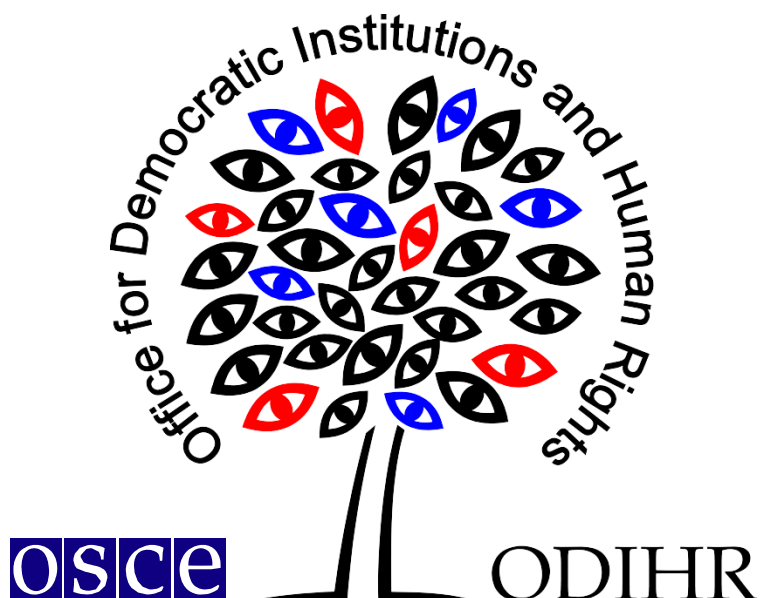


The situation of human rights defenders in Bosnia and Herzegovina:

Good practices and protection gaps



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Executive summary

In line with its mandate to assist OSCE participating States to implement their commitments, the Office for Democratic Institutions and Human Rights (ODIHR) has long been engaged in promoting the protection of human rights defenders (HRDs). This is done through regular monitoring and reporting on the situation of HRDs across the OSCE region, provision of expert advice and legislative reviews, raising the awareness of OSCE participating States about their obligations to protect HRDs, and facilitating dialogue between participating States and civil society on issues related to HRDs' work. In line with these aims, ODIHR developed the "Assessment Cycle on the Situation of Human Rights Defenders". Now in the Second Cycle ODIHR undertakes assessment visits to selected OSCE participating States. The purpose of the visits is to examine the situation of HRDs vis-à-vis international human rights standards, as elaborated in the *ODIHR Guidelines on the Protection of Human Rights Defenders*, and to provide recommendations for further improvement.

This report provides a summary of ODIHR's findings from the visit to Bosnia and Herzegovina in November 2021 in which ODIHR held dozens of meetings with State and civil society stakeholders, supported by desk research. In this context, ODIHR collected information about the good practices and gaps in the protection of the physical integrity, liberty, security and dignity of HRDs, and other aspects of a safe and enabling environment for human rights work. Besides offering assistance to Bosnia and Herzegovina, ODIHR seeks to use the findings more broadly and assist participating States across the OSCE region on measures they could take to advance the situation of HRDs.

ODIHR noted certain avenues for seeking protection and establishing accountability in response to challenges that HRDs face in the country. However, ODIHR also identified a number of worrying cases of HRDs facing intimidation and even death threats and physical attacks. ODIHR gathered information suggesting that some incidents, such as threats, remain unreported, and that a number of reported incidents were not followed by an effective investigation. ODIHR noted cases of concern, where HRDs were also subjected to judicial harassment, for example, in the form of defamation lawsuits, seemingly in retaliation for their human rights work. ODIHR also gathered information about worrying cases of reproachful language and smearing remarks against HRDs, particularly of concern when used by public officials. Overall, ODIHR identified journalists, women HRDs, environmental activists, defenders of migrants' rights, LGBTI activists, and those working on transitional justice as the groups most exposed to various challenges, smears and judicial harassment, and found that the situation for HRDs in small towns was generally more difficult than in big cities.

ODIHR notes some good practices in providing HRDs with information of public interest. However, cases of information being insufficient, delayed or not provided at all were concerning. While protection exists in law for whistleblowers at various levels of government, implementation remained a significant concern, with whistleblowers not immune from retaliation and people reportedly reluctant to report corruption.

Whereas various groups of HRDs were able to enjoy their right to freedom of peaceful assembly without undue hinderance, others faced more restrictions. Burdening the organizer with the costs of their own safety and security, and failing to recognize spontaneous assemblies in law were some of the gaps identified. Importantly, in Republika Srpska in particular, blanket bans on, and prohibitions of assemblies were key shortcomings that authorities were still to address in order to ensure a safe and enabling environment for HRDs to engage in peaceful demonstrations.

Freedom of association is largely respected, and ODIHR noted no major challenges. Whereas the authorities were providing some public funding and other resources to HRDs, many interviewees complained of lack of availability and sustainability, and occasionally of untransparent application procedures.

ODIHR identified as a good practice certain regulations and mechanisms for the participation of civil society in public decision-making processes through online and offline consultations. On the other hand, ODIHR found that not all decision-making processes were benefiting from meaningful and inclusive consultations with HRDs.

Freedom of movement for HRDs was largely respected, although defenders of the rights of refugees and migrants reported being restricted in doing their important and legitimate work at certain border locations.

ODIHR makes a series of recommendations to institutions on various levels, proposing steps to overcome gaps in the protection of HRDs and to further improve their overall situation across the country.

