or if civil society and other interested parties' participation would be limited by an abbreviated or urgent procedure, as was the case with other important reform laws.

## Law on Courts

The Law on Courts has not yet been adopted, despite the fact that the initial version was published on the e-Consultation platform more than two years ago. Although the final version is not publicly available, the drafting and adoption process allowed for speculation and interpretation of the content. The law was announced several times as an item on the agenda of the Council of Ministers sessions, but it was later removed due to a lack of political consensus. Part of the ruling coalition at the state level often conditioned the adoption of this law on amendments, i.e. the adoption of a new Law on the Constitutional Court of BiH, which would define the issue of foreign judges in a different way. In response to the European Commission's request, and after comparing the first public versions to remarks made by officials from the Ministry of Justice and other institutions, the very nature of the Law has changed significantly. Even the title has been changed from 'Law on Courts' to 'Law on Court'.

The EC's original recommendation to establish the Supreme Court of BiH was abandoned. Instead of the Supreme Court, they began discussing the High Court, despite the fact that the most recent public version of the law merely agreed to separate the Appellate Council from the Court of BiH. Instead of the content of the Law, the public was more concerned with the location of the future Appellate Court. Even the jurisdiction of this court has been interpreted differently, based on whether the criminal offence was committed in the territory of one or two entities or Brčko District of BiH. Although the Appellate Court has not yet been established, the Ministry of Justice has already mentioned it in preliminary drafts of other laws (for example, the new Law on the HJPC).

The BiH Ministry of Justice refused to publish the last version of the draft, referring to the provision of the new BiH Law on Freedom of Access to Information that allows institutions to limit access to information if its publication "could seriously disrupt the process of its creation".[57] It has not been explained why the publication of the content could disrupt the process of adopting one of the most important reform laws in the public interest.

**56** Halil Lagumdžija, President of the HJPC, stated at the press conference following the Council session where the preliminary draft of the Law on the HJPC was discussed, that the planned adoption deadline is the end of 2024. More at: Pekmez, Irvin. 2024. "VSTV protiv ograničenja za izbor članova koji se nađu u tehničkom mandatu." Detektor. September 4, 2024. https://detektor.ba/2024/09/04/vstv-protiv-ogranicenja-za-izbor-clanova-koji-se-nadju-u-tehnickom-mandatu/. **57** Transparency International in BiH. "TI BiH: The Ministry of Justice is hiding the Draft Law on the Court of BiH". Published on April 4, 2024, available at: https://ti-bih.org/ti-bih-the-ministry-of-justice-is-hiding-the-draft-law-on-the-court-of-bih/?lang=en

# PRIORITY 7:

## Strengthen the prevention and fight against corruption and organised crime, including money laundering and terrorism, notably by:

**a)** adopting and implementing legislation on conflict of interest and whistle-blowers' protection;

**b)** oensuring the effective functioning and coordination of anti-corruption b odies;

**c)** align the legislation and strengthen capacities on public procurement;

**d)** ensuring effective cooperation among law enforcement bodies and with prosecutors' offices;

**e)** ddemonstrating progress towards establishing a track record of proactive investigations, confirmed indictments, prosecutions and final convictions against organised crime and corruption, including at high-level;

**f)** de-politicising and restructuring public enterprises and ensuring transparency of privatisation processes

### Law on Conflict of Interest

Apart from the newly adopted **Law on Preventing the Conflict of Interest in the Institutions at the Level of BiH,**[58] there has been insufficient progress in the adoption and improvement of key anti-corruption laws. The new Law on Conflict of Interest includes qualitative improvements such as the establishment of an independent Commission to replace the current political method of making decisions on conflict of interest, as well as the introduction of a public register of assets owned by public position holders. However, important provisions of this law were changed at the last minute, explicitly stating that all institutions in BiH must submit asset data to the Commission for deciding on conflicts of interest, which is required for checking the accuracy of information submitted to registers of assets by officials. This leaves room for potential impediments to this control mechanism for assets of public position holders.[59]

The **FBiH** has yet to adopt the **Law on Preventing the Conflict of Interest** (the present law has not been applied since 2013) and the **Law on the Protection of Whistleblowers** (which has been in parliamentary procedure since 2018). The previous FBiH Government submitted the last versions of these two laws to the parliamentary procedure, which the present FBiH Government withdrew for revision. Despite numerous initiatives[60] to resubmit

**58** Law on Preventing the Conflict of Interest in the Institutions at the Level of BiH (Official Gazette of BIH 18/2024), available at: http://www.sluzbenilist.ba/page/akt/3fEplgztz5k76kjn45hVDUNs **59** Also, the method of decision-making in the Commission on the dismissal of officials, which foresees the consensus of all members, i.e. a two-thirds majority, in practice can lead to the fact that sanctions that foresee dismissal or resignation are not pronounced at all. This is not equivalent to the way decisions are made by other institutions at the state level. The law mostly maintains the existing restrictions regarding the performance of multiple functions and the financing of private enterprises run by public officials and their family members. The threshold of allowed income from the budget for citizens' associa tions led by officials has been increased from the current BAM 10,000 to BAM 20,000, that is, from BAM 50,000 to BAM 70,000 for sports associations. More on the flaws of the law at: https://ti-bih.org/the-law-on-the-prevention-of-conflict-of-interest-is-important-for-the-prevention-of-corruption-the-adoption-procedure-is-not-transparent/?lang=en **60** In addition to the initiatives of deputies in the House of Representatives of the FBiH Parliament, Transparency International in BiH sent an initiative in October 202 3 for the adoption of the Law on Preventing the Conflict of Interest and the Law on the Protection of Whistleblowers in the FBiH. More at: https://ti-bih.org/ti-bih-submitted-an-initiative-to-the-government-and-parliament-of-federation-of-bih-for-the-adoption-of-two-important-anti-corruption-laws-from-14-priorities/?lang=en

these laws into the procedure, no new decisions were made on the draft Law on Preventing the Conflict of Interest, while the FBiH Government established a new draft Law on the Protection of Whistleblowers[61] and referred it to the parliamentary procedure at the end of August 2024.

Instead of establishing a unified regulation at the FBiH level, the **trend of adopting cantonal laws** on preventing conflicts of interest and reporting the assets of public position holders has continued, resulting in further regulatory disharmony and unevenness. Thus, on August 30, 2024, the Government of Zenica-Doboj Canton established the **draft Law on Reporting and the Procedure for Data Validation of the Property of Public Position Holders,**[62] joining Sarajevo Canton, Tuzla Canton and Una-Sana Canton, which adopted these laws in the previous period. Due to the stagnation in the processes of improving the legal framework in this area at the FBiH level, there is no system in place outside of these cantons for validating the property records of public position holders.

**The Law on Prevention of Conflict of Interest in the Government of the Republika Srpska,** which has flaws in terms of coverage and sanctions and is not being implemented adequately due to the competent Commission's interpretation, was further devalued by the 2023 amendment.[63] Only one provision was changed, which legalises instances in which public officials execute managerial functions in associations funded by public institutions but do not earn a salary from those associations. This provision, in addition to not being harmonised with the laws on preventing conflict of interest at any level in BiH, is in conflict with other provisions of this law, which define an official's private interest as any advantage for him/her or the organisations with which he/she had or has business, political, or other connections.

## Application of the Law

The application of the new **Law on Preventing the Conflict of Interest in the Institutions at the Level of BiH** has been postponed for six months, until September 2024. The postponement does not only refer to the process of appointing members of the Commission for deciding on conflicts of interest. Interviews with candidates were held in the last week of August, despite the fact that the 90-day deadline for completing the procedure had expired in June. Upon its establishment, the commission will be required to adopt a substantial number of by-laws by the end of the year, that is, 90 days from the date of application. While waiting for the application of the new Law, the current Commission established under the previous Law has not met in months. Given that the by-laws for the new Law will not be adopted until the end of the year, this means that conflict of interest in state institutions will remain unsanctioned in 2024.

The Commission for deciding on conflict of interest, which was competent under the previous Law at the BiH level, **held only three sessions during the entire mandate.** In 2023, two sessions were held, and five reports were received, which were reviewed and finalised in 2024. The third session saw the adoption of eight decisions on initiation of proceedings, one decision on non-initiation of proceedings, five decisions on sanctions, and three decisions on suspension of proceedings. The

**61** The draft FBiH Law on the Protection of Whistleblowers is available on the website of the FBiH Government (in BCS): https://fbihvlada.gov.ba/uploads/documents/nacrt-zakona-zastita-prijavilaca-b-ccc_1725535553.pdf **62** The draft Law on Reporting and the Procedure for Data Validation of the Property of Public Position Holders has been published on the website of the Government of Zenica-Doboj Canton (in BCS): https://zdk.ba/sjednicevlade/sjednice2024/44sjednica/44-07_30-08-2024.pdf **63** Law on Amendments to the Law on Prevention of Conflict of Interest in the Government of the Republika Srpska (Official Gazette 90/23) is available at the website of the National Assembly of the Republika Srpska (in BCS): https://www.narodnaskupstinars.net/?q=la/akti/usvojeni-zakoni/zakon-o-dopuni-zakona-o-spre%C4%8Davanju-sukoba-interesa-u-organima-vlasti-republike-srpske

initiated proceedings against Nermin Nikšić, Sevlid Hurtić, and Milorad Dodik, based on the report filed while he was a member of the BiH Presidency, have yet to be concluded.

Because there is no body in charge of enforcing the **Law on Preventing the Conflict of Interest at the FBiH Level,** many officials openly hold incompatible functions or make decisions in situations of conflict of interest with no consequences or sanctions. This includes certain members of the FBiH government, such as the Minister of the Interior, whose family members own enterprises that receive public procurement contracts from institutions or are appointed to the boards of public institutions.[64] There were also documented incidents of conflicts of interest at the cantonal and municipal levels that could not be sanctioned or resolved due to a lack of enforcement bodies. Appointments are still made without regard for the incompatibilities stipulated by law. According to current data from the Register of Public Officials,[65] up to 234 officials in FBiH execute numerous functions, many of which are incompatible, meaning they violate the Law. The **Anti-Corruption Office of the Sarajevo Canton** has started to implement provisions on conflict of interest, resulting in a considerable number of resignations from incompatible positions. However, given that other cantons lack such legislation and practice, and taking into account the likely variations and differences that would occur if cantonal laws were adopted, the most appropriate solution is the adoption of a new law at the FBiH level.

The **competent commission for deciding on conflicts of interest in the RS** was ineffective in the past period due to the arbitrary interpretation of the law and inconsistent decision-making practices. In 2023, only one case of conflict of interest was determined during ten sessions, while 23 cases were found to be in compliance with the law.[66] The Commission's most controversial decision refers to the case of Milan Tegeltija, adviser to the RS President. The Commission retroactively referred to the amended version of the Law rather than the previous provisions that were in force at the time of the report's submission and the conflict of interest situation.[67] There were cases in which acting directors were not recognised as a function to which the Law refers, resulting in decisions on non-existence of conflict of interest. As a result of this practice, regular appointments are avoided, and the number of appointments to positions as acting directors has increased. By the end of August 2024, the Commission had issued three decisions (determining the absence of a conflict of interest) and one conclusion regarding the merging of cases.

## Ensuring Effective Functioning and Coordination of Anti-Corruption Bodies

The functioning and coordination of anti-corruption authorities with one another and with the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK) is still ineffective.[68] Some progress has been made in terms of

**64** Predrag Zvijerac. "Nema ko da utvrdi jesu li milionski javni poslovi za firme ministara u BiH sukob interesa." Radio Slobodna Evropa, May 13, 2024, available at: www.slobodnaevropa.org/a/sukob-interesa-federacija-bih-isak-niksic-hurtic/32944334.html **65** The Register of Public Officials created and edited by Transparency International in BiH is available on the website: https://registar.transparentno.ba/bs-Latn-BA **66** In several cases, the Commission has decided that the reported persons are not in a conflict of interest because there is no evidence to support that conclusion, i.e. there are no written traces (the minutes do not record who voted how, even when people voted on issues directly affecting them or the legal entities they manage). In some cases, the Commission determined that the reported person was not in a conflict of interest, even though the facts indicate that the reported person was performing incompatible functions at the time of filing the report. Decisions of the Commission for determining conflicts of interest in the government of the Republika Srpska are available on their website: https://sukobinteresa-rs.org/sjednice-u-2023-godini/ **67** Transparentno. "Obustavljen postupak protiv Milana Tegeltije zbog sukoba interesa jer je NSRS ozakonila situaciju u kojoj se nalazi." Transparentno.ba, November 3, 2023, transparentno.ba/2023/11/03/obustaviljen-postupak-protiv-milana-tegeltije-zbog-sukoba-interesa-jer-je-nsrs-ozakonila-situaciju-u-kojoj-se-nalazi/ **68** Chapter review Agency for the Prevention and Coordination of the Fight against Corruption. 2023. National Integrity System Assessment – Bosnia and Herzegovina 2023, 192–207. Transparency International in Bosnia and Herzegovina. https://ti-bih.org/wp-content/uploads/2024/04/TIBIH-NIS-2023-ENG-Web-FIN4.pdf

the professionalisation of cantonal anti-corruption bodies. Currently, there are eight professional anti-corruption bodies (APIK, Commission for the Prevention of Corruption of Brčko District, and six cantonal anti-corruption bodies in Sarajevo Canton, Tuzla Canton, Zenica-Doboj Canton, Canton 10, Una-Sana Canton, and Posavina Canton). The Bosnian-Podrinje Canton Goražde has started the process of establishing such a body, while the governments of the Herzegovina-Neretva and West Herzegovina cantons have announced their adoption. No progress has been made in the establishment of anti-corruption bodies at the entity level. Progress has been made in the work of the Anti-Corruption and Quality Control Office of the Sarajevo Canton. Through the interactive publication of registers in areas particularly susceptible to corruption, this body contributes to the transparency of the work of institutions, elected and appointed persons.[69]

The ineffectiveness of anti-corruption body coordination is also evident in the lack of implementation of measures from the 2015-2019 Anti-Corruption Strategy. After more than four years without a valid Anti-Corruption Strategy and accompanying Action Plan (which expired in 2019), the CoM BiH adopted a new Strategy in June 2024.[70] The Strategy was prepared for the first time by a Working Group comprised of representatives from institutions at all levels of government in BiH, which was appointed by the CoM BiH at the proposal of APIK. Decisions were reached through consensus, and experts and the general public could submit comments and suggestions via the e-Consultation platform. Civil society representatives could only attend as observers, not as Working Group members, as was the case with prior strategic documents in this area. As observers, they could comment and make suggestions, but those suggestions were not binding and were rarely included in the adopted text.

# Harmonisation of Legislation and Capacity Building for Public Procurement

## Legislative and Strategic Framework

### Public Procurement

Although not all by-laws provided for in the amendments to the 2022 Public Procurement Law have been developed and adopted, several important regulations have been adopted over the last two years. In July 2024, the PA BiH amended the Law once again,[72] but without adequate public consultations. The aim of the amendments was to address the problem of so-called professional appellants, who impede public procurement processes.[73]

The CoM BiH adopted the 2024-2028 BiH Public Procurement Strategy and Action Plan for its implementation in March 2024,[74] fulfilling one of the recommendations from

**69** The registers are available on the website of the Anti-Corruption and Quality Control Office of the Sarajevo Canton. The data collected by the Centre for Investigative Journalism in the past period, which involve the assets of public officials, incentives, and the disposal of land and forest in the canton's territory, are consolidated in these registers: https://www.anticorrupiks.com/ **70** 2024-2028 Anti-Corruption Strategy and the 2024-2028 Action Plan for the Implementation of the Anti-Corruption Strategy are available on the website of the Agency for the Prevention and Coordination of the Fight against Corruption: http://www.apik.ba/aktuelnosti/saopcenja-za-javnost/default.aspx?id=3062&langTag=bs-BA **71** Some of the most significant by-laws adopted are the Rulebook on the Conditions and Manner of Using the e-Auction, the Rulebook on Amendments to the Rulebook on the Establishment and Operation of the Procurement Commission, the Rulebook on the Procedure for Awarding Contracts for Services from Annex II of the Public Procurement Law, and the Rulebook for Conducting Joint Procurement, Centralised Procurement and the Establishment of the Central Procurement Authority. **72** The Law on Amendments to the Public Procurement Law is published in the Official Gazette of BiH, 50/24 (in BCS): http://www.sllist.ba/page/akt/AdO1PKmvmUk **73** The deadlines for appeals now run from the moment of the announcement of the public procurement, rather than the receipt of the documentation, and the fee for the appeal procedure has been increased and must be paid in advance. Contracting authorities have the right to assess the validity of the payment, and there is no right of appeal against their decision. These changes are particularly problematic for small and medium-sized enterprises. **74** 2024-2028 Public Procurement Strategy with the accompanying Action Plan is available on the website of the BiH Public Procurement Agency (in BCS): https://www.javnenabavke.gov.ba/bs-Latn-BA/news/386/vijece-ministara-bosne-i-hercegovine-usvojilo-strategiju-javnih-nabavki-za-period-2024-2028

the European Commission's BiH 2023 Report. Although the adoption of this strategic plan was delayed by four years, different actors, including civil society, contributed to its drafting, and their proposals were partially adopted.

### Concessions

The legislative framework for concessions in BiH is severely fragmented and inconsistent with the EU acquis, resulting in legal uncertainty and implementation issues. Although basic concession laws have been adopted at the state, entity, and cantonal levels, as well as the BD BiH level, their quality varies, and the procedures for awarding concessions are often not transparent or aligned with international standards.[75]

Because of the lack of transparency in the allocation, control, and collection of public revenues from concessions, it is critical to urgently integrate the concession system into a unified public procurement system, and that all principles and provisions of the Public Procurement Law, such as transparency, e-procurement, conflict of interest, and legal protection, apply to concessions. This approach would allow for the management of a single electronic register, the development of unique concession plans, and the introduction of standardised fee calculation methods, all of which would ensure effective public interest protection and environmental preservation in BiH.

In July 2024, NA RS adopted the **Law on Amendments to the Law on Geological Exploration**,[76] the content of which had previously caused concern and reactions from citizens and civil society organisations. The amendments **excluded local communities from the procedure of providing opinions and consent for geological exploration in their region**, undermining the principles of transparency and protection of natural resources from irrational exploitation. This provision violates a number of international agreements that BiH has signed, including the Aarhus Convention and the European Charter of Local Self-Government. In this way, the phase of geological exploration is practically exempt from the RS Law on Concessions, and the quantities of mineral raw materials allowed by law that can be collected during exploration far outweigh the amount of tax fees that investors must pay to the RS budget. Amendments made by civil society organisations to address the projected deficiencies were rejected.[77]

## Work of Competent Institutions and the Application of the Law

### Public Procurement

In 2023, the Public Procurement Agency (PPA) held trainings and exams for public procurement officials in contracting authorities.[78] The PPA collaborated with civil society organisations to monitor public procurement procedures. In 2023, 435 individual public procurement procedures were monitored, and any potential violations discovered were addressed with the competent institutions.[79]

In addition to pointing out irregularities to the PPA, civil society organisations also addressed competent prosecutor's offices in several cases, and decisions of the competent prosecutor's offices that refused to conduct investigations on previously

**75** Martinović, Aleksandra. 2024. Sistem koncesija u Bosni i Hercegovini: Pravni i institucionalni okvir. Transparency International in Bosnia and Herzegovina (in BCS). https://ti-bih.org/wp-content/uploads/2024/06/25062024-Sistem-koncesija-u-Bosni-i-Hercegovini-Pravni-i-institucionalni-okvir.pdf **76** The Law on Amendments to the Law on Geological Exploration of the Republika Srpska is available on the website of the National Assembly of the Republika Srpska (in BCS): https://www.narodnaskupstinars.net/?q=la/akti/usvojeni-zakoni/zakon-o-izmjenama-i-dopunama-zakona-o-geolo%C5%A1kim-istra%C5%BEivanjima-1 **77** The Law on Amendments to the Law on Geological Exploration of the Republika Srpska is available on the website of the National Assembly of the Republika Srpska (in BCS): https://www.narodnaskupstinars.net/?q=la/akti/usvojeni-zakoni/zakon-o-izmjenama-i-dopunama-zakona-o-geolo%C5%A1kim-istra%C5%BEivanjima-1 **78** Five training sessions were organised for 230 participants, of which 172 successfully passed the exam. **79** Six requests were submitted for the assessment of abuse of a dominant position, possible agreements between tenderers, or the existence of illegal competitive activities; 31 requests were submitted for the initiation of misdemeanour proceedings before the competent courts of BiH, and 16 reports of potential violations of the Public Procurement Law due to suspected elements of a criminal offence. Source: Transparency International in BiH.

reported cases were issued during the reporting period. For example, the Prosecutor's Office of the Tuzla Canton suspended the investigation against the managers of the Kreka Coal Mine, despite the fact that the managers avoided public competitive tendering for the job of renting mining machinery, claiming that it was in the "interest of the service".[80] Similarly, the Prosecutor's Office refused to conduct an investigation against the RiTE Gacko management for avoiding public competitive tendering for contracts worth about BAM 30 million.[81] Such a decision further undermines trust in the public procurement system, as it creates the impression that violations of the law go unsanctioned. It is a well-known practice for some public enterprises to discontinue conducting public procurements, further undermining the integrity of the procurement process and allowing certain interests to benefit without public oversight.[82]

In 2023, the Procurement Review Body received 4,038 appeals, of which 3,730 were resolved. During the same time period, the Court of BiH resolved 281 lawsuits filed by dissatisfied parties against this Body's decisions, while the Court of Administrative Disputes issued 389 judgements relating to Procurement Review Body cases from 2020, 2021, and 2022, as well as 6 judgements on cases received and resolved in 2023.

PPA and international partners collaborated to develop the Information System for Centralised Public Procurement in 2023. A new and improved public section of e-Procurement was established, and public procurement data can now be published (open data standard). Tender documents are still only available to registered tenderers. In the middle of 2023, PPA introduced the e-Audit module, organised user training, and created a manual for its use. However, electronic tender submission, electronic tender opening, electronic tender evaluation, and the ability to publish contracts on the portal are currently unavailable and could be enhanced. Monitoring contract implementation is one of the most serious issues in the public procurement system, since any divergence from contractual obligations at this stage might render the entire process meaningless.

## Concessions

The shortcomings of the legal framework, the lack of political will and agreement to improve the entire system of awarding concessions, as well as the work of the **BiH Concession Commission**, are reflected in the fact that this body in its 19 years of existence has not approved the final award of a single state contract on concessions. In 2023, seven concession contracts were active **at the FBiH level,** with five under the jurisdiction of the Ministry of Agriculture, Water Management and Forestry, and two under the jurisdiction of the Ministry of Energy, Mining and Industry. The **cantons** concluded 248 concession contracts, but the data from SC, which refused to provide it, is missing. By the end of 2023, **RS** concluded a total of 539 concession contracts, of which the Ministry of Energy and Mining concluded 393. In the same period, 192 contracts ceased to be valid.[83]

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**80** Transparentno. 2024 "Direktori prekršili Zakon ali je to bilo u interesu službe' - Tužilaštvo TK obustavilo istragu zbog namještanja poslova u Rudnicima Kreka." Transparentno.ba. August 30, 2024. Published at: https://transparentno.ba/2024/08/30/direktori-prekrsili-zakon-ali-je-to-bilo-u-interesu-sluzbe-tuzilastvo-tk-obustavilo-istragu-zbog-namjestanja-poslova-u-rudnicima-kreka/ **81** Transparentno. 2024 "Tužilaštvo neće sprovoditi istragu protiv uprave RITE Gacko zbog izbjegavanja javnog nadmetanja za ugovore vrijedne skoro 30 miliona KM." Transparentno.ba. April 15, 2024. Published at: https://transparentno.ba/2024/04/15/tuzilastvo-nece-sprovoditi-istragu-protiv-uprave-rite-gacko-zbog-izbjegavanja-javnog-nadmetanja-za-ugovore-vrijedne-skoro-30-miliona-km/ **82** Transparentno. 2024 "Tužilaštvo neće sprovoditi istragu protiv uprave RITE Gacko zbog izbjegavanja javnog nadmetanja za ugovore vrijedne skoro 30 miliona KM." Transparentno.ba. April 15, 2024. Published at: https://transparentno.ba/2024/04/15/tuzilastvo-nece-sprovoditi-istragu-protiv-uprave-rite-gacko-zbog-izbjegavanja-javnog-nadmetanja-za-ugovore-vrijedne-skoro-30-miliona-km/
**83** Of these, 121 contracts were terminated, the concession period for 56 contracts expired, 3 contracts ceased to be valid for other reasons, bankruptcy or liquidation proceedings were initiated for 5 contracts, the decision on the selection of the most favourable tenderer and concession award was revoked, annulled or declared null for 6 contracts, and the court annulled 11 concession contracts. Source: Transparency International in BiH.

Concessionaires' lack of transparency, inefficiency, and accumulated debts point to serious problems in the management of public resources in BiH, and the authorities are hiding key information and avoiding the implementation of necessary reforms. This is especially true when concessions are awarded without proper supervision or contract information is kept from the public. Some examples include the concealment of contracts related to the solar power plant in Trebinje, where information on the transfer of the concession was unavailable,[84] and irregularities in the export of coal from RMU Banovići, with doubts about the accuracy of the reported quantities.[85] These cases highlight serious deficiencies in the concessions supervisory system, which frequently favours private interests over the public welfare. TI BiH attempted to promote transparency in this area by publishing the **first unified register of concessions**[86] **in BiH** in April 2023, but it was met with resistance from the authorities, who refused to disclose a clear picture of the situation of concessionaires and their obligations.

## Prosecution of Corruption

Based on the available statistical data[87] on the prosecution of criminal offences of corruption in BiH, it can be concluded that the prosecution is still inefficient and does not meet the level required by the current state and prevalence of corruption in society. The State Prosecutor's Office continues to file a modest number of high-level corruption indictments; the focus remains on less complex cases, resulting in fewer final judgements.

**Although the total number of reports for criminal offences of corruption increased** in 2023, representing the highest number of reports in the previous four years, the percentage of negative prosecutorial decisions on non-conduct of investigations in the number of resolved reports is concerning. S**ix out of every ten corruption reports filed with prosecutors' offices are rejected.** The number of reports of high-level criminal offences of corruption has increased during the last three years.

**The number of open investigations** for criminal offences of corruption has been decreasing since 2021, with the largest decrease occurring in 2023 inside the FBiH Prosecutorial System. According to data submitted by the HJPC BiH, **more than one-third of corruption-related criminal offence reports result in the investigation being suspended.** Furthermore, the number of open investigations for high-level criminal offences of corruption increased significantly in 2022, but decreased slightly the following year. In 2023, the arrest and detention of suspended president of the Court of BiH, Ranko Debevec, and former director of the BiH Intelligence and Security Agency, Osman Mehmedagić, for abuse of office received the most attention. They both spent some time in custody, and the investigation against them is still ongoing and gradually extending to other criminal offences.[88] **The Mayor of Trnovo Municipality, Ibro Berilo,** is

**84** Transparentno. 2023. "TI BiH dobio presudu zbog skrivanja informacija oko prenosa koncesije za solarnu elekranu u Trebinju koju će graditi mađarski investitor." Transparentno.ba. November 20, 2023. Available at: https://transparentno.ba/2023/11/20/ti-bih-dobio-presudu-zbog-skrivanja-informacija-oko-prenosa-koncesije-za-solarnu-elekranu-u-trebinju-koju-ce-graditi-madjarski-investitor/ **85** Transparentno. 2023. "Revizori sumnjaju u prijavljene količine uglja koje je iz RMU Banovići u Srbiju izvozila firma povezana sa SNS-om. TI BiH uputio prijavu finansijskoj policiji." Transparentno.ba. September 7, 2023. Available at: https://transparentno.ba/2023/09/07/revizori-sumnjaju-u-prijavljene-kolicine-uglja-koje-je-iz-rmu-banovici-u-srbiju-izvozila-firma-povezana-sa-sns-om-ti-bih-uputio-prijavu-finansijskoj-policiji/ **86** Register of concessions in BiH: koncesije.transparentno.ba **87** Interactive map of corruption processing in Bosnia and Herzegovina available at https://mapa.ti-bih.org/en; Izvještaj o monitoringu procesuiranja korupcije pred sudovima i tužilaštvima u Bosni i Hercegovini 2023. 2024. Transparency International in Bosnia and Herzegovina. Available at: https://ti-bih.org/wp-content/uploads/2024/07/Monitoring-procesuiranja-2023-final.pdf; Izvještaj o monitoringu procesuiranja korupcije u Bosni i Hercegovini za 2022/23. godinu. 2023. Transparency International in Bosnia and Herzegovina. https://indekspravosudja.ba/izvjestaji/ **88** Trepanić, Aida. 2024. "Istraga protiv Debevca proširena na dodjele predmeta u rad sudijama." Detektor. August 9, 2024. Published at: https://detektor.ba/2024/08/09/istraga-protiv-debevca-prosirena-na-dodjele-predmeta-u-rad-sudijama/

suspected of receiving bribes and illegal construction on Bjelašnica.[89] The Prosecutor's Office of the Sarajevo Canton launched an investigation following the Centre for Investigative Journalism's finding[90] of illegal logging and the issuance of permits for the construction of apartments on the Olympic mountain.

**The number of indictments filed** for criminal offences of corruption has been decreasing since 2021, with a notable decrease in 2023. On the other hand, the number of indictments for high-level criminal offences of corruption has increased since 2021 (15 of 20 indictments are in the FBiH Prosecutorial System). **Miloš Lučić,**[91] **former Minister of Human Rights and Refugees, has been accused** of high corruption. Still, in the fight against corruption, the BiH Prosecutor's Office focuses on customs officials of the Indirect Taxation Authority and border police officers,[92] who are frequently accused of abuse of office and receiving smaller sums of money. In the past period, the Prosecutor's Office of the Sarajevo Canton has **prosecuted the former mayor of Sarajevo, Abdulah Skaka,**[93] **as well as former mayors of the municipalities of Stari Grad and Ilidža, Ibrahim Hadžibajrić**[94] **and Senaid Memić.**[95] Their trials have begun. The trial of Alija Delimustafić and others for illegal real estate sales has begun, following numerous delays and six years since their indictment.[96]

T**he number of convictions** for criminal offences of corruption is **the lowest in the previous three years,** while the number of convictions for high-level criminal offences of corruption remained the same as the previous year. The year 2023 is marked by an increase in the share of prison sentences in corruption cases, as well as the share of fines, while the number of suspended sentences has decreased, with approximately 5**0% of suspended sentences** in all judgements passed by BiH courts (first and second instance), compared to more than 60% in 2022 or slightly less than 60% in 2021. The criminal policy in corruption cases is concerning, as most of the minimal legal sentences are imposed through plea agreements.