Introduction

1. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) conducted an assessment visit to Bosnia and Herzegovina, focusing on the situation of human rights defenders (HRDs),¹ from 14 to 28 November 2021, meeting with the authorities at various levels and a broad spectrum of HRDs working in the country. The objective of the visit, and of research conducted by ODIHR before and after the visit, is to provide an independent and impartial assessment of the situation of HRDs in the country. In particular, ODIHR sought to identify and analyse both good practices and challenges in the protection of HRDs in the context of the legal and political obligations of the state, as set out in OSCE commitments and other international human rights standards and elaborated in ODIHR's 2014 *Guidelines on the Protection of Human Rights Defenders* (the Guidelines).² In this way, ODIHR seeks both to provide assistance to the authorities of Bosnia and Herzegovina and to use the findings of the assessment to assist OSCE participating States more broadly on measures that can be taken to improve the protection of HRDs.
2. ODIHR thanks the authorities of Bosnia and Herzegovina for facilitating the visit. ODIHR is also grateful to HRDs, including journalists, representatives of civil society organizations (CSOs), individual activists and staff of the Human Rights Ombudsman of Bosnia and Herzegovina, as well as to representatives of the authorities on various levels, independent agencies and intergovernmental organizations in the country for meeting with the ODIHR delegation and contributing to this assessment. ODIHR also expresses its appreciation to the OSCE Mission to Bosnia and Herzegovina for the valuable support they provided. ODIHR looks forward to discussing the findings and recommendations of the report, as well as more recent developments, in a multi-stakeholder in-person event to be organized in Bosnia and Herzegovina.

Methodology

3. In line with its mandate to monitor the implementation of human dimension commitments and assist OSCE participating States in this respect,³ ODIHR visited Bosnia and Herzegovina in

¹ The term "human rights defender" is defined according to the *UN Declaration on Human Rights Defenders*, in which the UN General Assembly recognized the right of all people to act, "individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms", through peaceful means and without discrimination. See General Assembly Res. 53/144, "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" (Declaration on Human Rights Defenders), [UN Doc. A/RES/53/144](#) (9 December 1998).

Among others, journalists who promote and report on human rights, corruption or mismanagement or on the work of whistle-blowers are human rights defenders, regardless of their accreditation status and the media through which they work.

² *Guidelines on the Protection of Human Rights Defenders*, OSCE/ODIHR, 10 June 2014.

³ Helsinki Document: The Challenges of Change, Helsinki 1992; Budapest 1994; Document of the Seventh Meeting of the Ministerial Council, Oslo 1998; Document of the Eleventh Meeting of the Ministerial Council, Maastricht 2003.

2021, launching its second assessment cycle focusing on the situation of HRDs.⁴ Throughout the cycle, ODIHR aims to ensure geographical balance and coverage of different contexts across the OSCE region, while offering assistance to participating States in the area of protecting HRDs. This allows ODIHR to make a long-term contribution to the improvement of the situation of HRDs, both within the individual participating State, and across the OSCE region, through the identification of challenges and good practices, the formulation of recommendations to particular stakeholders, and by conducting follow-up activities in co-operation with the selected participating States.

4. The period analysed in the report is from January 2020 to 31 December 2022. Earlier cases of attacks and intimidation targeting HRDs and other developments are covered in the assessment provided those cases were still being processed during the reporting period and provided those developments have a considerable impact on the current situation of HRDs. ODIHR notes significant developments following the reporting period, such as the drafting and withdrawal of a bill on the special registry and publicity of the work of non-profit organizations in Republika Srpska, as well as the designation of the Institution of the Human Rights Ombudsman as the national preventive mechanism (NPM). Whereas the NPM designation is a positive development, the Republika Srpska draft law, had it been adopted, would have had a serious negative impact on the freedom of association and safety and security of HRDs. ODIHR is ready to discuss these and other relevant developments outside the reporting period in the multi-stakeholder follow-up event.
5. ODIHR has sought to identify significant good practices and protection gaps and needs, rather than providing an exhaustive list of developments concerning HRDs in the country.
6. As a core part of the assessment, ODIHR held 76 meetings with representatives of authorities on various levels (18),⁵ independent agencies (3),⁶ offices of the Human Rights Ombudsman of Bosnia and Herzegovina (4),⁷ intergovernmental organizations (3)⁸ and civil society (48). ODIHR met with CSOs, journalists and human rights activists working on a wide range of

⁴ The countries covered in the first cycle were the Czech Republic, Georgia, Italy, Mongolia and Montenegro. The findings of assessment visits and recommendations to 57 OSCE participating States were summarized in the report [The Situation of Human Rights Defenders in Selected OSCE Participating States – The Final Report of the First Assessment Cycle](#), OSCE/ODIHR, 28 July 2021.

⁵ On the state level, ODIHR met with the Ministry of Foreign Affairs, Ministry of Justice, Ministry of Human Rights and Refugees (including the Gender Equality Agency), Parliamentary Assembly Human Rights Commission, and Prosecutor's Office. On the level of the Federation of Bosnia and Herzegovina, ODIHR held meetings with the Ministry of Interior, Ministry of Justice, Prosecutor's Office, and the Gender Centre. In Republika Srpska, ODIHR met with the Ministry for European Integration and International Cooperation, Ministry of Internal Affairs, Ministry of Justice, Ministry of Administration and Local Government, and the Gender Centre. In Brčko District, ODIHR met the Police, Prosecution Office, and Legal Aid Office. ODIHR also held meetings with the Ministry of Interior of the Una-Sana Canton, Ministry of Justice and Administration of the Tuzla Canton, Basic Court of Banja Luka and the city administration of Banja Luka.