At the beginning of the year, a final **judgement was issued sentencing the former FBiH prime minister Fadil Novalić,** the suspended director of the FBiH Civil Protection Administration Fahrudin Solak, and the owner of the company "F.H. Srebrena malina" Fikret Hodžić to a total of 15 years in prison for abuses during the procurement of respirators in the coronavirus pandemic.[97]

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**89** CIN. 2024. "Mayor Berilo Suspected of Receiving Bribes and Illegal Construction on Bjelašnica." CIN. August 5, 2024. Published at: https://cin.ba/en/mayor-berilo-suspected-of-receiving-bribes-and-illegal-construction-on-bjelasnica/ **90** Azhar Kalamujić. 2020. "Land Clearing at the Gates to the Bjelašnica Olympic Center." CIN. July 21, 2020. Published at: https://cin.ba/en/krcma-sume-na-vratima-olimpijskog-centra/ **91** Begić, Jasmin. 2024 "Potvrđena optužnica protiv bivšeg ministra za ljudska prava i izbjeglice." Detektor. February 15, 2024. Published at: https://detektor.ba/2024/02/15/potvrdjena-optuznica-protiv-bivseg-ministra-za-ljudska-prava-i-izbjeglice/ **92** Nermina Kuloglija-Zolj. 2023 "Tužilaštvo BiH podiglo samo četiri optužnice za korupciju u 2023." Detektor. December 28, 2023. Published at: https://detektor.ba/2023/12/28/tuzilastvo-bih-podiglo-samo-cetiri-optuznice-za-korupciju-u-2023/ **93** CIN. 2023 "Uhapšen bivši gradonačelnik Sarajeva Abdulah Skaka." CIN. May 23, 2023. Published at: https://cin.ba/uhapsen-bivsi-gradonacelnik-sarajeva-abdulah-skaka/; Marija Taušan. 2023. "Skaka negirao krivicu, kacila postigla sporazum." Detektor. September 26, 2023. Published at: https://detektor.ba/2023/09/26/skaka-negirao-krivicu-kacila-postigla-sporazum/ **94** CIN. 2024 "Bivši sarajevski načelnik Ibrahim Hadžibajrić optužen za tešku korupciju." CIN. April 17, 2024. https://cin.ba/bivsi-sarajevski-nacelnik-ibrahim-hadzibajric-optuzen-za-tesku-korupciju/; Azra Husarić Omerović. 2024 "Potvrđena optužnica protiv Hadžibajrića iostalih zbog organizovanog kriminala." Detektor. April 23, 2024. Published at: https://detektor.ba/2024/04/23/potvrdjena-optuznica-protiv-hadzibajrica-i-ostalih-zbog-organizovanog-kriminala/ **95** Azra Husarić Omerović. 2024 "Memić i ostali: počelo suđenje za zloupotrebe u građevinskim poslovima." Detektor. March 4, 2024. Published at: https://detektor.ba/2024/03/04/memic-i-ostali-pocelo-sudjenje-za-zloupotrebe-u-gradjevinskim-poslovima/ **96** Begić, Jasmin. 2024 "Delimustafić i ostali: konačno počelo suđenje za nezakonitu prodaju nekretnina." Detektor. April 9, 2024 Published at: https://detektor.ba/2024/04/09/delimustaufic-i-ostali-konacno-pocelo-sudjenje-za-nezakonitu-prodaju-nekretnina **97** Begić, Jasmin. 2024 "Delimustafić i ostali: konačno počelo suđenje za nezakonitu prodaju nekretnina." Detektor. April 9, 2024 Published at: https://detektor.ba/2024/04/09/delimustaufic-i-ostali-konacno-pocelo-sudjenje-za-nezakonitu-prodaju-nekretnina

Except for Zeljković et al.,[98] **there were no indictments in similar cases in RS,**[99] indicating prosecutors' selective approach in prosecuting corruption.

A final judgement was also issued against the former employees of the Service for Foreigners' Affairs, Boris Kordić and Josip Kvesić, who were sentenced to 21 years in prison,[100] which the Prosecutor's Office considers to be the highest sentence for acts of corruption. A final decision is expected in the case of former Minister of Defence Selmo Cikotić,[101] who was sentenced to three years in prison in the first-instance proceedings for abuse of office.

## Disciplinary responsibility of judges and prosecutors

According to preliminary data supplied by the HJPC to the Balkan Investigative Reporting Network of BiH from April 2023 to July 2024, 43 disciplinary measures and 47 final decisions were issued, which is significantly more than in 2022.[102] Two lawsuits were dismissed,[103] while the other two cases were suspended.[104] A total of 17 public reprimands were issued to holders of judicial functions. Disciplinary councils issued nine written warnings that were not published. Other decisions are anonymised on the HJPC website,[105] which, as previously noted in alternative reports, makes it difficult for journalists to follow the proceedings to their conclusion.

2023 Amendments to the Law on the HJPC prescribe punishment for violations of the code of ethics and offences committed by Council members. The EU delegation in BiH insisted on the introduction of these provisions after the Disciplinary Commission of the HJPC released former President Milan Tegeltija from disciplinary responsibility, with the explanation that the Law on the HJPC overlooks disciplinary offences for judges and prosecutors, but not for members of the HJPC when they commit disciplinary offences in that capacity.

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**98** Đorđe Vujatović. 2022 "Potvrđena optužnica protiv Branislava Zeljkovića zbog nabavki tokom pandemije." Detektor. October 24, 2022. Published at: https://detektor.ba/2022/10/24/potvrdjena-optuznica-protiv-branislava-zeljkovica-zbog-nabavki-tokom-pandemije/ **99** Transparentno. 2021 "Ko kontroliše promet kiseonika u RS: Agencija za lijekove BiH i Inspektorat RS se proglasili nenadležnim!" Transparentno.ba. November 9, 2021. Published at: https://transparentno.ba/2021/11/09/ko-kontrolise-promet-kiseonika-u-rs-agencija-za-lijekove-bih-i-inspektorat-rs-se-proglasili-nenadleznim **100** Trepanić, Aida. 2023 "Borisu Kordiću i Josipu Kvesiću 21 godina zatvora obog organizovanog kriminala." Detektor. November 28, 2023. Published at: https://detektor.ba/2023/11/28/borisu-kordicu-i-josipu-kvesicu-21-godina-zatvora-zbog-organizovanog-kriminala/ **101** Trepanić, Aida. 2024 "Cikotić: Strožija kazna ili ponovno suđenje za zloupotrebu položaja." Detektor. August 13, 2024. Published at: https://detektor.ba/2024/08/13/cikotic-strozija-kazna-ili-ponovno-sudjenje-za-zloupotrebu-polozaja/ **102** Potemkin's Candidacy: 2022 Alternative Report on Bosnia and Herzegovina Progress on the Road to the European Union Membership Political Criteria. Initiative for Monitoring the EU Integration of BiH. April 2023. Available at: https://eu-monitoring.ba/en/potemkins-candidacy-2022-alternative-report-on-bosnia-and-herzegovina-progress-on-the-road-to-the-european-union-membership-political-criteria/ **103** Lejla Memčić. 2024 "Odbijena disciplinska tužba protiv sutkinje Lejle Numanović." Detektor. July 9, 2024. https://detektor.ba/2024/07/09/odbijena-disciplinska-tuzba-protiv-sutkinje-lejle-numanovic/**104** Marija Taušan. 2023 "Sudija Perić ide u penziju 20 dana prije nastavka disciplinskog postupka protiv njega." Detektor. December 15, 2023. Available at: https://detektor.ba/2023/12/15/sudija-peric-u-penziju-ide-10-a-nastavak-postupka-30-januara **105** Among the most frequent decisions are salary reduction sanctions (15), one decision to shift from the position of chief prosecutor or deputy chief prosecutor to the position of prosecutor, and one decision regarding the dismissal from office. During the last reporting period, no person lost their job after disciplinary proceedings, regardless of the proposals of the Office of Disciplinary Prosecutor. The final decisions of the HJPC BiH in disciplinary proceedings are published on the website of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina: https://udt.pravosudje.ba/vstvfo/E/200/kategorije-vijesti/116333ijeća Bosne i Hercegovine: https://udt.pravos udje.ba/vstvfo/B/200/kategorije-vijesti/116333.

# PRIORITY 8:

## Ensuring effective coordination, at all levels, of border management and migration management capacity, as well as ensuring the functioning of the asylum system

### Legal Framework

The BiH Law on Amendments to the Law on Aliens, the 2021-2025 Action Plan of the Migration and Asylum Strategy, the Rulebook on Amendments to the Rulebook on Supervision and Removal of Aliens from BiH and the Rulebook on Amendments to the Rulebook on Entry and Stay of Aliens were adopted during the reporting period.

One of the new provisions of the Law on Aliens[106] stipulates that aliens who have been granted a residence permit[107] have the right to accommodation, food and access to health care. Although BiH's asylum legislation is significantly harmonised with the EU acquis, further improvement through the development of plans is required to increase the responsibility of domestic authorities in managing migration, including taking over the management of reception centres; implementation of strategic documents; ensuring effective coordination of border management and migration management capacities including fair distribution of reception capacities between entities and all cantons; and guaranteeing more efficient access to asylum procedures.

### Application of the Law

By the end of July 2024, the Service for Foreigners' Affairs registered, i.e. issued an attestation of expressed intention to claim asylum for 15,425 persons,[108] compared to 34,409 entries into BiH in 2023.[109] BiH institutions continue to automatically issue an attestation of expressed intention to claim asylum to all persons on the move who are staying in temporary reception centres, which explains the discrepancy in the number of expressed intentions and asylum claims submitted to the BiH Ministry of Security.[110] In practice, it is almost impossible to meet the legal deadline for submitting a personal application for asylum after expressing an intention, and this law imposes an excessive burden on asylum seekers (language barrier, complicated administrative procedures, physical access to the headquarters of the Ministry of Security, etc.). Asylum applications and registration of asylum seekers are still only accepted at the Ministry of Security's invitation at the premises of the UNHCR Info Centre in Sarajevo, resulting in significant costs for asylum seekers living outside of Sarajevo.

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**106** BiH Law on Amendments to the Law on Aliens adopted on August 30, 2023, published in the Official Gazette of BiH, 63/23 (in BCS): http://www.sluzbenilist.ba/page/akt/0SqRdMx8RS0 **107** Alien whose asylum claim has been rejected but who cannot be removed for reasons prescribed by the Principle of Non-refoulement.
**108** Infographics of the International Organisation for Migration in BiH available at: https://bih.iom.int/sites/g/files/tmzbdl1076/files/documents/2024-08/july-bih-mmsr-eng-1.pdf **109** Infographics of the International Organisation for Migration in BiH available at: https://bih.iom.int/sites/g/files/tmzbdl1076/files/documents/2024-08/01_iom-bih-external-sitrep-5-18-august-2024.pdf **110** The Service for Foreigners' Affairs, with the support of the UNHCR, attempted to address this issue by hiring assistants to work on profiling and referring persons in need of asylum; however, no significant progress has been made in terms of the number of people who continue the asylum procedure.

The BiH Ministry of Security has an uneven practice in applying the provisions of the law pertaining to registration, so some persons are allowed to be registered despite not contacting the Ministry through an attorney within the period specified in the expressed intention, while others are denied this opportunity. The Service for Foreigners' Affairs does not issue new attestations of expressed intention to claim asylum to persons whose first attestation was marked as unrealised due to the expiration of the asylum-seeking deadline, despite the fact that the Law on Asylum does not explicitly state that such an attestation can only be issued once.

During the reporting period, inconsistencies in the application of the Law on Aliens, the Law on Asylum, and the principles of the European Convention on Human Rights were recorded. In April 2024, the asylum seeker, who was originally from the Russian Federation, was placed in the Immigration Centre and denied contact with attorneys. The Association Vaša prava BiH contacted the European Court of Human Rights after receiving no reaction from local authorities. The court issued a temporary decision allowing the asylum seeker to communicate with his attorneys. Following the adoption of this decision and the intervention of the Institution of the Human Rights Ombudsman of BiH, contact was established between the asylum seeker and the attorney, granting the right to use a legal remedy against the decision on expulsion and placing under supervision.[111]

An unaccompanied minor has been detained for an extended period of time, and since February 2024, he has been housed in an immigration centre with adults in conditions unsuitable for minors. The Court of BiH annulled previous decisions of the Court and the BiH Ministry of Security that deprived the minor of his liberty, referring to the practice of the European Court of Human Rights.

Representatives of CSOs and international organisations do not have access to Sarajevo Airport's transit zone, therefore they are unable to communicate directly with those in need of international protection who seek legal advice. Individuals expressing their intention to apply for asylum in BiH can only enter the country with the assistance of the Association Vaša prava BiH and, in some cases, the European Court of Human Rights.

When it comes to granting refugee status, the situation has remained mostly unchanged since the previous report.[112] The granting of subsidiary protection status remains the usual, with refugee status being the exception. Only four persons were granted refugee status in 2023, compared to only 18 between 2014 and 2023.[113] The rights that come with subsidiary protection are also limited, as individuals with this status are unable to obtain travel documents, reunite with family members,[114] or obtain BiH citizenship. Because of the foregoing, these individuals frequently choose irregular and dangerous migrations to EU countries that provide a considerably broader range of rights.

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**111** The Association Vaša prava BiH represents individuals who are detained at the Immigration Centre due to a perceived threat to national security. Inconsistent and inadequate application of the principle of non-refoulement was documented, with these individuals being detained in order to ensure expulsion to their countries of origin, where there are no guarantees of respect for fundamental human rights, particularly rights under Articles 2 and 3 of the European Convention on Human Rights, which are absolute. **112** Potemkin's Candidacy: 2022 Alternative Report on Bosnia and Herzegovina Progress on the Road to the European Union Membership Political Criteria. Initiative for Monitoring the EU Integration of BiH. April 2023. Available at: https://eu-monitoring.ba/en/potemkins-candidacy-2022-alternative-report-on-bosnia-and-herzegovina-progress-on-the-road-to-the-european-union-membership-political-criteria/ **113** 2023 Migration Profile for Bosnia and Herzegovina. BiH Ministry of Security. March 2024. Sarajevo. Available at: https://www.msb.gov.ba/PDF/160820244.pdf **114** This is particularly concerning for unaccompanied minors who have been granted subsidiary protection status..

In contrast to the previous report, asylum seekers from Ukraine wait far longer for their asylum applications to be processed before ultimately being given subsidiary protection status. Instead of offering temporary protection as an emergency mechanism, as the EU countries did, BiH authorities approve temporary residence for humanitarian reasons. This puts asylum seekers at a disadvantage since, instead of unconditional admission, they must present documents proving their means of support (accommodation, food, health care and other expenses that may arise during their stay in BiH). In November 2023, by decision of the Council of Ministers, thirty Palestinian citizens evacuated from Gaza were placed in "RRC Salakovac" managed by the Ministry of Human Rights and Refugees. Although they applied for asylum, they were granted subsidiary protection status. Compared to the previous reporting period, a favourable movement indicates that residents of TRC Blažuj can now access the asylum-seeking procedure.

# PRIORITY 9:

## Strengthen the protection of the rights of all citizens, notably by ensuring the implementation of the legislation on non-discrimination and on gender equality

### Femicide Cases

Gender-based violence against women in BiH is not decreasing and is a highly alarming and concerning issue, especially as cases of escalation of violence against women resulting in femicide are becoming more common. According to civil society organisations, 13 femicides occurred in Bosnia and Herzegovina between January 2023 and June 2024. During the same period, BiH prosecutor's offices received about 1,300 reports of domestic violence, with just 145 indictments filed.[115] Although BiH authorities pledge systematic support to victims of violence, they refuse to incorporate femicide as a separate criminal offence under the laws.[116] Murders of women continue and are becoming increasingly brutal. In August 2023, Nizama Hećimović from Gradačac was brutally murdered by her unmarried husband Nermin Sulejmanović, which outraged the public. He had already been reported to the police,[117] and what is even more shocking is that he livestreamed the murder on Instagram. The femicide took place live on social media in front of users, the community, competent institutions, and even the infant.[118] This gruesome video was not removed from this social media platform until several hours after the woman's murder, following multiple reports and urgings from individuals and CSOs.[119]

BiH still lacks a single database on all forms of violence against women. RS publishes data on gender-based violence, whereas data collection in FBiH varies across cantons.

### Law Harmonisation

Even 11 years after ratification, BiH legislation has yet to be fully harmonised with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). However, there is progress in certain legal and planning aspects.

The **BiH Gender Action Plan** 2023-2027[120] was adopted at the state level, and it prioritises the prevention and suppression of gender-based violence and domestic violence.