⁶ ODIHR held meetings with the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, Communications Regulatory Agency, Personal Data Protection Agency.

⁷ ODIHR met with representatives of the Human Rights Ombudsman in Banja Luka (Seat of the Institution), and in its regional offices in Sarajevo, Mostar and Brčko.

⁸ ODIHR met with representatives of the OSCE Mission to Bosnia and Herzegovina, the Council of Europe and the EU Delegation to Bosnia and Herzegovina.

issues in Sarajevo, Banja Luka, Brčko, Mostar, Tuzla, Bihać, Bijeljina, Prijedor, as well as in several smaller settlements. In total, ODIHR met with 157 individuals (93 women and 64 men). Ninety individuals (52 women and 38 men) represented civil society. ODIHR's visit provided the opportunity to learn from the diverse experiences and knowledge of HRDs working on a range of human dimension issues, at national and grassroots levels, and from civil society representatives of different genders, ages and with various disabilities.

7. Throughout this report, the interview data from civil society representatives and organizations is anonymized. ODIHR obtained informed consent to refer to individual cases that are illustrative of identified trends. These were either brought to ODIHR's attention during the visit or reported in the local or international media, by civil society groups and/or by intergovernmental organizations.
8. For the purpose of trend analysis and verification, ODIHR also considered documents issued during the assessment period, such as observations, conclusions and reports by intergovernmental organizations, publications by non-governmental organizations (NGOs), media reports and news items.
9. ODIHR's findings and recommendations are presented in this *country-specific report*, shared with the authorities of Bosnia and Herzegovina and the Institution of the Human Rights Ombudsman, and they will serve as a reference for joint follow-up action.⁹ The report is expected to guide ODIHR in offering tailored assistance to the authorities and to HRDs.
10. On completion of the cycle, ODIHR will issue a *Final assessment report of the second assessment cycle focusing on the situation of HRDs*, which will give an overview and analysis of the findings of all country visits during the assessment cycle and make recommendations to all 57 OSCE participating States.

International framework and the ODIHR Guidelines on the Protection of HRDs

11. OSCE participating States confirmed “the right of the individual to know and act upon his [her] rights”.¹⁰ They also affirmed “the right of the individual to seek and receive assistance from others in defending human rights and fundamental freedoms, and to assist others in defending human rights and fundamental freedoms.”¹¹ Participating States recognized the important and positive role of HRDs (“organizations and persons”) in assisting states to ensure full respect for human rights and fundamental freedoms, democracy and the rule of law,¹² and emphasized the need for ensuring their protection.¹³

⁹ ODIHR appreciates the consent of Bosnia and Herzegovina to publish this report, as an example of good practice.

¹⁰ Helsinki Final Act 1975 (Questions Relating to Security in Europe: 1(a) Declaration on Principles Guiding Relations between Participating States – Principle VII).

¹¹ Copenhagen Document, 1990.

¹² *Op. cit.* notes 10 and 11; see also Budapest Document 1994 and Astana Declaration 2010.

¹³ Budapest Document 1994 (Budapest Declaration, “Towards a Genuine Partnership in a New Era”, 6 December 1994).

12. OSCE human dimension commitments reaffirm the particular importance of participating States' realization of their obligations under international and regional human rights treaties.¹⁴ Bosnia and Herzegovina is a party to core international human rights conventions and has accepted most individual complaints and inquiry procedures.¹⁵
13. The *ODIHR Guidelines* are based on the universally recognized human rights standards and OSCE commitments that participating States have undertaken. They focus on the responsibility of states to respect, protect and fulfill the rights of HRDs,¹⁶ without seeking to create 'special' rights for them.¹⁷

I. Physical integrity, liberty and security, and dignity of HRDs

1.1. Reported threats, attacks and other targeting of HRDs

14. The authorities have taken steps to strengthen the protection of HRDs.¹⁸ However, civil society representatives across the country continue to be targeted. During the assessment visit, ODIHR received information about physical and verbal attacks, gender-based intimidation, death threats, attacks on physical or digital property and other instances of targeting HRDs. Women HRDs, journalists and transitional justice activists were consistently reported as the HRDs most exposed to threats and smear campaigns. Harassment and intimidation often occurred on online platforms. In a few instances, risks related to physical safety and security led HRDs to relocate to a different city or another country and sometimes affected their family members.
15. HRDs in some smaller towns and villages were reportedly more exposed to threats and attacks than activists based in Sarajevo and other big cities. Activists working with migrants and refugees, and especially women HRDs involved in this work, were at a higher risk of attacks and intimidation in the Una-Sana Canton, one of the main transit regions for refugees and migrants heading towards the European Union.
16. Threats and attacks against investigative journalists and media representatives were reported as a serious concern. Women journalists were particularly at risk of gender-based intimidation and threats. For instance, an independent media organization informed ODIHR that its staff

¹⁴ They call on all participating States to act in conformity with international instruments and respect, protect and fulfil the human rights of all within their jurisdiction, without discrimination. *See* Concluding Document of the Madrid Meeting (Second Follow-up Meeting to the Helsinki Conference), Madrid 1983; Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen 1990; Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow 1991.

¹⁵ The full list of Bosnia and Herzegovina's ratified documents and accepted procedures is available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=22&Lang=EN.

¹⁶ These obligations require states to refrain from any acts that violate the rights of HRDs; to protect them from abuses by third parties, including business enterprises and other non-state actors; and to take proactive measures to facilitate the full realization of the rights of HRDs, including their right to defend human rights.

¹⁷ *Op. cit.* note 2.

¹⁸ *See* chapters on *Accountability for abuses against human rights defenders* and *Protection policies, programmes and mechanisms*.

were routinely subjected to abuse and threats on social media, including from known individuals who were the subject of its reporting. Women journalists working for the organization were reportedly threatened with rape.

17. In 2020, *Safejournalists.net*, a project that monitors media freedom and the safety of journalists, registered 26 attacks against media representatives from Bosnia and Herzegovina,¹⁹ another 26 in 2021²⁰ and a further 29 in 2022.²¹ According to BH Novinari, an NGO of journalists and media actors, pressure and intimidation of journalists often come from governmental officials at various levels. The association also reported an increase over time in online violence, hate speech and threats targeting media actors on social networks.²²
18. In describing the problem of threats, interviewees cited the well-publicized case of Dragan Bursać, a freelance journalist working in Banja Luka. On 26 May 2021, he received a death threat in a Facebook direct message from an individual in Montenegro who used a false name.²³ The *Free Media Help Line*, a free legal service operating within *BH Novinari*, reported the case to the entity Ministry of Internal Affairs. According to the Ministry, the law enforcement authorities of Montenegro brought charges against the alleged perpetrator for endangering safety (Article 168 of the Criminal Code of Montenegro).²⁴ ODIHR was told that Bursać repeatedly received offline and online death threats against him and his family because of his work.
19. ODIHR also received accounts of threats and intimidation against activists working on journalists' rights. For example, in September 2021, Borka Rudić, the Secretary General of *BH Novinari*, was threatened via social media.²⁵ ODIHR was told that she had reported the threat to the police and the social media platform concerned. The threatening post allegedly prompted a wave of intimidating comments and hate speech against her on social media.²⁶ The same person was also accused of attacking journalists working for the N1 TV media outlet.²⁷
20. Women HRDs reportedly faced heightened risks of threats and attacks. Women working with victims of gender-based violence themselves reported instances of harassment by perpetrators of violence. ODIHR also received information that women activists working with migrants and

¹⁹ In the project's classification, these included three physical attacks, six death threats, ten verbal threats or other types of intimidation, and seven attacks on media houses. See [Bosnia and Herzegovina - Indicators of the level of media freedom and safety of journalists in 2020](#), *BH Novinari*, 2020.

²⁰ See [Bosnia and Herzegovina - Indicators of the level of media freedom and safety of journalists in 2021](#), *BH Novinari*, 2021.

²¹ See: [Bosnia and Herzegovina - Indicators of the level of media freedom and safety of journalists in 2022](#), *BH Novinari*, 2022.

²² *Op. cit.* note 20; see also *op. cit.* note 21.

²³ [Prijetnje smrću](#), Dragan Bursać, freelance novinar, 26.05.2021. [Death Threats, Dragan Bursać, Freelance Journalist, 26/5/2021], *Safejournalists.net*, 31 August 2021.

²⁴ *Ibid.*

²⁵ [SJ: Impunity and Tolerance of Online Violence Against Journalists by BiH Judiciary and Police Are Unacceptable](#), *Safejournalists.net*, 23 September 2021.

²⁶ *Ibid.*

²⁷ *Ibid.*

refugees in the Una-Sana Canton were frequently exposed to gender-based threats and intimidation, including online.

21. The widely reported attack on Zehida Bihorac, an HRD assisting migrants and refugees, provides a striking illustration of the threatening environment in which attacks take place. On 17 September 2020, members of a vigilante group reportedly known for violence against migrants and refugees, allegedly harassed her on her way from refugee camps outside the municipality of Velika Kladuša.²⁸ The attackers reportedly followed the activist's car, blocked its way, forcing her to stop, and insulted and threatened her while thumping her car. She drove to the local police station, where she filed a complaint.²⁹ In the months before the attack, Zehida Bihorac had reportedly faced intensifying harassment on social media, with members of anti-migrant groups targeting her with death threats and smears and posting photographs of her and personal information.
22. Another example is the experience of Nidžara Ahmetašević, a journalist and migrant rights activist, who was allegedly threatened with physical violence and rape, and subjected to insults of a sexualized nature because of her work. She received anonymous threats on her telephone and social media accounts.³⁰ In January 2021, she reported those threats to the police, but reportedly no investigation was opened.
23. Civil society interviewees informed ODIHR that LGBTI activists were targeted with verbal attacks (including gender-based ones) and intimidation, because of their activism or their sexual orientation or gender identity. Hate speech and threats against them were particularly common on social media and intensified at the time of Pride activities.
24. ODIHR received accounts of attacks on the property of human rights activists and organizations. For example, on 25 November 2020, unknown individuals threw stones at the house of a member of the informal environmental group *Brave Women of Kruščica*.³¹
25. ODIHR also learned about several cyberattacks on the websites of media and human rights organizations. In February 2021, the online investigative journalism media outlets *Žurnal.info* and *BUKA.com* experienced distributed denial-of-service cyberattacks that blocked access to their websites for several days.³² *Žurnal.info* reported that they moved their online portal to another server as a result.³³ The media organizations in question believed that the incident was linked to their journalistic investigations.³⁴

²⁸ [Smear Campaign, Online Threats, and Harassment Against Migrant Rights Defender Zehida Bihorac](#), Front Line Defenders, 27 August 2020.

²⁹ *Ibid.*

³⁰ [Gendered online harassment and threats against human rights journalist Nidžara Ahmetasevic](#), Front Line Defenders, 28 January 2021.

³¹ [Attack on the President of the Kruščica Local Community Is an Attack on All Activists as Well as an Attack on the Legal and Constitutional Order of BiH!](#), *Centre for the Environment*, 26 November 2020.