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**115** Žurnal (2024), NAKON 13 ŽRTAVA ZA GODINU DANA: Femicid još nije uvršten u krivične zakone. Published at: https://www.zurnal.info/clanak/femicid-jos-nije-uvrsten-u-krivicne-zakone/27061 **116** Augustović M. (2024). Sve brutalnija ubistva žena u BiH: „Sutra svaka može biti žrtva". Published at: https://www.slobodnaevropa.org/a/femicid-zakoni-bih-ubistva-zene/33018807.html **117** Krstojević R. (2023). Tužilaštvo TK: Sulejmanović prije tri dana prijavljen za nasilje u porodici. Published at: https://www.nezavisne.com/novosti/hronika/Tuzilastvo-TK-Sulejmanovic-prije-tri-dana-prijavljen-za-nasilje-u-porodici/784325 **118** Radiosarajevo (2024). Femicid još uvijek nije zasebno krivično djelo u Bosni i Hercegovini. Published at: https://radiosarajevo.ba/metromahala/teme/femicid-jos-uvijek-nije-zasebno-krivicno-djelo/539014 **119** Sokol A. (2023). Femicid u BiH: Fokus ne smije biti na počiniocu. Published at: https://media.ba/bs/magazin/femicid-u-bih-fokus-ne-smije-biti-na-pociniocu **120** "GENDER AKCIONI PLAN BIH ZA PERIOD 2023-2027. GODINE" n.e.c, Available at: https://www.gcfbih.gov.ba/gender-akcioni-plan-bih-za-period-2023-2027-godine/

In March 2024, the Assembly of BD BiH adopted **amendments to the Criminal Code of the Brčko District of BiH,**[121] introducing new and amending existing criminal offences[122] in accordance with the Istanbul Convention. These amendments define consent for the first time in the BiH criminal legislation. Now the criminal offence of rape is defined as sexual intercourse or an equivalent sexual act or inducing another person to have sexual intercourse or an equivalent sexual act with a third person without their consent. Furthermore, the criminal offences of stalking and sexual harassment were added to the BD BiH Criminal Code, and the age limit from which the statute of limitations is calculated for criminal offences related to sexual integrity, marriage, and family that were committed to the detriment of a child was adjusted to begin at the victim's age of majority. Furthermore, by amending the provisions on abuse of video material with pornographic content, victims will be protected if the video was generated with their consent or a new video was created or modified using information and communication technology (deep-fake video).

The processes of harmonisation with the Istanbul Convention are currently active in the FBiH, however they are not sufficiently fast and transparent.[123] **The draft Law on Protection against Domestic Violence and Violence against Women in the FBiH** from June 2024 is harmonised with the standards of the Istanbul Convention. **Amendments to the RS Criminal Code** went into effect in 2023, providing improved criminal law protection against sexual harassment. The criminal offence of "Sexual harassment"[124] is now prosecuted ex officio.[125] The new offence is also the "Misuse of Photos and Videos of Sexually Explicit Content",[126] which makes it illegal to share such content without consent.

When it comes to gender-based violence, civil society organisations, as well as some officials and institutions, recognise another type of violence that occurs in both the public and private sectors: sexual extortion (sextortion). Sextortion[127] is characterised as a combination of sexual harassment and corruption, or as a gender-specific type of corruption that is not explicitly and legally recognised as such under BiH laws. However, certain levels of government are interested in changing this, so the BiH Gender Equality Committee has scheduled a thematic session on the subject for the fourth quarter of 2024.[128] The Brčko District of BiH has pledged to be a pioneer in adopting sextortion laws that meet EU standards,[129] following a discussion with civil society representatives. However, it remains to be seen whether new legislation will include sextortion and sexual corruption.

## Rise of Anti-Gender Movements

Growing **anti-gender movements** have a significant influence on legislation, public policies and social perception, posing a serious threat to the recent progress. Beginning in late 2023, the government's regressive tendencies become clear. The growing anti-gender movement jeopardises progress in human rights and gender equality efforts.

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**121** Criminal Code of the Brčko District of Bosnia and Herzegovina (Official Gazette of the Brčko District of BiH, 19/2020 - revised text, 3/2024, 14/2024). **122** The initiative to amend the Criminal Code of the Brčko District was initiated in 2022 by the Sarajevo Open Centre, and was realised with the support and advocacy of the representative in the Assembly of BD BiH, Milijana Simić. Available at: https://soc.ba/en/on-our-initiative-the-criminal-code-of-brcko-district-was-amended-and-harmonized-with-the-istanbul-convention/
**123** The FBiH Ministry of Justice formed working groups and prepared a new draft Law on Protection against Domestic Violence and Violence against Women in the Federation of Bosnia and Herzegovina that is harmonised with the IC principles, and efforts are made to amend the FBiH Criminal Code in the same manner. **124** Article 170 of the CC RS **125** Two qualified forms were also introduced: when the victim is in a subordinate position or is particularly vulnerable, and when the harassment is carried out via the Internet.
**126** Article 170a of the CC RS **127** Analysis of Regulations Regarding Sexual Extortion (Sextortion), available at: https://hcabl.org/analiza-propisa-u-vezi-sa-seksualnom-iznudom-sextortion/ **128** Announcement available at: https://www.parlament.ba/Publication/Read/24699?title=odrzana-8.-sjednica-komisije-za-ostvarivanje-ravnopravnosti-spolova-&pageId=238. **129** Announcement available at (in BCS): http://www.vlada.bdcentral.net/Publication/Read/u-vijecnici-odrzan-sastanak-sa-fokusom-na-seksualnu-iznudu-i-antikoruptivne-startegije?lang=hr

Articles,[130] reports, and announcements[131] by human rights CSOs on this topic indicate a considerable increase in such attitudes, particularly in the Republika Srpska.[132]

In October 2023, the RS National Assembly adopted the **Draft Law on Protection against Domestic Violence and Violence against Women**, which proposed progressive solutions and principles of the Istanbul Convention.[133] The draft received positive feedback from competent institutions in the RS.[134] The adoption of the draft law, however, caused objections from conservative organisations,[135] which claim that it promotes "gender ideology" and allegedly undermines traditional values as they interpret them. The President of the RS supported those views,[136] resulting in the tacit withdrawal of the aforementioned draft law from the procedure and the announcement of a revision of the entire RS legislation to remove the terms "gender" and **"gender identity"**, which was strongly opposed by human rights CSOs and activists.[137]

The RS Government announced **amendments to the RS Criminal Code**[138] in June 2024, **removing the terms "gender" and "gender identity"** from the list of protected characteristics, while comments from human rights NGOs and individuals addressed to the RS Ministry of Justice during public consultations were rejected with a terse explanation that the amendments are being made to achieve harmonisation with the RS Constitution.[139] Remarks and comments were submitted because, according to

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**130** Čengić, R. (2024). PORODIČNE VRIJEDNOSTI U RS- Tradicionalisti protiv zakona koji štiti žene od nasilja. Published at: https://interview.ba/2024/04/12/porodicne-vrijednosti-u-rs-tradicionalisti-protiv-zakona-koji-stiti-zene-od-nasilja/ **131** SAnnouncement "Violence against women and children is an integral part of the traditional family?" Available at: https://hcabl.org/en/violence-against-women-and-children-is-an-integral-part-of-the-traditional-family/ **132** Buka Portal, "Put od Luizijane do Republike Srpske možda ide preko Bijeljine," 6yka, July 16, 2024, Available at: https://6yka.com/kolumne/put-od-luizijane-do-republike-srpske-mozda-ide-preko-bijeljine/. Kurt, Senka. "DISKRIMINACIJA Vlada RS iz zakonodavstva briše rodni identitet." Interview.ba, June 22, 2024. Available at: https://interview.ba/2024/06/22/diskriminacija-vlada-rs-iz-zakonodavstva-brise-rodni-identitet/. Kurt, Senka. "Arijana Lekić Fridrih, umjetnica i aktivistica: Klečavci mole Djevicu Mariju za patrijarhat." Interview.ba, August 9, 2024. Available at: https://interview.ba/2024/08/09/arijana-lekic-fridrih-umjetnica-i-aktivistica-klecavci-mole-djevicu-mariju-za patrijarhat/?fbclid=IwZXh0bgNhZW0CMTEAAR0c4jvdT0h4f5bmVCjJuvUi1aGR_tA4cGa120ZoCzUJbBn0nfSlflC6uxk_aem_xg5_qAFDsnjN-bRBwPKmkw. **133** The law introduces definitions of violence against women and femicide, along with a list of victim rights. It empowers the police to issue emergency protection orders, such as expulsion from the home for 48 hours, with the court having the authority to extend these measures for up to 30 days. Victims are granted the right to be placed in a safe house, regardless of the opinion of social work centres. Additionally, SOS helplines and safe houses are financed through the RS budget. This draft recognises femicide as "the most severe form and consequence of violence against women, defined as the intentional killing of a woman, either wholly or partly, due to her gender, or the death of a woman resulting from acts of violence committed against her, irrespective of whether the perpetrator is a family member or another individual". The scope of the law was expanded to include combating violence against women, with specific provisions for the prevention of femicide as the most severe form and consequence of such violence. Women are recognised as particularly vulnerable victims of violence, and guaranteed unrestricted and free access to protective services. The law also introduced a specialised procedure for enforcing and monitoring emergency and protective measures, established an obligation for coordinated action among all subjects of protection against violence, and mandated the establishment of a Committee for Monitoring Violence against Women and Femicide in the Republika Srpska. **134** The RS Secretariat for Legislation gave an opinion that the law is in line with the Constitution and legal system of the Republika Srpska. The RS Ministry of European Integration and International Cooperation gave an opinion that the draft complies with the EU acquis and the Convention on Preventing and Combating Violence against Women and Domestic Violence. This convention acknowledges the structural nature of violence against women as gender-based violence and highlights the increased risk women and girls face in experiencing such violence. The draft also aligns with other relevant international documents. The explanation of the draft states that it has been aligned with key international documents and directives, which are also referenced in the document. **135** The list of organisations is also published on the portal Interview.ba. Čengić R. (2024). PORODIČNE VRIJEDNOSTI U RS Tradicionalisti protiv zakona koji štiti žene od nasilja. Published at: https://interview.ba/2024/04/12/porodicne-vrijednosti-u-rs-tradicionalisti-protiv-zakona-koji-stiti-zene-od-nasilja/ **136** On January 17, 2024, RS President Milorad Dodik wrote on his X account: "I believe the law should truly protect women's rights, so the representative's remarks are completely justified. It is unacceptable for gender ideology to be introduced in this way, through the back door. The law should more clearly define the principles of the traditional family, as it is in such a family that we should raise our children, which is the best environment." Source ATV: https://www.atvbl.rs/lat/republika-srpska/dodik-podrzava-udruzenja-koja-traze-dodatne-izmjene-nacrta-zakona-o-zastiti-od-nasilja-u-porodici-17-1-2024 **137** Annoucement of CSOs and activists available at: https://hcabl.org/en/violence-against-women-and-children-is-an-integral-part-of-the-traditional-family/ **138** BN (2024). "Vlada Srpske usvojila izmjene Krivičnog zakonika". Published at: https://www.rtvbn.com/4062001/vlada-srpske-usvojila-izmjene-krivicnog-zakonika **139** "Comments on the Draft Law on Amendments to the Criminal Code of the Republika Srpska – Human Rights House," Human Rights House Banja Luka, June 27, 2024, Available at: https://kucaljudskihprava.org/en/comments-on-the-draft-law-on-amendments-to-the-criminal-code-of-the-republic-of-srpska/

human rights CSOs, the proposed amendments weaken legal protection of minority, marginalised, and vulnerable groups. The proposed amendments, which remove the term "gender identity" from the RS Criminal Code, undermine the significant progress that has been made in preserving and improving individual human rights and freedoms in the RS.[140]

In May 2024, the **Corrigenda of the Protocol for the Protection of Children from Violence, Neglect and Abuse**[141] was published, removing gender identity and other status from the list of characteristics protected from discrimination.[142] The RS Ombudsman for Children referred the Initiative to the RS Ministry of Education and Culture in August 2024, for the purpose of harmonising the Protocol's provisions with current legislation prohibiting discrimination within 60 days.[143] For the time being, the RS Constitutional Court has not taken action on the initiative to review the constitutionality and legality of the disputed protocol sent in July 2024, therefore the Protocol remains in force, despite its discriminatory, illegal, and unconstitutional provisions.

According to all of the aforementioned, RS is experiencing a regression in this area, FBiH remains stagnant, and BD BiH is showing improvement. These internal disparities further complicate efforts to coordinate and implement consistent policies for the protection of human rights.

## Political Participation of Women

When it comes to political participation in Bosnia and Herzegovina, women and men continue to have **unequal representation** in legislative and executive bodies. Competent bodies at all levels of government, local self-government bodies, and political parties are required to ensure and encourage equal gender representation in management, decision-making, and representation, however this has not been equally implemented in practice. The BiH Law on the Council of Ministers, as well as entity and cantonal laws, continue to fail to ensure women's equal participation in executive bodies.

The majority of ruling parties (or parties that significantly influence the legislature) have an ignorant attitude, i.e. they are absolutely uninterested in presenting how many women they have in party bodies or how active they are in the field of legally improving the position of women in society.[144]

However, certain political parties have made progress in the integration of the gender perspective into various processes and areas of activity.[145] Currently, Naša stranka is the only political party in BiH with a statute written in the feminine gender.[146]

The persistence of "political patriarchy" in BiH's political landscape is evident by the fact that in the local elections in BiH in 2024, as in previous elections, there were only 29 female candidates for the position of mayor,[147] compared to 385 men who ran for key positions in local communities. CSOs monitoring these processes highlight that it is particularly concerning that 114 municipalities do not have a single female candidate for the highest position in the local community, indicating deep-rooted structural obstacles that prevent women from entering politics at the local level.[148]

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**140** Ibid, https://kucaljudskihprava.org/en/comments-on-the-draft-law-on-amendments-to-the-criminal-code-of-the-republic-of-srpska/ **141** (Official Gazette of the Republika Srpska, 38/24, 47/24) **142** HCA BL submitted an appellation to the RS Ombudsman for Children and the Institution of the Human Rights Ombudsman of BiH. Available at: https://hcabl.org/en/submitted-appellations-to-ombudsman-for-children-of-republic-of-srpska-and-institution-of-ombudsman-of-bih/ **143** Available at: https://hcabl.org/en/the-ombudsman-for-children-of-republic-of-srpska-acted-in-accordance-with-the-appellation-of-the-helsinki-citizens-assembly-banja-luka/ **144** Since 2020, the Helsinki Citizens' Assembly Banja Luka has been using the Gender Barometer as a special methodological tool for monitoring and assessing the gender sensitivity of political parties in Bosnia and Herzegovina. Available at: https://hcabl.org/en/how-much-political-parties-really-care-about-the-participation-of-women-in-political-processes/ **145** Ibid. **146** Ibid. **147** Čengić R. (2024). POLITIČKI PATRIJARHAT: Samo 29 žena u trci za pozicije (grado)načelnica. Published at: https://interview.ba/2024/09/10/politicki-patrijarhat-samo-29-zena-u-trci-za-pozicije-gradonacelnica/
**148** Ibid

A major impediment to women's equal representation in politics is insufficient support of political parties to female members in the development of political programs and political affirmation, despite the fact that party statutes contain no explicit obstacles to women participating in party body work. It is necessary to ensure allocated seats for women in decision-making positions, as well as mandatory training for female candidates to present themselves effectively during political campaigns.

## Women on the Labour Market

Women in BiH continue to be underrepresented in the labour market,[149] where they face various forms of gender-based discrimination, ranging from sexual harassment to the inability to advance at work.[150] Most housework, from cleaning, to cooking to taking care of children or elderly family members, is still primarily women's job and responsibility, making it even more difficult for women in BiH to find employment and build a career. An additional problem is the unavailability of preschools for all children. UNICEF's Investment Study showed that only 44% of children aged 3 to 6 go to preschool in BiH. According to this study, increasing the coverage of preschool education in BiH might allow approximately 2,200 women to enter the labour market each year. This would generate more than BAM 500 million for the BiH economy over the next 30 years.[151]

Furthermore, one of the long-standing issues in both BiH entities is irregular and insufficient alimony for children. CSOs have advocated for years, and will continue to do so, for the establishment of alimony funds that would take over payments and later collect the amounts from inattentive and irresponsible parents, but such funds have yet to be established.[152] This makes it much more difficult for single parents, the vast majority of whom are mothers, to balance their private and family lives.

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**149** According to the 2023 Labour Force Survey, Bosnia and Herzegovina has the lowest female labour force participation rate in Southeast Europe, with a female employment rate of 37.5% compared 62.5% for men, while men continue to earn 14.7% more than women. Available at: https://bhas.gov.ba/data/Publikacije/Saopstenja/2024/LAB_00_2023_Q4_1_BS.pdf **150** According to the 2023 Labour Force Survey, Bosnia and Herzegovina has the lowest female labour force participation rate in Southeast Europe, with a female employment rate of 37.5% compared 62.5% for men, while men continue to earn 14.7% more than women. Available at: https://bhas.gov.ba/data/Publikacije/Saopstenja/2024/LAB_00_2023_Q4_1_BS.pdf **151** In BiH, preschool education is insufficiently funded. In the Federation of Bosnia and Herzegovina, only 5.5% of the total budget for education is allocated to preschool, that is, 9.3% in the Republika Srpska and 7.6% in the Brčko District. Increasing the coverage of preschool education would generate over BAM 33 billion for the BiH economy in the next 30 years. Available at: https://www.unicef.org/bih/en/stories/preschool-all **152** According to data from associations that advocate for the rights of single-parent families, less than 10% of parents in BiH pay alimony for child support after divorce, 20% occasionally, and 70% never. See feature story on FTV (2024) (in BCS): "Borba roditelja za alimentacioni fond" https://www.federalna.ba/borba-roditelja-za-alimentacioni-fond-samo-10-posto-izmiruje-obavezu-hw1as

# PRIORITY 10:

## Ensure the right to life and prohibition of torture, notably by (a) abolishing the reference to death penalty in the Constitution of the Republika Srpska entity and (b) designate a national preventive mechanism against torture and ill-treatment.