³² [Attacks on Media Outlets, Hacker Attacks on Web Portals, 23.02.2021](#), *Safejournalists.net*, 2 March 2021.

³³ *Ibid.*

³⁴ *Ibid.* On 25 February 2021, a number of intergovernmental organizations and diplomatic missions in the country, including the OSCE Mission to Bosnia and Herzegovina, released a joint statement urging the

1.1.1 Accountability for abuses against HRDs

26. Authorities at all levels had taken certain steps to improve their response to threats, attacks and other forms of abuse directed at HRDs. However, ODIHR is concerned that weaknesses remained in terms of how such cases were handled and investigated, especially when journalists were the target of abuse. A lack of adequate response from the authorities creates a climate of impunity, undermines trust in law enforcement and has a chilling effect on journalism and civil society activism more broadly. It is essential that law enforcement has the powers and capacity to tackle cases of attacks against HRDs, including those committed online, in a trauma-informed and gender-sensitive manner.
27. ODIHR was informed about a large number of attacks against journalists, some of which had been reported to the police.³⁵ At the same time, ODIHR was told that many attacks against journalists were likely to go unreported due to the lack of trust in the justice system, and the internalized belief that online threats are “normal forms of communication” that cannot be challenged. HRD interviewees expressed doubt that those who planned or ordered attacks would be brought to justice. For example, it was reported that, in the case of journalist Vladimir Kovačević, who was violently assaulted in Banja Luka in August 2018, the investigation into the assault focused on those who carried out the attack, while those who were behind it remained unidentified.³⁶
28. In Republika Srpska alone, according to data shared with ODIHR, the Ministry of Internal Affairs of Republika Srpska received reports of 14 incidents of threats and attacks on journalists in 2020 and 12 incidents in 2021. In almost all of those cases, the police established the presence of a misdemeanor or criminal offence or forwarded the case to a district public prosecutor.
29. Some HRDs working on the rights of women, LGBTI people, migrants and refugees, Roma and other minority groups, as well as journalists, told ODIHR that police had disregarded their complaints, especially those related to online threats. In one instance, an HRD reported that, as she filed her complaint, law enforcement personnel requested her to read the threats she received out loud, which she refused to do for fear of being re-traumatized. One woman HRD told ODIHR that she had given up reporting threats to the police because they never took any action.
30. ODIHR was told that, in some cases, the authorities did not provide information about the progress of an investigation or follow up on the outcome. According to interviewed civil

authorities to investigate cyberattacks on media organizations, as these may hinder media freedom, and to “strengthen their networks and ability to detect, deter, and investigate all cyber threats and attacks”. See [Cyber-attacks on Online Media Endanger Media Freedom in BiH](#), OSCE Mission to BiH, 25 February 2021.

³⁵ See paragraph 17.

³⁶ [Two Years since the Attempted Murder of Journalist Vladimir Kovacevic: Attackers Behind bars, Orderers Unknown](#), *Safejournalists.net*, 27 August 2020.

society representatives, those instances undermine trust in law enforcement and are likely to result in the (further) under-reporting of threats or other abuse directed at HRDs.

1.1.2 Protection policies, programmes and mechanisms

31. Bosnia and Herzegovina has, to some extent, taken measures to strengthen the protection of HRDs and create a safer and more enabling environment for their work, including policies focusing on the safety of women HRDs. While welcoming the existing policies, programmes and mechanisms, ODIHR encourages the authorities to enhance their efficiency by ensuring equal and fair access and allocating adequate resources to their implementation. Developing and implementing protection measures in consultation with civil society and other actors ensures that the needs of different groups of HRDs, including those most at risk, are taken into account.
32. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the Gender Equality Agency informed ODIHR about one such mechanism. According to the Ministry, a working group involving representatives of the state authorities, the NHRI and NGOs was established to develop an action plan for implementing the 2018 Protocol on the Protection of Human Rights Defenders.³⁷ The working group has engaged in the elaboration of guidelines and recommendations on improving institutional responses to cases of discrimination and other human rights violations committed against women HRDs.
33. The Ministry of Justice of Bosnia and Herzegovina described another such mechanism to ODIHR. An Advisory Body of the Council of Ministers of Bosnia and Herzegovina for Cooperation with NGOs,³⁸ whose members include representatives of civil society and academia from across the country, was, according to the Ministry, responsible for preparing a strategy for creating an enabling environment for development of civil society.³⁹ The Advisory Body was reported to have been holding regular sessions since December 2020, including with representatives of the Ministry's Department for Civil Society Development and Free Legal Aid. According to civil society interviewees, the creation of the Advisory Body was a positive step but, to be effective, it required more resources and more active involvement by government representatives in drafting the strategy. They highlighted that the representation of government institutions would make for a more meaningful development process and more effective implementation once the strategy is adopted.

³⁷ [Potpisan protokol o zaštiti braniteljica/branitelja ljudskih prava](#) [Signed Protocol on the Protection of Human Rights Defenders], Ministry of Human Rights and Refugees - Gender Equality Agency, 22 November 2018. The Protocol is the outcome of activities carried out within a project implemented by the *Foundation for Local Democracy* and the *Network of Police Officers* with the support of the Gender Equality Agency, aimed at supporting CSOs and women HRDs and creating the conditions for the development of protection mechanisms benefiting them.

³⁸ Hereinafter, *Advisory Body* or *Advisory Body for Cooperation with NGOs*.

³⁹ [Ministarstvo pravde Bosne i Hercegovine - Civilno društvo](#) [Ministry of Justice of Bosnia and Herzegovina – Civil Society].

34. Another important mechanism is the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, which can consider complaints by legal or natural persons about human rights violations committed by public bodies on various levels and which can also examine individual cases ex officio. When the Institution establishes that there has been a violation of human rights, it issues recommendations to the authorities and advises the complainant on possible legal remedies or refers them to other institutions. The Institution does not award compensation for human rights violations.⁴⁰ In 2020, the Institution received 2,716 complaints and issued 270 recommendations in 312 cases.⁴¹ In 2021, it received 2,946 complaints and issued 315 recommendations in 331 cases.⁴² According to information received by ODIHR, while HRDs did submit complaints to the Institution, there was no separate data on the number of complaints submitted specifically by HRDs or civil society representatives more broadly.
35. The effectiveness of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina was limited by challenges the Institution faced, including low staff salaries and inadequate human and financial resources, according to representatives of the Institution. Civil society interviewees highlighted the importance of amending the Law on the Ombudsman for Human Rights of Bosnia and Herzegovina to ensure the Institution's financial independence and grant it the status of an NPM. ODIHR was informed about the authorities' various attempts to introduce such amendments in recent years.
36. Staff of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina were themselves subjected to threats, according to information received by ODIHR. Representatives of the Institution reported occasionally being subject to intimidation and threats, mainly by people involved in the cases they work on. Some interviewees stressed that raising public awareness about the Institution would help to prevent threats against it and ensure its proper functioning.
37. Overall, while ODIHR identified various avenues of protection for HRDs, it also noted very serious cases of threats and attacks, including physical attacks. Enhancing physical protection, taking measures to prevent attacks, and doing more to ensure accountability for abuses is necessary to improve the situation of HRDs in Bosnia and Herzegovina and should be prioritized by the Bosnia and Herzegovina authorities

1.2 Protection from administrative or judicial harassment / arbitrary arrest and detention

38. One of the key challenges identified by ODIHR was the high number of lawsuits brought against journalists, media organizations and environmental activists, among other HRDs in Bosnia and Herzegovina, due to their work.

⁴⁰ See [The Institution of Human Rights Ombudsman of Bosnia and Herzegovina - Role and function](#).

⁴¹ See [Annual Report on results of the activities of the Institution of Human Rights Ombudsman of BiH for 2020](#).

⁴² See [Annual Report on results of the activities of the Institution of Human Rights Ombudsman of BiH for 2021](#).

39. As of July 2020, the Helpline for Journalists registered 289 active defamation lawsuits against media representatives.⁴³ Politicians and public officials were reportedly the main initiators, filing 80 per cent of the lawsuits.⁴⁴ According to several interviewed media representatives, some journalists were targeted with spurious lawsuits that were frequently “long and exhausting” and required presence in court with a lawyer several times a week. Interlocutors also expressed concern about the high cost of legal representation in defending such cases.
40. In some cases, large sums in financial compensation were awarded to plaintiffs. For example, in July 2021, the Municipal Court in Sarajevo ordered the online portal *Žurnal.info* and its editors to pay 170,000 KM in a libel case brought by a company whose owner the portal alleged to have links with international drug cartels.⁴⁵ According to *BH Novinari*, the damages were “disproportionately high” and could be seen as “an attempt to stifle investigative journalism”.⁴⁶ ODIHR was informed that the portal had appealed the decision and the case had been transferred to a higher court. If their appeal is unsuccessful, paying this amount would threaten the survival of the portal. The editor stood behind the findings of their investigation, stating that all their stories were well substantiated and that they had won most of the libel cases brought against them that had reached the ruling stage. ODIHR was further informed that *Žurnal.info* journalists, editors and the editorial group as a whole were facing dozens of lawsuits across the country.
41. ODIHR was told that environmental activists were also the target of lawsuits. For example, at the beginning of 2021, the City of Mostar and several public companies sued the local association *Jer nas se tiče (Because It Matters to Us)*, in what environmental HRDs alleged was an attempt to dissuade them from their activism. The lawsuit related to the activists’ blockade of the Uborak landfill in protest at the damage that they believed it caused to the environment and public health.⁴⁷ The plaintiffs reportedly sought over 600,000 KM in damages.⁴⁸ In October 2021, the municipality and companies withdrew the lawsuit.⁴⁹ However, the case serves as an example of the risks environmental activists take when engaging in protests and non-violent direct action, and is likely to have had a chilling effect on others who may also wish to engage in protests for environmental causes.

⁴³ U BiH aktivno 289 tužbi za klevetu protiv novinara i medija [There Are 289 Active Defamation Lawsuits Against Journalists and the Media in Bosnia and Herzegovina], *Media Centar*, 10 July 2020.

⁴⁴ *Bosnia and Herzegovina - Indicators of the level of media freedom and safety of journalists in 2021*, *BH Novinari*, 2021.

⁴⁵ *BH Journalists: The Verdict Against the Žurnal Magazine Directly Threatens the Freedom and Work of Investigative Media* [BH novinari: Presuda protiv magazina Žurnal direktno ugrožava slobodu i rad istraživačkih medija], *Safejournalists.net*, 13 July 2021.

⁴⁶ *Ibid.*

⁴⁷ *Grad Mostar i komunalna preduzeća tužili građane: "Guše volju naroda, sutra organiziramo proteste"* [The City of Mostar and Utility Companies Sued the Citizens: "They are Stifling the Will of the People, We Are Organizing Protests Tomorrow"], *Faktor.ba*, 1 February 2021.