In 2023, acting in accordance with Article 17 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, BiH adopted the **Law on Amendments to the Law on the Human Rights Ombudsman of BiH**[153] and created the legal framework in Article 4a for the establishment of an independent preventive mechanism through the *Department for Monitoring the Exercise of Rights of Persons Deprived of Liberty*. In 2023, this department received 86 complaints, compared to 2022, when the number of received complaints was 77.[154]

Given that the purpose of the Law is the prevention of torture and other cruel, inhuman or degrading treatment or punishment in BiH, the Institution acts through three departments, namely: Department for Monitoring the Exercise of Rights of Persons Deprived of Liberty, Department for Monitoring the Exercise of Rights of Persons with Disabilities and Persons with Intellectual and Mental Disabilities and the Department for Monitoring the Exercise of Rights of a Child, if the children are placed in an institution. Since 2009, the Institution of the Human Rights Ombudsman of BiH, through the Department for Monitoring the Exercise of Rights of Persons Deprived of Liberty, has observed that places where individuals are held in detention are inherently prone to torture. This experience highlights that regular monitoring of such facilities, along with transparent reporting of conditions, is essential to prevent torture and other forms of degrading treatment.[155]

T*he 2023 Annual Report on the Results of the Activities of the Institution of the Human Rights Ombudsman of BiH*,[156] highlights improvements in human rights practices within institutions responsible for enforcing criminal sanctions since 2009. It notes that procedures and guidelines have been implemented for assessing and classifying prisoners, as well as managing convicted persons addicted to drugs. Additionally, such individuals are now offered opportunities for employment and education.

However, the Department for Monitoring the Exercise of Rights of Persons Deprived of Liberty has identified several rights violations based on prisoner complaints. These

**153** See: Official Gazette of BiH, 61/23 **154** 2023 Annual Report on the Results of the Activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, available at (in BCS): https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2024040915403579bos.pdf
**155** Practice also demonstrates that the highest risk of abuse occurs in the initial hours after arrest, when police officers are tempted to coerce a confession or other information. Furthermore, the conditions under which a person is, for example, can result in humiliating and degrading treatment, such as in a police station or psychiatric hospital if a person with mental disorders is forcibly placed there.
**156** See (in BCS): https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2024040915403579bos.pdf

include the inability to remain in detention facilities during extreme summer heat, disrespect towards the dignity of prisoners' spouses during visits, inadequate health care such as restricted access to specialists or diagnostic examinations, violations of prisoners' rights to maintain family connections, and preventing prisoners from obtaining new personal identification documents while serving their sentences.

It has been noted that one of the gross violations is the jeopardising of the conditional release.

Due to the lack of funds to meet all technical and logistical requirements, the **Rulebook on the Method of Execution of House Arrest in the RS** has not yet been adopted.

In contrast to the RS, house arrest is implemented in the FBiH, and the Rulebook on Criteria for Sending the Convicted Persons to Serve Prison Sentence[157] and the Rulebook on the Manner of Conducting House Arrest with Electronic Surveillance[158] have been adopted.

**157** Official Gazette of the FBiH, 29/21 **158** „Službene novine FBiH", broj: 92/21.

# PRIORITY 11:

## Ensure an enabling environment for civil society, notably by upholding European standards on freedom of association and freedom of assembly

### Freedom of Association

The legal framework for CSOs and activist operations is fragmented, resulting in unequal rights and access to resources, while institutions that should provide protection frequently fail to act within their authority. Fear of retaliation makes public expression of views dangerous for activists, their organisations, or their families.[159]

Despite years of requests from civil society organisations, **the CoM BiH Strategy for the Development of an Enabling Environment for Civil Society 2024-2028 has not been adopted.** The initial step was taken when the BiH Ministry of Justice prepared a *"Concept Proposal"*[160] with numerous flaws, most notably a crucial lack of basic data, arbitrariness, and inconsistency. The process began later than expected, with the first consultations involving representatives of BiH's CSO networks held in July 2024. The deadline for submitting feedback and suggestions on the initial draft of the Concept Proposal was set for July 26, 2024.[161] It remains uncertain both in what form and when the final document will be officially adopted.

One of the most concerning issues is that the RS authorities have taken repressive steps to limit pluralism and discredit civil society organisations, activists, and journalists. This includes **amending the RS Criminal Code to recriminalise defamation,** adopting the **Draft Law on the Special Registry and Transparency of the Work of Non-profit Organisations**, drafting the Law on Immunity, and initiating the Law on Media.

The recriminalisation of defamation in the RS, resulting from amendments to the RS Criminal Code in July 2023, has been viewed by civil society and many media representatives as the beginning of a period of overt repression targeting not only the media but also the citizens.[162] It is important to highlight that the adoption of these amendments poses significant obstacles to media operations across BiH, potentially leading to both censorship and self-censorship. This situation threatens media rights and freedoms, which contradicts the EU path.[163] A year after defamation was

**159** "Human Rights Defenders in Bosnia and Herzegovina – Rights, Position, and Obstacles": Available at: https://kucaljudskihprava.org/en/first-national-report-on-the-status-challenges-and-obstacles-faced-by-human-rights-defenders-in-bosnia-and-herzegovina/ **160** Available at: https://tinyurl.com/k3jmns8z, http://www.mpr.gov.ba/web_dokumenti/default.aspx?id=15004&langTag=bs-BA **161** Available at (in BCS): http://www.mpr.gov.ba/aktuelnosti/vijesti/default.aspx?id=15003&langTag=bs-BA **162** Although the new amendments apply to all citizens, representatives of international organisations and civil society have warned that they might be particularly used against "dissidents", journalists, activists, and civil society representatives. Sokol A. (2023). "Kriminalizacija klevete stupila na snagu: Novinari poručuju da neće odustati." Published at: https://media.ba/bs/magazin-novinarstvo/kriminalizacija-klevete-stupila-na-snagu-novinari-porucuju-da-nece-odustati **163** On July 21, 2024, international institutions in BiH released a joint statement declaring that the criminalisation of defamation violates BiH's international human rights obligations and is not in line with the European path, nor with the 14 key priorities from the European Commission's Opinion. Oslobođenje (2023). Published at: https://www.oslobodjenje.ba/vijesti/bih/sloboda-govora-vise-ne-postoji-na-snagu-stupio-zakon-kojim-kleveta-postaje-krivicno-djelo-887544

recriminalised under the law, 122 criminal reports have been filed.[164] Although there are no defendants for now, numerous reports indicate that such a law will be utilised as a form of intimidation until prosecutorial and judicial practice is established.

Despite criticism and opposition from a number of CSOs[165] and international organisations, the RS adopted the **Draft Law on the Special Registry and Transparency of the Work of Non-profit Organisations** (*the so-called Law on Foreign Agents*) in September 2023, which violates human rights and contradicts EU standards. Many CSOs and the media have declared this Draft Law to be another in a series of repressive laws in the RS, which aims to control and limit the free activities of civil society organisations while also posing a significant threat to the overall human rights and democracy situation in BiH.[166] The so-called "agents of foreign influence" would be CSOs that receive financial and other types of support from foreign entities while also engaging in political activities (which is already prohibited by the **Law on Associations and Foundations**). Such a repressive Draft Law seriously threatens to limit the activities of independent associations[167] and the media, including a ban on the work of organisations engaged in political activities that are very broad and prone to arbitrary interpretation.

Then, a few months later (in March 2024), the RS Government determined the **Proposal of the Law on Special Registry and Transparency of the Work of Non-profit Organisations** in complete secrecy and referred it to the RS National Assembly for adoption, once again violating the rules and procedures for passing laws, to which the CSOs responded.

Ahead of the parliamentary debate on the law proposal, 46 non-governmental organisations from BiH wrote an open letter to MPs urging them not to vote for the disputed law.[168] On May 28, 2024, under pressure from international officials, the law proposal was withdrawn from the procedure "for revision"[169] without explanation, and the President of Republika Srpska stated that the law will be reintroduced to the procedure "in due course".[170]

It is worth noting the **Law on Immunity of the Republika Srpska**, which, despite facing significant criticism, was adopted and came into effect on May 8, 2024.[171] This law grants immunity to high-ranking officials, effectively enabling impunity for acts of corruption.

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**164** Popović V. (2024). "Za godinu dana 122 krivične prijave za klevetu". Published at: https://www.slobodno.org/za-godinu-dana-122-krivicne-prijave-za-klevetu/ **165** Radio Slobodna Evropa (2023) "U Banjaluci održan protest protiv zakona o stranim agentima". Available at: https://www.slobodnaevropa.org/a/bosna-hercegovina-banja-luka-strani-agenti-zakon/32650344.html. TI BiH, see: https://ti-bih.org/ti-bih-na-protestu-protiv-zakona-o-stranim-agentima/ **166** https://faktor.ba/bosna-i-hercegovina/aktuelno/nsrs-usvojen-nacrt-zakona-o-posebnom-registru-i-javnosti-rada-neprofitnih-organizacija/167937 **167** The law proposal called for excessive reporting, flagging foreign-funded materials, raising the risk of bureaucratic harassment and imposing disproportionately severe sanctions for non-compliance. For more details, see (in BCS): https://www.capital.ba/prijedlog-zakona-o-stranim-agentima-rigidniji-od-nacrta/ **168** Associations against the "Law on Non-Profit Organisations in RS": Everyone, from trade unions to humanitarian and sports organisations is under attack! Announcement available at: https://ti-bih.org/associations-against-the-law-on-non-profit-organizations-in-rs-everyone-from-trade-unions-to-humanitarian-and-sports-organizations-is-under-attack/?lang=en **169** Mediaba ( 2024). Bez objašnjenja povučen Prijedlog Zakona o "stranim agentima" u RS-u. Published at: https://media.ba/bs/vijesti-i-dogadaji-vijesti/bez-objasnjenje-povucen-prijedlog-zakona-o-stranim-agentima-u-rs-u **170** More in the press report at (in BCS): https://n1info.ba/vijesti/dodik-najavio-vracanje-zakona-o-nvo-i-stranim-agentima-u-proceduru/ **171** The RS Law on Immunity. Available at: Law on Immunity of the Republika Srpska (in BCS): https://www.narodnaskupstinars.net/?q=la/akti/usvojeni-zakoni/zakon-o-imunitetu-republike-srpske

## Freedom of Assembly

In BiH, the freedom of assembly is governed by 12 laws. However, excessive bureaucracy, overbroad institutional powers, and excessive burdens for organisers significantly hinder the ability to exercise the right to peaceful assembly. Additionally, since the legal provisions differ, this right is not equally available to all human rights defenders in BiH.

To illustrate this point, several examples will be highlighted where the freedom of assembly was restricted or obstructed. For example, in April 2023, the municipal authorities in Vlasenica denied permission for a public assembly organised by the "Eco Activists of Vlasenica," who opposed the construction of a plastic waste incinerator due to health concerns for the local population. Despite submitting an application for a peaceful assembly, they were verbally informed that it would not be permitted, and their petition against the construction was also dismissed.[172] Nevertheless, the assembly of activists and citizens ultimately took place.[173]

In October of the same year, the **RS Ministry of Internal Affairs prohibited the planned protest walk** in Banja Luka pertaining to the Draft Law on the Special Registry and Transparency of Non-Profit Organisations.[174] Instead of a protest walk, on October 24, 2023, an assembly was convened at Trg Krajine. In May 2024, in response to the Proposal of the Law on Foreign Agents and to protest its undemocratic and repressive measures, activists performed the artistic piece titled "Burial of Democracy" in front of the RS National Assembly. This led to misdemeanour charges against them for not reporting the assembly, that is, in this case, the performance, as well as for alleged insults.[175] In June 2024, "Cardboard Revolution" activists protested against illegal activities at Prokoško Lake. During the protest, they were verbally abused, "occupied" for several hours, and faced criminal charges. This highlights the challenges faced by environmental activists in BiH.[176]

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**172** Direkt (2024). Uprkos političkim pritiscima "Eko aktivisti Vlasenica" nastavljaju borbu protiv otvaranja objekta za hemijsko-termičku preradu plastike. Published at: https://direkt-portal.com/uprkos-politickim-pritiscima-eko-aktivisti-vlasenica-nastavljaju-borbu-protiv-otvaranja-objekta-za-hemijsko-termicku-preradu-plastike/
**173** Published at: https://antikorupcija.info/eko-aktivisti-nakon-subotnjih-protesta-porucili-gradjani-vlasenice-kao-i-okolnih-opstina-su-pokazali-da-ne-zele-da-postanu-evropska-deponija-smeca/ **174** Vukojević N. (2023). Policija zabranila protestnu šetnju povodom "zakona o stranim agentima". Published at: https://www.nezavisne.com/novosti/bih/Policija-zabranila-protestnu-setnju-zbog-zakona-o-stranim-agentima/795971 **175** Jokić A. (2024). Review of the character and validity of the punishment of the participants of the "Burial of Democracy" performance. Available at: https://kucaljudskihprava.org/en/review-of-the-character-and-validity-of-the-punishment-of-the-participants-of-the-burial-of-democracy-performance/
**176** Face Tv (2024). "Karton revolucija": "Gdje je Ramo Isak na Prokoškom jezeru?". Published at: https://face.ba/vijesti/bih/karton-revolucija-gdje-je-ramo-isak-na-prokoskom-jezeru/413678/

# PRIORITY 12:

## Guarantee freedom of expression and media and the protection of journalists, n particular through (a)Ensuring appropriate judicial prosecution of cases of threats and use of violence against journalists and media workers, and (b)ensuring the financial sustainability of the public service broadcasting system

### Media Freedoms

Journalists in BiH are often targets of verbal threats and attacks, sometimes even physical, and are exposed to different types of pressure, and at the same time, the authorities and certain politicians work to further suppress media freedoms. This negative phenomenon is confirmed by the **recriminalisation of defamation** in the RS, which poses a serious threat to free journalism, freedom of expression and information of citizens. There are also frequent **SLAPPs** (strategic lawsuits against public participation)[177] *in both entities, especially against investigative journalists discovering corruption and criminal affairs.*

In 2023, a total of 87 cases of threats to security and threats to journalists were registered in the FMHL (Free Media Help Line) database, indicating a 10.12% increase in violence against journalists and the media compared to 2022. These threats ranged from death threats to political pressures. Of this number, only 25.4% of reported cases were resolved in favour of journalists and the media. From October 2023 to July 2024, 50 new cases of violations of media freedoms were recorded, as well as threats to journalists related to professional rights and safety.[180]

In 2024, BiH fell 17 places on the Reporters Without Borders' (RSF) World Press Freedom Index. It is ranked 81st compared to the year before when it ranked 64th, thus recording the biggest step backwards of all Western Balkan countries.[181]

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**177** Iliktarević V. (2023). Borka Rudić: The Journalists' Defence Fund will be swamped with SLAPPs, but the legal team is ready. Published at: https://autonomija.info/borka-rudic-fond-za-odbranu-novinara-bice-zatrpan-slucajevima-slapp-tuzbi-ali-pravni-tim-je-spreman/ **178** Data from BH novinari and Free Media Help Line (FMHL). **179** Ibid. **180** Ibid. **181** N1 (2024). "Indeks medijskih sloboda 2024: BiH nazadovala za sedamnaest mjesta", Published at: https://n1info.ba/vijesti/indeks-medijskih-sloboda-2024-bih-nazadovala-za-sedamnaest-mjesta/

There is also a growing trend of political pressure and verbal insults against journalists and the media by politicians and public officials, from ministers[182] to presidents.[183] Threats to women journalists and cases of gender-based violence have not subsided either, and there were several attacks on women journalists.[184]