⁴⁸ *Ibid.*

⁴⁹ *Grad Mostar odustao od tužbe protiv građana zbog deponije "Uborak"* [The City of Mostar Dropped the Lawsuit Against the Citizens Because of the "Uborak" Landfill], *Radio Slobodna Evropa*, 8 October 2021.

42. ODIHR does not claim that all defamation lawsuits are baseless per se, but it has been provided with credible information that points to the use of defamation legislation to bring strategic litigation against public participation (SLAPP) suits, which are a serious challenge for HRDs in their work. SLAPP suits essentially aim to exhaust HRDs financially and morally, especially journalists, and prevent them from carrying out their important work, such as covering stories of public interest. Bosnia and Herzegovina should prevent this abuse of judicial proceedings, through law and training for judges.

1.3 HRDs in the public discourse

43. ODIHR learned about cases of HRDs who were publicly labelled, including by state officials and politicians, as “traitors”, “enemies of the state”, or “foreign agents”, or who were portrayed as undermining the country, siding with another ethnic group, or being politically biased. Women HRDs, journalists and people connected to CSOs working on transitional justice were reported as being most exposed to smear campaigns, especially online. Disability activists, refugees and migrant rights defenders (especially in the Una-Sana Canton), as well as grassroots environmental activists were also reportedly targeted.
44. In some cases, smears came from public officials and influential political figures. For example, in May 2021, a high-ranking official made insulting and defamatory comments about the journalist and political analyst Tanja Topić and her family, presumably in response to her criticism of the authorities and certain political parties.⁵⁰ The European Federation of Journalists and BH Novinari condemned the attack, noting that the official in question had previously made disparaging comments about other journalists.⁵¹ Earlier, in May 2020, another public official baselessly accused Ana Kotur Erkić, a prominent disability rights activist, of having ulterior motives, after she criticized the official’s statements as insulting and diminishing towards persons with disabilities.⁵² Such attacks, especially when they come from public figures, may lead to a negative perception of HRDs, undermining public trust in their work, and may encourage the repetition of smears and even intimidation or violence against them.
45. Women HRDs reported being exposed to smear campaigns and denigrating remarks, some gender-based, on social media in particular. In some cases, especially outside Sarajevo, civil society interviewees described insulting comments that play on existing stereotypes about women’s role in society. For instance, women HRDs were accused of “ruining traditional families”.

⁵⁰ [Ostale prijetnje novinarima, Tanja Topić, freelance, Banja Luka, 25.05.2021](#), [Other Threats to Journalists, Tanja Topić, Freelance, Banja Luka, 25/05/2021], *Safejournalists.net*, 31 August 2021.

⁵¹ [Bosnia-Herzegovina: Politician Milorad Dodik Attacks yet Another Journalist](#), European Federation of Journalists, 27 May 2021.

⁵² [Mreža za izgradnju mira: Reakcija povodom vrijeđanja aktivistice Ane Kotur Erkić i osoba sa invaliditetom od strane narodnog zastupnika Vukanovića](#) [Peacebuilding Network: Reaction to the Insulting of the Activist Ana Kotur Erkić and People with Disabilities by the People's Representative Vukanović], *Mreža za izgradnju mira*, 2 June 2020.

46. HRDs working on migrant rights were another group targeted by smear campaigns, including on social media. In the Una-Sana Canton, a crossing place for migrants and refugees on Bosnia and Herzegovina's border with Croatia, negative attitudes towards migrants and refugees were reported to have led to particular hostility towards activists and people working for NGOs providing assistance to them.
47. While HRDs should not be immune to legitimate criticism, ODIHR is concerned about the disparaging and smearing rhetoric used against them, especially when used by public officials. Such rhetoric has the potential to create an atmosphere that provokes further verbal attacks and harassment, or even physical attacks, thereby putting the safety of HRDs at risk. Therefore, public officials should condemn and counter smear campaigns, not contribute to them.

II. Other aspects of a safe and enabling environment conducive to human rights work

48. The Constitution of Bosnia and Herzegovina guarantees human rights and fundamental freedoms, including the right to life, the rights to liberty and security of the person, freedom of expression, freedom of peaceful assembly and freedom of association with others, the right to freedom of movement and residence and the right to a private and family life, home and correspondence.⁵³ It further prescribes that the enjoyment of these and other rights, as enshrined in the Constitution or international standards, "shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."⁵⁴ The Constitution of the Federation of Bosnia and Herzegovina,⁵⁵ the Constitution of Republika Srpska,⁵⁶ the Statute of the Brčko District of Bosnia and Herzegovina,⁵⁷ and the cantonal constitutions in the Federation⁵⁸ contain similar provisions on human rights and non-discrimination.
49. In line with the state Constitution, the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols "shall apply directly in Bosnia and Herzegovina" and "shall have priority over all other law".⁵⁹ In addition, Annex I of the Constitution of Bosnia and Herzegovina provides a list of "Additional Human Rights Agreements to be Applied in Bosnia and Herzegovina", including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, among other relevant instruments.

⁵³ [Constitution of Bosnia and Herzegovina](#), Article II.3, 1995 (amended 2009).

⁵⁴ *Ibid.*, Article II.4.

⁵⁵ [Constitution of the Federation of Bosnia and Herzegovina](#), 1994 (amended).

⁵⁶ [Constitution of Republika Srpska](#), 1992 (amended).

⁵⁷ [Statute of the Brčko District of Bosnia and Herzegovina](#), 2007 (amended).

⁵⁸ [Cantonal Constitutions](#) (and amendments).