## Judiciary and Media

The efficiency of the judiciary and the police in protecting media freedom and safety of journalists has not increased drastically, but there has been some progress. In the previous period, there have been several positive examples from judicial institutions,[185] but also some improvement in the efficiency of steps towards the safety of journalists. A positive development towards the more effective protection of safety of journalists and media workers is related to the **appointment of "contact points"** for security – persons in prosecutors' offices and police structures who will be responsible for recording cases of threats to journalists, initiating urgent investigations and keeping records of the number of attacks. The Sarajevo Canton Prosecutor's Office was the first to appoint a contact person for the safety of journalists. A total of 32 "contact points" for the safety of journalists were appointed in the prosecutor's offices and police from November 2023 to the end of May 2024.[186] The BiH High Judicial and Prosecutorial Council (HJPC) adopted a recommendation on their appointment, and chief prosecutors made individual decisions on "contact points", appointing prosecutors and ordering the keeping of records of attacks and urgent investigations in these cases. Also, **the HJPC opened a separate link** with contacts on its website.[187]

## New Media Laws

The BiH Parliamentary Assembly adopted the new L**aw on Freedom of Access to Information** in late August 2023, despite strong opposition from civil society and some media. This was mainly because of parts of the Law that establish exceptions to the provision of information and stipulate that appeals against decisions of the institutions will be decided by the Appeals Council at the Council of Ministers, which is also the proponent of the Law.[188]

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**182** In May 2024, the Board of the BH Novinari Association sent a public protest to Elmedin Konaković, Minister of Foreign Affairs of BiH, for another attack on Avdo Avdić, journalist and editor of Istraga.ba portal, which posed a security risk. See at: https://www.klix.ba/vijesti/bih/bh-novinari-napad-konakovica-na-avdu-avdica-je-van-svakog-razuma-i-u-maniru-gebelsovske-masinerije/240509116 **183** In November 2023, Milorad Dodik, president of Republika Srpska, phoned N1 journalist Snežana Mitrović, and shouted, insulted her and cursed. See at: https://n1info.ba/vijesti/nakon-prijetnji-novinarka-n1-dobila-i-poziv-od-dodika-psovao-je-galamio-i-vrijedjao/ **184** Thus, BH novinari and the International Federation of Journalists (IFJ) sent a letter to Republika Srpska Minister of Internal Affairs Siniša Karan and Republika Srpska Justice Minister Miloš Bukejlović, demanding their involvement in the investigation of threats against journalist Nataša Miljanović Zubac from Trebinje. Press releases available at: https://bhnovinari.ba/bs/2022/06/15/bh-novinari-hitno-istraziti-slucaj-paljevine-automobila-novinarke-rtrs-a-iz-trebinja/, https://bhnovinari.ba/bs/2024/06/13/medjunarodna-federacija-novinara-pismo-podrske-za-natasu-mijanovic-zubac-novinarku-iz-trebinja/, Based on a report of BH Novinari about harassment of Al Jazeera's journalist, Žana Kovačević, the Sarajevo Canton Prosecutor's Office started an investigation. Due to the frequency of gender-based violence against journalists, BHN also filed complaints with the Institution of Human Rights Ombudsman of BiH and the Gender Centre of the Government of Republika Srpska against the mayor of Šipovo Municipality for verbally attacking a journalist and the editor-in-chief of the Capital portal. Similar reactions were observed in other cases of attacks on journalists. **185** According to records of BH novinari, these are: The verdict in favour of the BIRN journalist, issued and confirmed indictment against Jasmin Mulahusić, who threatened journalists through his Facebook account for years (2019 – 2023); the case of a Reprezent's journalist from Velika Kladuša, issued indictment against a person who had been threatening the newsroom of the eTrafika portal from Banja Luka for months... **186** Data from BH novinari. novinari. **187** Portal of BiH judiciary. Available at: https://pravosudje.ba/vstvfo/B/10001/kategorije-vijesti/122916 **188** CIN (2023). New state-level Law on Freedom of Access to Information adopted. Published at: https://cin.ba/usvojen-novi-drzavni-zakon-o-slobodi-pristupa-informacijama/

Concerns of the media community were also caused by the events in the RS, where legislation pertinent to journalists and media have undergone amendments that are contrary to the EU standards. After the recriminalisation of defamation with the Draft Law on the so-called "foreign agents", it was also encouraged by the establishment of a working group for drafting a **law on media in the RS.**[189] This informal body consists of 18 members, including representatives of public and private media, lawyers and members of the RS Association of Journalists. Journalists wonder whether this will be another attack on the media.[190] Many media, especially those registered as non-governmental organisations, fear that the announced law, which is surrounded by secrecy, could threaten their status and activities on the territory of the RS and continue the pressure on media freedoms.[191]

Public authorities in other parts of Bosnia and Herzegovina are also active when it comes to amendments to media legislation that can have a major impact on the future of freedom of expression and media freedoms.

Throughout 2023, a "battle" was fought to prevent the adoption of the law on offences against public order and peace in the Sarajevo Canton, which treats the Internet as an offline public space. The Working Group for the development of the **Draft Law on Minor Offences against Public Peace and Order in the Sarajevo Canton**[192] finished its work and submitted the document to the SC Ministry of Internal Affairs without reaching an agreement on the definition of the Internet and social networks as "public space", as well as punishment of those spreading hate speech, fake news and committing other actions against citizens' safety online. BHN and the Press Council did not accept the provisions referring to the Internet as a public space, nor did they support any police powers related to the spread of false news and other media content that may have negative consequences for citizens and safety.[193] In the Herzegovina-Neretva Canton (HNC), the authorities announced that they plan to make similar amendments to the HNC Law on Public Order and Peace in the coming period.[194]

## Public Broadcasters

Developments around public broadcasters in BiH were very dramatic, both in 2023 and 2024, and the court had to respond, and as it seems, the judiciary will continue to respond, because criminal reports were submitted.[195] And viewers and employees suffer the most. On 8 May 2024, BHRT blackened the screen and silenced the radio programme

**189** The RS Prime Minister defended the need to pass a new law, citing misinformation concerns. **190** See at: https://media.ba/bs/magazin-novinarstvo/novi-zakon-o-medijima-u-rs-u-jos-jedan-udar-na-medijske-slobode **191** Katić G. (2023). Unknowns and selective availability of the announced media law in the Republika Spska. Published at: https://www.slobodnaevropa.org/a/zakon-o-medijima-rs-radna-grupa/32642964.html **192** Gačanica L. (2023). A tendentious legislative bite in Sarajevo Canton. Published at: https://media.ba/bs/magazin-novinarstvo/tendeciozni-zakonski-zalogaj-u-kantonu-sarajevo **193** BH novinari: Draft Law on Public Peace and Order of the Sarajevo Canton violates the freedom of expression. Read more at: https://avaz.ba/vijesti/bih/835477/bh-novinari-nacrt-zakona-o-javnom-redu-i-miru-u-ks-krsi-slobodu-izrazavanja. Representatives of BH Journalists and the Press Council were members of the working group, together with representatives of the SC Ministry of Internal Affairs, the EU Delegation (as observers), OSCE and public security experts. **194** BHN initiated the existing Early Warning and Prevention System (EWPS) to legally prevent amendments to the Law on Public Order and Peace in the Herzegovina-Neretva Canton announced by the Minister of Internal Affairs Mario Marić at a press conference in Mostar: News at: https://abrasradio.info/mup-hnk-nedostaje-i-ljudi-i-uniformi/ **195** A story at FTV (2024). Who will be held responsible from the BHRT Management: Criminal reports filed to SIPA and BiH Prosecutor's Office. Published at: https://www.federalna.ba/rtvfbih-podnijela-kivicnu-prijavu-protiv-uprave-bhrt-a-zbog-gasenja-signala-qnhyu

of RTV FBiH because of alleged illegal retention of money collected for RTV licence fee on the FBiH public broadcaster's account, instead of transferring it to BHRT. The BHRT public broadcaster also objects RTV FBiH for not paying bills for previous services, which allegedly adversely affected the delay in salaries for employees of the state-level broadcaster and its operations in general. Due to the programme interruption, i.e. the screen blackout, the journalists' associations reacted,[196] as did the Municipal Court in Sarajevo, which passed a temporary measure in May ordering the Radio Television of Bosnia and Herzegovina (BHRT) to broadcast the signal of the Radio Television of the Federation of Bosnia and Herzegovina (FTV). Otherwise, BHRT would face fines. The decision of the Municipal Court in Sarajevo states that this temporary measure remains in force until the next decision of the Municipal Court.[197] At the end of May 2024, BHRT and FTV signed a cooperation agreement,[198] which ended, at least temporarily, the agony of employees, but also of viewers. However, challenges remain in ensuring the financial sustainability of the public broadcasting system. Of note, a corporation that was supposed to collect the RTV licence fee, or a fourth legal entity – the corporation that was supposed to perform the functions for all three public broadcasters was never formed.[199]

**196** BHN press release available at: https://bhnovinari.ba/bs/2024/05/08/bh-novinari-odluka-o-zatamnjenju-ekrana-ftv-je-neprofesionalna-i-drustveno-stetna/. **197** More information available at: https://www.media.ba/bs/vijesti-i-dogadaji-vijesti/opcinski-sud-u-sarajevu-naredio-bhrt-u-da-pusti-signal-ftv-u-prethodno **198** More information available at: https://federalna.ba/bhrt-i-ftv-potpisali-sporazum-o-suradnji-okoncana-petomjesecna-agonija-djelatnika-c3m6i **199** Klix (2023). BHRT: In six years, RTRS and FTV damaged us by 72 million BAM, we will not continue operating under these conditions. Published at: https://www.klix.ba/vijesti/bih/bhrt-za-sest-godina-rtrs-i-ftv-su-nas-ostetili-za-72-miliona-km-u-ovim-uslovima-ne-nastavljamo-rad/231228125

# PRIORITY 13:

## Improve the protection and inclusion of vulnerable groups, in particular persons with disabilities, children, LGBTI persons, members of the Roma community, detainees, migrants and asylum seekers, as well as displaced persons and refugees in order to close Annex VII of the Dayton Peace Agreement.

### Persons with Disabilities

In BiH, a single definition of "disability" and[200] therefore of persons with disabilities has not been provided yet, and this term is still defined through entity-level and cantonal laws, depending on the area being regulated (health and social care), so it is necessary to constantly point out various problems facing persons with disabilities, as well as more adequate communication and removal of barriers.[201] The constituent session of the BiH Council for Persons with Disabilities,[202] which was held on 19 February 2024, comprises 30 members in the new convocation, 15 from the movement of persons with disabilities and 15 from government institutions.

When it comes to the entity level, the FBiH currently works on a new strategy to improve the rights and position of persons with disabilities, which would replace the previous strategy, which expired in 2021.[203] The **2017-2026 Strategy for Improving the Social Position of Persons with Disabilities**[204] is being implemented in the RS, and the reports on its implementation, prepared by the Interdepartmental Body of the RS Government are not available to the general public. The BD BiH still works on drafting of the law on employment of persons with disabilities, which should be harmonised with the Convention on the Rights of Persons with Disabilities and enable greater employment opportunities in the open labour market, but what the law will ultimately look like is yet to be seen, especially its application in practice.

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**200** "Guidelines for the improvement of everyday communication with persons with disabilities" is the title of the manual that was developed by the Institution of Human Rights Ombudsman in Bosnia and Herzegovina. See story at: https://federalna.ba/predstavljene-smjernice-za-unapredenje-svakodnevne-komunikacije-s-osobama-s-invaliditetom-ecqrj **201** „See at: https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2024040314070521bos.pdf, Rights of persons with disabilities. **202** https://multiplaskleroza.ba/2024/03/02/konstituisano-vijece-za-osobe-s-invaliditetom-bosne-i-hercegovine/. **203** Strategy for improving the rights and position of persons with disabilities in the FBiH, FBiH Ministry of Labour and Social Policy, which expired in 2021. Available at: https://fbihvlada.gov.ba/uploads/documents/strategija-za-unapredenje-prava-i-polozaja-osoba-sa-invalidite-compressed_1640955588.pdf **204** Strategy for improving the social position of persons with disabilities 2017-2026, Ministry of Health and Social Protection of the RS, Available at: https://www.vladars.net/sr-SPCyrl/Vlada/Ministarstva/MZSZ/dokumenti/Documents/Strategija%20unapređenja%20društvenog%20položaja%20lica%20sa%20invaliditetom.pdf

The **Law on Parent Caregivers** from 2021 is in force in the FBiH, but due to certain problems observed, amendments to the law should be done during 2024, and the non-governmental sector emphasises that the most important thing is to improve and supplement the law with children's rights.[205]

## New Laws

There are several laws in the drafting process in FBiH dealing with rights of vulnerable groups. The **Law on Protection of Civilian Victims of War**[206] has been adopted. **The Law on Uniform Principles and Framework of Material Support to Persons with Disabilities in FBiH**[207] is awaiting adoption by the House of Peoples, and the defined **Draft Law on Social Services,**[208] which would define for the first time what social services are and who provides them, is in the parliamentary procedure. These laws aim to protect and improve the rights of persons with disabilities, but are not fully aligned with the Convention on the Rights of Persons with Disabilities, which was ratified by BiH in 2010.

**The Law on Uniform Principles and Framework of Material Support for Persons with Disabilities** stipulates that disability is assessed according to uniform rules applicable to all, regardless of the cause of disability, which is one positive change. Nevertheless, the aforementioned law focuses only on persons whose disability is not related to the war, estimated at 90 to 100%, while persons with a lower percentage of disabilities should exercise their rights at the cantonal level.

The **Law on Protection of Civilian Victims of War in FBiH** singles out a group of people who acquired disability as civilians during the war and, like the previous law, categorises them according to the percentage of damage to the body. Of note, this law for the first time includes a special category of civilian victims of war, **including victims of sexual abuse and children born of wartime rape.** Both laws grant rights based on the percentage of damage to the body, i.e., they apply a medical approach to disability, which is contrary to the social model of disability promoted by the Convention. One of the main problems in drafting these laws is the failure to include persons with disabilities at an early stage of the legislative process.

## LGBTI Rights

LGBTI people in BiH face various challenges and obstacles in exercising their rights and freedoms.

By extending the period of implementation of the[209] **Action Plan for the Improvement of Human Rights and Fundamental Freedoms of LGBTI Persons in BiH** until the end of

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**205** BHRT story: "Zakon o roditeljima njegovateljima trebao bi doživjeti promjene nabolje". Published at: https://www.bhrt.ba/zakon-o-roditeljima-njegovateljima-trebao-bi-do%C5%BEivjeti-promjene-nabolje
**206** ZLaw on the Protection of Civilian Victims of War in FBiH, Ministry of Labour and Social Policy of FBiH, available at: https://fbihvlada.gov.ba/bs/9-zakon-o-zastiti-civilnih-zrtava-rata-u-federaciji-bosne-i-hercegovine
**207** Proposal of the Law on Uniform Principles and Framework of Material Support for Persons with Disabilities in FBIH, Ministry of Labour and Social Policy of FBiH: https://fbihvlada.gov.ba/uploads/documents/prijedlog-zakona-o-jednacelima-b-compressed_1710409739.pdf **208** Draft Law on Social Services in FBiH, Ministry of Labour and Social Policy of FBiH, available at: https://parlamentfbih.gov.ba/v2/userfiles/file/Materijali%20u%20proceduri_2024/Nacrt_zakona_soc_usluge_b.pdf **209** The 37th session of the Council of Ministers of Bosnia and Herzegovina held" 2024 Vijeceministara.gov.ba. 2024 https://www.vijeceministara.gov.ba/saopstenja/sjednice/saopstenja_sa_sjednica/default.aspx?id=42400&langTag=hr-HR .

2025, the shortened implementation period of the Action Plan, which was initially caused by its delayed adoption, was partially compensated for.[210]

The FBiH law on same-sex partnerships has not yet been adopted, nor has the legislation on legal recognition of gender been drafted. In both cases, these are long processes that are hampered by the FBiH Ministry of Health (FMoH) refusing to appoint a member of the working group.[211] In June 2023, the FBiH Government tasked line ministries to appoint their experts to work on drafting the law on same sex partnerships of FBiH. The line ministries, provided the names of experts, except for the FMoH.

In the RS, there are tendencies to derogate from the Istanbul Convention by amending laws that protect persons of different sexual orientation and/or gender identity due to the so-called introduction of gender ideology. As mentioned above under priority 9 of fundamental rights, conservative organisations that advocate for a traditional family reacted[212] from their perspective and requested that the authorities withdraw the Draft Law on Protection from Domestic Violence and Violence against Women by spreading misinformation that this law introduces gender ideology and spreads LGBTI rights in the society, allegedly violating the traditional family, which led to the withdrawal of the Draft Law. The activities of these anti-gender and conservative organisations and the agreement of the RS authorities with their views pose a risk to women's rights, directly violate the constitutions, laws and international standards, and slow down the EU accession process, given that the improvement of the LGBTI position and gender equality are a priority that BiH must address more seriously.

When it comes to the judiciary, compared to the previous Alternative Report, a progress has been made in the appointment of "contact persons" in even more prosecutors' offices, to whom citizens can directly address and report violence based on their sexual orientation and/or gender identity, i.e., appointments at the level of the Prosecutor's Office of the Brcko District, and prosecutors' offices in the RS, with the exception of the District Public Prosecutor's Office of Prijedor. The importance of the appointment of "contact persons" is also shown by the fact that, with the support of the appointed "contact person" of the Sarajevo Cantonal Prosecutor's Office, a verdict was passed in June 2024 for the criminal offence of robbery and blackmailing members of the LGBTI community, and the defendants were sentenced to a total of 5 years in prison.[213]

When it comes to activism for LGBTI rights, the Fifth BiH Pride was held in late July 2024, and the Organising Committee of the BiH Pride faced the same challenges during the organisation as last year. Also, the attack on Pride activists, which took place in March 2023, still hasn't reached an epilogue at the court.

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**210** As a reminder, the action plan has been implemented since 2021, and it was adopted in mid 2022; therefor, the implementation period was shortened by more than a year as of the adoption date. **211** Pink Report 2024, Annual Report on the State of Human Rights of LGBTI People in Bosnia and Herzegovina, Sarajevo Open Centre. Available at: https://soc.ba/rozi-izvjestaj-2024-godisnji-izvjestaj-o-stanju-ljudskih-prava-lgbti-osoba-u-bosni-i-hercegovini/ **212** Bajić D. (2024). The law offers protection to women only in its title. Published at: https://www.glassrpske.com/lat/drustvo/vijesti/zakon-samo-u-nazivu-stiti-zene/503755 **213** Federalna (2024). A total of five years in prison for robbery of LGBTIQ community members. Published at: https://federalna.ba/ukupno-pet-godina-zatvora-za-razbojnistvo-nad-pripadnicima-lgbtiq-zajednice-h7klh

# PRIORITY 14:

## Complete essential steps in public administration reform towards improving the overall functioning of the public administration by ensuring a professional and depoliticised civil service and a coordinated countrywide approach to policy making.

The new **Law on Freedom of Access to Information at the level of the institutions of Bosnia and Herzegovina** has been in force since **September 2023**.[214] The very name of the law shows that its application is only related to the institutions of Bosnia and Herzegovina. In this way, t**he BiH Brčko District has lost the legal ground for ensuring the implementation of freedom of access to information. The law contains a long list of exceptions or possible restrictions on access to information held by public authorities, thus limiting access to data of public interest, even in relation to the previously applicable law.** The proponent tried to replicate the model from the Republic of Croatia where, unlike BiH, an independent Commissioner institution was established. **The Appeals Council within the Council of Ministers of BiH assumed the role of a second-instance body for all special administrative procedures pertaining to access to information at the state level, rejecting the suggestions and opinions of the competent institutions of the European Commission and SIGMA** for the establishment of a new independent body that would perform supervisory inspection of the law implementation and serve as a second-instance body on appeals against decisions on access to information. In the past, the Council of Ministers had delays in its operations, which was directly reflected in the bodies functioning within the Council of Ministers. The extension of deadlines for the adoption of the second-instance decision in cases where it is necessary to consider a public interest test was also criticised. In the first year of implementation of the Law, it turned out that the decisions of the second instance body upon appeals were not delivered within the legal time limits to the applicants who were denied access to information.

**The Law on Administrative Procedure** lays down that the first-instance body is to submit to the parties the second-instance decisions within 5 days of receiving them from the second-instance body. However, **the first-instance bodies often violate the statutory deadline, and the legislator did not prescribe any minor offence provisions for such conduct.** Some authorities interpret provisions on proactive disclosure of

**214** The text of this law has been worked on since 2019 with the support of international expert bodies, and the Ministry of Justice of BiH ignored over 200 comments and proposals submitted by civil society organisations during public consultations held in 2021. The law was pulled out of a drawer after two years and adopted without amendments proposed by the opposition, which addressed the main objections of civil society and the EU.

information arbitrarily, which is particularly evident in the practice of the **Council of Ministers of BiH, which refuses to publish the materials discussed at their sessions, including draft laws of the highest public interest.** This allows for fundamental changes to the scope and content of the proposed legislation at the session itself. The public gets an insight into these laws only when they are sent to the parliamentary procedure, which not only undermines transparency, but also affects the quality of the adopted legislative solutions and reduces public confidence in the institutions. TI in BiH published a survey[215] on the application of the law on freedom of access to information in September 2023. In a sample of 428 public enterprises, almost 50% of them responded to requests for access to information on the composition of management bodies, amounts of salaries and benefits, headcount, and 2022 financial statements within statutory deadlines. A significant number of urgencies and appeals were submitted in a later stage of the proceedings. The same information was requested from 792 public institutions, and 79.5% responded within the statutory deadline. **Analysis of the provisions of the new law shows that the mandate of the BiH Ombudsman Institution**[216] **has been largely changed**, resulting in the inability to comprehensively monitor the situation in this area and prepare information for the public."

## Civil Service Law

**Amendments to the Law on Civil Service in the Institutions of Bosnia and Herzegovina**[217] **were adopted in March 2024** despite criticism from the civil society. Although these amendments were intended to depoliticise and reorganise the civil service in line with the European Commission Opinion, **the adopted text contains a number of shortcomings**. It allows for persons without a university degree and BiH citizenship and those legally eligible for retirement to be appointed as advisors to members of the BiH Presidency, the Chair and Ministers in the Council of Ministers, and to the Governor and Vice-Governor of the Central Bank of BiH. At the same time, the Law introduces a new post - an inspector, thereby strengthening his position as an officer with special powers. Probationary period will not be mandatory for existing civil servants who change position in civil service. Compared to the earlier version of the law, which stipulated performance evaluation of civil servants every six months, the amendments envisage annual evaluation. These amendments **do not adequately address the issue of employment and selection of civil servants, missing the opportunity to improve the merits-based employment**, i.e., to restore public trust in the public competition concept. **The establishment of the Register of Employees in the Institutions of Bosnia and Herzegovina,** as one of the key conditions for the beginning of a systemic public administration reform at the state level, is one of the positive developments; however,

**215** https://ti-bih.org/wp-content/uploads/2023/10/Primjena-zakona-o-sobodi-pristupa-informacijama-u-BIH.pdf. **216** "Legislation governing the right of access to information is fragmented. With the adoption of a new state-level law, the independence of the appeals procedure has yet to be harmonised with international and European standards. The rules on data protection and access to information are still interpreted in a way that protects private rather than public interests and such rights are inconsistently ensured at all levels of government. Analysis of the provisions of the new law shows that the mandate of the BiH Ombudsman Institution has been largely changed, resulting in the inability to comprehensively monitor the situation in this area and prepare information for the public." - Annual Report on results of the activities of the Institution of Human Rights Ombudsman of BiH for 2023, available at: https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2024040915403579bos.pdf **217** "Official Gazette of Bosnia and Herzegovina", 18/24 of 15.3.2024

**the provision of the Law regulating this issue is not harmonised with the recommendation of the Personal Data Protection Agency,** i.e., with the General Data Protection Regulation. **Entity-level civil service laws allow for too wide a discretion**[218] **and do not require the appointment of the best candidate,** which allows political appointees to influence the recruitment process, especially in higher positions. This problem was also recognised by the BiH Ombudsman Institution that emphasised in their annual report the issue with the appointment of the best candidates following the competition procedure, as well as recommendations for amending relevant legislation.[219]

## Laws on Administrative Procedure and their Implementation

There are still **problems in the implementation of the provisions of administrative procedure laws, depending on the level of government.** Administrative bodies often do not meet the deadlines for handling requests of parties to the proceedings.[220] Also, **the main procedural principles are often neglected, especially the principle of material truth**, because as a rule, only the evidence proposed by the party itself is presented. In addition, despite the clearly defined obligation, the **administrative bodies do not obtain information on facts which is kept in the official records by the competent authority or other authority, a company, institution or other legal entity, by virtue of office.** In this way, they pose an excessive burden on the applicant. When resolving administrative matters, **administrative bodies often apply secondary legislation (regulations-bylaws), which often** prescribes different conditions or (additional) criteria for the exercise of citizens' rights **contrary to the provisions of primary legislation**, which ultimately makes some of the rights prescribed by law illusory, and tightens the conditions or criteria for the recognition of such right, in contradiction to the provisions of the law.

**Courts in administrative disputes** (through judicial control of lawfulness of administrative acts) **are often able to see the wrong interpretation and consequently the wrong application of the law by the competent administrative bodies.** Although, when controlling the lawfulness of administrative acts, courts apply substantive legislation and return cases to administrative bodies for retrial if they establish any unlawful elements, many decisions evidently show that administrative procedures are unreasonably long and that there are issues with quality of decisions of administrative bodies, especially in the domain of "trial within a reasonable time" referred to in Article 6 of the European Convention (e.g. pension and disability insurance cases or those pertaining to social rights).[221] Also, **the different levels of efficiency of courts in the country cause inequality among citizens in exercising the right to an efficient administrative procedure.** Systematic data collection related to the right of citizens to compensation for damages caused by unlawful practices or omissions of public administration is also missing.[222]

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**218** European Commission, Report on Bosnia and Herzegovina for 2023, 8.11.2023, page 21, https://www.eeas.europa.eu/sites/default/files/documents/2023/Izvje%C5%A1taj%20o%20Bosni%20i%20Hercegovini%20za%202023.%20%20-%20BHS%20prijevod%20%28002%29.pdf **219** Ombudsman Institution of BiH, Annual Report on results of the activities of the Institution of Human Rights Ombudsman of BiH for 2023, pages 83-85, available at: https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2024040915403579bos.pdf **220** Which is particularly visible in the proceedings based on asylum applications in BiH **221** Checklist of the rule of law for Bosnia and Herzegovina, Konrad Adenauer Foundation and Association Vaša prava BiH, August 2021, available at: https://storage.googleapis.com/strapi-vasaprava/RED_Kontrolna_lista_vladavine_prava_Bi_H_2021_4af4b5de8a/RED_Kontrolna_lista_vladavine_prava_Bi_H_2021_4af4b5de8a.pdf **222** European Commission, Report on Bosnia and Herzegovina for 2023, 8.11.2023, page 24, https://www.eeas.europa.eu/sites/default/files/documents/2023/Izvje%C5%A1taj%20o%20Bosni%20i%20Hercegovini%20za%202023.%20%20-%20BHS%20prijevod%20%28002%29.pdf

# ANNEX

# OTHER AREAS OF RELEVANCE FOR THE EU INTEGRATION PROCESS

## Chapter 27: Environment and Climate Change

BiH has presented a draft **National Energy and Climate Plan until 2030**,[223] which envisages reducing greenhouse gas emissions by 41.21% and reaching the share of renewable energy of 43.6%. The plan stipulates the shutdown of 410 MW coal-fired thermal power plants and the construction of 2,000 MW renewable energy power plants. One of the measures in this plan is the introduction of an emissions trading system to avoid paying a cross-border CO2 tax. In the analysis of the draft of the National and Energy Climate Plan carried out by the Climate Action Network Europe, it was pointed out that the time frame for the cessation of the use of coal as fuel was not defined, and that there were no strategies for sustainable financing.[224]

The CO2 emission tax collection system should be introduced by the beginning of 2026. The entire decarbonisation process should be harmonised with EU requirements for the introduction of a mechanism for taxation of products produced with high carbon emissions (Carbon Border Adjustment Mechanism - CBAM), and decarbonisation is highlighted as one of the strategic priorities of the **"Green Transition"** programme launched by FBiH Government.[225]

The FBiH Parliament adopted a package of reform laws in the field of energy: **the Law on Electricity,**[226] **the Law on Renewable Energy Sources and Efficient Co-generation**,[227] and **the Law on Energy and Regulation of Energy Activities.**[228] The Law on Electricity simplifies the administrative procedure for the construction and operation of renewable energy plants (solar power plants and wind power plants). The adoption of the law on the use of renewable energy sources and efficient co-generation allows for consumers to produce electricity. Also, this law introduces a new system for encouraging the production of electricity from renewable sources through a more transparent allocation of incentives based on market principles (auctions), for small and large plants.

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**223** Dr Admir Softic, Assistant Minister for energy sector, Draft INTEGRATED ENERGY AND CLIMATE PLAN OF BOSNIA AND HERZEGOVINA," SlideShare, 15 July 2023, available at: https://www.slideshare.net/slideshow/dr-admir-softic-assistant-minister-of-energy-sector-nacrt-integrisanog-energetskog-i-klimatskog-plana-bosne-i-hercegovine/259236012 **224** Viktor Berishaj, "National Energy and Climate Plans: The Western Balkans," CAN Europe, December 18, 2023, https://caneurope.org/national-energy-and-climate-plans-the-western-balkans-2/ .**225** "FMERI I UNDP Potpisali Finansijski Sporazum O Zajednickoj Realizaciji Programa Zelena Tranzicija", FMERI.gov.ba, December 28, 2023, https://fmeri.gov.ba/vijesti/posts/2023/december/fmeri-i-undp-potpisali-finansijski-sporazum-o-zajednickoj-realizaciji-programa-zelena-tranzicija **226** Law on Electricity was published in the Official Gazette of the Federation of BiH, 60/23: https://fmeri.gov.ba/media/2445/zakon-o-elektricnoj-energiji-fbih.pdf **227** Law on Renewable Energy Sources and Efficient Co-generation was published on the website of the FBiH Ministry of Energy, Mining and Industry: https://fmeri.gov.ba/media/1061/zakon-o-koristenju-obnovljivih-izvora-energije.pdf **228** Law on Energy and Regulation of Energy Activities was published in the Official Gazette of the Federation of BiH, 60/23: https://fmeri.gov.ba/media/2446/zakon-o-energiji-i-regulaciji-energetrskih-djelatnosti-u-fbih.pdf

The passing of these laws is in line with the positive developments achieved in the area of the use of renewable energy sources, solar and wind power plants. The Petnjik solar power plant in Grude with an installed capacity of 45 MWh is the first large photovoltaic plant in BiH, and the construction of several more solar power plants is planned with the aim of increasing the share of renewable energy. The EU approved the package of financial investments from the Economic and Investment Plan for the Western Balkans for the construction of two wind farms in Bosnia and Herzegovina and one solar power plant in Albania.[229] The planned construction of block 7 of the Tuzla Thermal Power Plant was suspended after Elektroprivreda BiH, with the consent of the FBiH Government, sent a third warning before contract termination to the consortium from China with which the contract for the construction of block 7 of the Tuzla Thermal Power Plant was signed.[230]

The Republika Srpska Government adopted the **Law on Nature Protection**,[231] which provides new guidelines in the nature protection system. The FBiH Parliament has started the process of adopting the Law on Air Protection, the adoption of which will be a continuation of harmonisation with the acquis in the area of air quality protection.

## Gender and Green Policies

In Bosnia and Herzegovina, there are still no gender-sensitive assessments of the climate change impact on women and other vulnerable groups in society, nor are there gender disaggregated data when it comes to the adoption and application of laws in the field of environmental management, use and protection. Analysis of membership in boards/commissions dealing with environment, transport and energy issues at the state-level and entity parliaments shows that there are only 10.4% of women in these bodies, and that no woman chairs any of these bodies.[232]

There are no unified or aggregated data on owners of land, forests and houses[233] or agricultural land classified by gender. The last complete census of agriculture was carried out back in 1960, and a new one was announced for the second half of 2024.[234] The work of many women in agriculture remains unregistered and unpaid, and women in rural areas are not recognised as a resource that can greatly contribute to sustainable "green" development, especially in organic food production.

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**229** "New Investments Approved under the Economic and Investment Plan for the Western Balkans," WBIF, https://www.wbif.eu/news-details/new-investments-approved-under-economic-and-investment-plan-western-balkans **230** Balkan Green Energy News, "EPBiH poslala treću opomenu kineskom konzorcijumu pred raskid ugovora za projekat Tuzla 7", Balkan Green Energy News, October 11, 2023, published at: https://balkangreenenergynews.com/rs/epbih-poslala-trecu-opomenu-kineskom-konzorcijumu-pred-raskid-ugovora-za-projekat-tuzla-7/ **231** Law on Nature Protection of the Republika Srpska, RSNA, July 16, 2024, available at: https://www.narodnaskupstinars.net/?q=la%2Fakti%2Fusvojeni-zakoni **232** This is noted in the Report on Mapping the Gender Component in Data and Legislation in the area of Climate Change, Environment and Biodiversity: https://shorturl.at/Z3zLY, which was published in December 2022, and presented in April 2023. **233** According to the available data, the owners of land, forests and houses in BiH are still mostly men (more than 60%), while women are more often co-owners than owners of property. These data should be taken with some reservation, because cadastral registers are not complete - a large number of owners do not have the single birth code registered, which would enable distinction based on gender. See: https://shorturl.at/2zPpK **234** Dejan Tovilovic. 2024. "Nakon 63 godine u BiH će se sprovesti popis poljoprivrede." Capital.ba. January 14, 2024 Published at: https://www.capital.ba/nakon-63-godine-u-bih-ce-se-sprovesti-popis-poljoprivrede/

The gender gap is also present in the energy sector, where women have limited control and access to resources and management and decision-making processes concerning energy and the green transition. An analysis of allocations from entity environmental protection funds[235] for the implementation of energy efficiency measures shows that none of the programmes or projects financed by these funds took into account the gender dimension, although the data indicate that more women than men are exposed to energy poverty.[236]

Women environmental activists in BiH targeted by various threats and lawsuits. SLAPP process against Sunčica Kovačević and Sara Tuševljak is still underway,[237] and Amela Šabić Ahmečković who opposed geological research in Jezero municipality on Pliva river was also faced with a SLAPP. Although the lawsuit against Amela was withdrawn eventually, the entire process affected her physical and mental health.[238] Hajrija Čobo, an activist from Kakanj was also sued for defamation. The British company Adriatic Metals initiated a lawsuit against Čobo for alleged damage to the reputation of this concessionaire engaged in exploration and exploitation of ores in Vareš.[239] In April 2024, Adriatic Metals dropped charges against Čobo.

## Combating Hate Speech, Hate Speech among Politicians

Compared to the previous reporting period, when 32 objections related to hate speech were recorded, the Central Election Commission of BiH registered five such objections in 2024.[240] They are recorded on the basis of technical amendments to the Election Law of BiH, which were adopted by the decision of the High Representative in BiH, and the statistics refer to the period from the announcement of the Local Elections until today.[241]

Decisions were made in two cases; for example, in the 33rd session, CEC adopted a decision rejecting voter Mahir Alić's complaint that PDA Municipal Committee Banovići candidate used hate speech at a pre-election rally. The second decision refers to a complaint of the SNSD Vlasenica about the social media posts of the SDS Municipal Committee Vlasenica, stating that this party influenced voters' opinions with mocking posts. In this case, the CEC BiH has already initiated procedures and requested a response from the other party, and will later make a final decision. The remaining three cases of complaints against DEMOS, Tuzlanska Alternativa and Naša Stranka are still being processed, and all of them relate to the use of hate speech on Facebook.

In July 2023, the Sarajevo Canton Ministry of Internal Affairs withdrew the draft law on offences against public order and peace. The draft envisaged that the Internet should be treated as a public space where violations, such as hate speech, would be punished, but according to Minister Admir Katica, it was withdrawn for revision.[242] It was withdrawn following public pressure because of potential bad influence of the law on freedom of speech and its misuse to discipline the media.

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**239** "NGG PARK PRIRODE TRSTIONICA I BORIVA – 'ADRIATIC METALS' TUŽIO EKO-AKTIVISTICU HAJRIJU ČOBO! – Afirmativa Portal" 2023 Afirmativa.ba. December 14, 2023 Published at: https://afirmativa.ba/ngg-park-prirode-trstionica-i-boriva-adriatic-metals-tuzio-ako-aktivisticu-hajriju-cobo/ **240** Engleska verzija „SLAPP – Mechanism for Silencing the Public" dostupna je na linku: https://ndnv.org/wp-content/uploads/2023/12/SLAPP-lawsuits-English.pdf. **241** „NGG park prirode Trstionica i Boriva – 'Adriatic Metals' tužio eko-aktivisticu Hajriju Čobo! – Afirmativa Portal." 2023. Afirmativa.ba. 14. decembar 2023. Objavljeno na: https://afirmativa.ba/ngg-park-prirode-trstionica-i-boriva-adriatic-metals-tuzio-ako-aktivisticu-hajriju-cobo/. **242** Izvještaj o broju prigovora po osnovu govora mržnje tokom izbornog ciklusa u BiH. August 2024. Prigovori podneseni u periodu izborne kampanje – Govor mržnje 2024, Centralna izborna komisija BiH. https://www.izbori.ba/Documents/izbori_2024/prigovori_i_zalbe/prigovori_podneseni_u_periodu_izborne_kam

In March 2024, the Institution of Human Rights Ombudsman of BiH published an annual report[243] stating that they had received eight complaints about hate speech, and the last report of the UN Committee on the Elimination of Racial Discrimination warned about an increase in hate speech,[244] expressing concern over the fact that returnees, as well as other vulnerable population categories were increasingly facing hate speech and hate violence.

## Security Threats for BiH and Prevention Gaps

Since April 2023, the Joint Defence and Security Committee of BiH in the State Parliament held nine regular sessions,[245] discussing various points concerning the security structures in BiH.

When it comes to the work of the Council of Ministers, at the 52nd session held on 18 June 2024, this body adopted the Information on Security Status in BiH for 2022,[246] at the proposal of the Ministry of Security. The information reads that 2022 was a challenging year from the security aspect, but that the security agencies managed to keep the situation at a satisfying level. It further reads that security was influenced by significant changes that occurred at the global and local levels, which is also expected in 2023. Furthermore, it is noted that BiH is still a transit country for narcotic drugs, and that BiH was not the target of any terrorist attacks, and BiH citizens did not participate in any acts of terrorism.

On the other hand, the report of Christian Schmidt, the High Representative for BiH before the UN Security Council[247] reads that a great danger lies in the fact that the authorities of the Republika Srpska Entity pose a threat to the functionality of the State, promote the idea of secessionism and advocate for the abolishment of the State judicial institutions.

Cyber security was also highlighted as a special problem, and the new report of the Balkan Investigative Reporting Network (BIRN) of Bosnia and Herzegovina and CSEC on cyber security threats in BiH[248] from October 2023 shows that BiH does not have a cyber security strategy yet, nor an official national cyber-attack response team, which slows down responses to online threats. The report assessed that some progress has been made in the adoption of key documents, but the law and a comprehensive strategic framework for cyber security are yet to be adopted, as well as a law defining the critical infrastructure that should be defended.

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**243** "Annual Report on results of the activities of the Institution of Human Rights Ombudsman of BiH for 2023" n.d. Accessed August 18, 2024. https://www.ombudsmen.gov.ba/documents/obmudsmen_doc20240409154035 79bos.pdf . **244** "UN Committee on the Elimination of Racial Discrimination - Concluding Observations on Bosnia and Herzegovina", n.d. Accessed August 26, 2024. https://www.ohchr.org/en/press-releases/2024/08/un-committee-elimination-racial-discrimination-publishes-findings-belarus **245** Official web presentation of the Joint Committee on Defence and Security of BiH, Parliamentary Assembly of BiH. Accessed August 20, 2024. https://www.parlament.ba/committee/read/43 **246** IInformation on Security Status in BiH for 2022, BiH Ministry of Security 2023 Accessed August 20, 2024. http://www.msb.gov.ba/PDF/020720242.pdf **247** 665. Report on the implementation of the Peace Agreement on Bosnia and Herzegovina for UN Security Council, Office of the High Representative for Bosnia and Herzegovina, May 2024. Accessed August 20, 2024 https://www.ohr.int/65th-report-of-the-high-representative-for-implementation-of-the-peace-agreement-on-bosnia-and-herzegovina-to-the-secretary-general-of-the-un/ **248** 65. Report on the implementation of the Peace Agreement on Bosnia and Herzegovina for UN Security Council, Office of the High Representative for Bosnia and Herzegovina, May 2024. Accessed August 20, 2024 https://www.ohr.int/65th-report-of-the-high-representative-for-implementation-of-the-peace-agreement-on-bosnia-and-herzegovina-to-the-secretary-general-of-the-un/

## Consumer Protection - the Risk of Unequal and Inconsistent Consumer Protection

Consumer protection is not explicitly listed as one of the 14 key priorities, but most of these priorities indirectly contribute to consumer protection through the rule of law, fight against corruption and strengthening of the institutional framework. Consumer protection in Bosnia and Herzegovina is not uniform or adequate, and a discriminatory attitude towards consumers in the Federation of BiH, Republika Srpska and Brčko District has been created. Last year, progress was identified in capacity building of institutions dealing with consumer protection, but resources are still limited, which certainly affects their efficiency. Through the implementation of projects (funded by the EU under EIDHR programmes), capacities were analysed, both in the institutions and in the non-governmental sector, and the lack of professional staff was one of the risks in the implementation of these projects.

The legislative framework does not enable or contribute to the awareness raising among consumers of their rights, but some progress has been noted thanks to campaigns, education and other forms of information by consumer protection associations. But the attitude of institutions towards these associations does not enable the reduction of risk of unequal and uncoordinated consumer protection, but also trader protection. Unfortunately, the quality of consumer protection depends solely on the capacities of consumer protection associations or occasional projects. Consumer protection associations in Republika Srpska have greater powers and a wider scope of work, they are better organised and coordinate their activities.

Complaint mechanisms are in place, but their effectiveness varies. Due to differences between the legislation in Republika Srpska and the state-level Law on Consumer Protection, consumers in Republika Srpska exercise their rights in a simpler and faster way than consumers from FBiH.

Bosnia and Herzegovina does not develop international relations in this area. There is no harmonisation or norms/mechanisms between the Federation and Republika Srpska in their joint participation in international organisations on trade and consumer protection and EU institutions.

Identified shortcomings:

**1.** The Law on Consumer Protection in BiH is not sufficiently specific, and entity and Brčko District laws are not aligned with it. As part of activities in the implementation of projects for the improvement of the legislative framework governing consumer protection, funded by the EU, the guidelines and texts of the FBiH Law on Trade and the Brcko District Law on Consumer Protection were established.[249] However, there was no cooperation that was supposed to contribute to the improvement of the state-level Law on Consumer Protection;

**2.** The law(s) do not provide sufficient protection to consumers in case of traders engaging in unfair practices, deceiving or disregarding consumers' rights. There is no good inter-entity cooperation between inspection authorities and consumer protection institutions;

**249** Laws proposed for adoption in June 2024

**3.** Legal remedies are not effective enough, and consumers face problems in exercise of their rights. Case law is not uniform and these laws are often not part of the case law;

**4.** At the level of BiH, consumers are insufficiently informed because education is not organised evenly throughout BiH. There are no harmonised views at entity levels on the activities and organisation of consumer protection associations. Although institutions are in place (commissions, offices and the Ombudsman), associations do not have the status of organisations of public interest, i.e., continuous quality of their work is not enabled;

**5.** One of the causes is also the insufficient supervision of traders' operations, especially economic service providers and the lack of effective sanctions for violation of consumer rights.

**Recommendations**

**1.** Although Consumer Protection is not formally listed in the 14 priorities, this segment should also be considered through the monitoring the implementation of the rule of law, combating corruption and strengthening the institutional framework

**2.** Harmonise the state-level Law on Consumer Protection with EU directives and establish mechanisms for equal consumer protection in BiH.

**3.** Improve the work of the competent consumer protection authorities by developing capacities and monitoring the responsibility in their work.

**4.** Activate the Consumer Protection Council and other bodies and institutions throughout BiH.

**5.** Include consumer protection associations in the preparation of the Annual Consumer Protection Report adopted by the Council of Ministers of BiH, in order for the report to be concrete and applicable.

## Consumer Protection - Digital Market (Legal Framework and Harmonisation with EU standards)

The EU acquis pertaining to digital markets should ensure a fair and open digital market and a fair business environment, improve consumer choice and quality of service, trade (e-commerce) laws. No progress has been made in the field of consumer protection in Bosnia and Herzegovina, not a single recommendation from last year has been implemented, and therefore they remain in force in order to reach the EU standards.

In the coming year, Bosnia and Herzegovina in particular should further harmonise the state-level Law on Consumer Protection and Product Safety with the acquis. The law, which was adopted in 2006 and amended in 2015,[250] is now out of date and urgently should be brought into line with the latest EU acquis in order to quickly respond to issues related to rapidly changing digital markets.

The EU acquis pertaining to digital markets includes several crucial regulations and directives aiming to ensure a fair and open digital market. One of the most important documents is the Digital Markets Act (DMA).[251] **This act aims to regulate large online**

**250** „Official Gazette of BiH, 25/2006 and 88/2015 **251** https://digital-markets-act.ec.europa.eu/index_hr.

**platforms that act as "gatekeepers" to ensure that they operate fairly and do not abuse their position.** In Bosnia and Herzegovina, the Law on e-commerce, that is, on organising the digital market, has not been adopted yet, and the possibility of fraud and abuse has been created, alleviating responsibility from companies or individuals who organise these frauds. The provisions of the law on remote sale in the Republika Srpska or the FBiH Draft Law on Internal Trade[252] do not provide an adequate normative framework and put consumers in an unequal position on the territory of Bosnia and Herzegovina, but also of the European Union. Some of the crucial shortcomings are:

**1.** BiH does not have a separate law on electronic commerce, which means that this area is regulated only by two articles of entity trade laws. **It is not enough to cover all the specificities of e-commerce, including issues such as online payments, consumer data protection and refund rights**

**2.** Buyers in BiH do not have adequate product quality guarantees for purchases through online stores, nor a mechanism for a refund or product replacement

**3.** Limited possibility for claims

**4.** There are no adequate mechanisms of protection against online fraudsters in BiH

**Recommendations:**

**1.** In accordance with the Guidelines[253] for harmonising BiH legislation with the Acquis issued by the European Integration Directorate, a legal framework that will ensure a fair and open digital market should be provided. The decision on the procedure for harmonising the legislation with the Digital Markets Act (DMA) must/should contribute to the organisation of electronic commerce, limit such operations to platforms that can be controlled, by adopting specific consumer protection measures in this area and providing access to, or the possibility of, consumer awareness raising of electronic commerce models etc.

**2.** The FBiH Parliament and the Assembly of the Republika Srpska should consider the initiatives of consumer protection associations for the adoption of new legislation on electronic commerc e.

**3.** The state-level Law on Consumer Protection should be amended in a way to unify the legislation in the entities and Brčko District with the special regulations of the electronic market.

**252** The Law on Internal Trade was approved at the session of the Government of the Federation of Bosnia and Herzegovina, at the 353rd session held on 9 March and at the session of the House of Peoples on 16 May 2024.
**253** https://www.dei.gov.ba/hr/smjernice-za-uskladivanje-propisa-bih-s-pravnom-stecevinom-eu.

# ABOUT THE INITIATIVE

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

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**Initiative supported by:**
Centre for Civil Society Promotion, Sarajevo: Centre for SocioEcological Development, Banja Luka  Human Rights Centre of the University of Sarajevo  Crvena, Sarajevo  ELSA, Sarajevo  Green Council, Sarajevo  Infohouse, Sarajevo  OKC Abrašević, Mostar  Perpetuum mobile, Banja Luka  Association PEKS, Tuzla  Vesta, Tuzla  Zeleni Neretva, Konjic

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Sarajevo, October 2024