⁵⁹ *Op. cit.*, note 53, Article II.2.

50. Whereas the legal framework across the country often provided the human rights guarantees necessary for HRDs to carry out their work, many interviewees stated that the implementation of laws and policies in practice remained a significant challenge. This was particularly noted in relation to the right to access information of public interest, whistle-blower protection, and the right to participate in public affairs, where the implementation had serious consequences for various aspects of HRDs' work – e.g., their ability to provide feedback to draft legislation or to conduct research and journalistic investigations.

2.1. Freedom of opinion and expression and freedom of the media

51. The constitutional and legal frameworks guarantee freedom of expression and freedom of the media. Furthermore, the authorities have established mechanisms contributing to an enabling environment for the media.

52. The Press Council in Bosnia and Herzegovina is a self-regulatory body for printed and online media, which oversees the implementation of the Press and Online Media Code of Conduct of Bosnia and Herzegovina.⁶⁰ The Press Council can examine citizens' complaints alleging Code violations, including hate speech. Cases can be resolved through mediation, i.e., by contacting the media concerned and asking them to release a comment or an explanation, or with the help of the Council's Complaints Commission. If the Commission finds a breach, it can issue a decision that must be published by the media in question. According to information that the Press Council shared with ODIHR, the body received 1,010 complaints in 2021, of which 737 were resolved through self-regulation.

2.1.1. Access to information of public interest and protection of whistle-blowers

53. Pursuant to the Freedom of Access to Information Act of Bosnia and Herzegovina⁶¹ and laws on the right to access information of public interest in the Federation⁶² and Republika Srpska,⁶³ public authorities have an obligation to disclose information of public interest in their possession, and must examine and respond to requests for access to information within 15 days. Exemptions from the obligation to release information are allowed for reasons of public order, the confidentiality of financial interests, and the protection of personal data. Even if any of those grounds exist, the authorities are still obliged to release information if they establish that disclosure is in public interest. There is a possibility of appeal for requesters who are unsatisfied with the response.

54. According to authorities on various levels, they consistently respond to access-to-information requests, including from HRDs, in compliance with the legislation. A number of civil society interviewees said that they were somewhat satisfied with the response quality and noted an improvement in recent years. However, they pointed out that sometimes institutions provide

⁶⁰ [Press and Online Media Code of BiH](#), The Press Council in Bosnia and Herzegovina, 2010.

⁶¹ [Freedom of Access to Information Act of Bosnia and Herzegovina](#), 2000 (amended 2013).

⁶² [Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina](#), 2001.

⁶³ [Law on Freedom of Access to Information of Republika Srpska](#), 2001.

information with delay. According to a survey by Transparency International BiH, despite the progress made by the authorities in providing access to information since 2016, less than half responded to requests within the legally prescribed deadline in 2020.⁶⁴ The COVID-19 pandemic contributed to extending the response time, and reportedly, some judicial institutions require requests to be submitted by ordinary mail and do not respond to those sent electronically.⁶⁵

55. In some instances, interviewees did not receive any answer from the authorities, did not receive the information they requested, or did not receive it in a user-friendly format. In 2020, Transparency International BiH reported that it had not received a response from over 100 of the 737 public institutions it had approached with requests.⁶⁶ ODIHR was told that environmental rights defenders experienced particular difficulties with municipal authorities who repeatedly denied access to documents related to the construction of hydropower plants. In some cases, filing a complaint with the help of a lawyer or referring the case to the Human Rights Ombudsman was necessary to receive the requested information.
56. Some journalists and media organizations told ODIHR that, besides not always receiving the requested information, delayed access to information affected their work, hampering their ability to report on issues of public interest. They criticized the draft amendments to the Freedom of Access to Information Act of Bosnia and Herzegovina (published by the Ministry of Justice in February 2021) that sought to extend the response deadline from 15 to 30 days and extend the grounds for exemptions. Media workers called on the authorities to withdraw the draft.⁶⁷
57. Laws regulating the protection of whistle-blowers exist at the state level,⁶⁸ in Republika Srpska⁶⁹ and in the Brčko District⁷⁰ but not in the Federation of Bosnia and Herzegovina.

⁶⁴ [International Freedom of Access to Information Day: Epidemic Slows Down Institutions, Shifts in Transparency Insufficient](#), *Transparency International BiH*, 28 September 2020.

⁶⁵ [Bosnia's Judiciary Still Reluctant to Answer Emailed FOI Requests](#), *BalkanInsight*, 21 July 2021.

⁶⁶ *Op. cit.*, note 64.

⁶⁷ [With the Current Amendments to the Law on Freedom of Access to Information: The Media Needs Public Information in a Simple Way Without Time Constraints](#), *BH Novinari*, 10 June 2021.

⁶⁸ The Law on the Protection of Persons who Report Corruption in the Institutions of Bosnia and Herzegovina, adopted in 2013, sets out the procedure for reporting corruption, the obligations of public authorities in relation to such reports, and the procedure for obtaining protection; the Law also envisages both internal and external protection and reporting channels as well as sanctions in case of violations of its provisions. See [Zakon o Zaštiti Lica Koja Prijavljuju Korupciju u Institucijama Bosne i Hercegovine](#) [Law on the protection of persons who report corruption in the institutions of Bosnia and Herzegovina], 2013.

⁶⁹ The Law on the Protection of People who Report Corruption of Republika Srpska provides for the right of any person “to report, in good faith, any form of corruption in the public and private sector”, and envisages both internal and external protection and reporting channels. See [Zakon o zaštiti lica koja prijavljuju korupciju](#) [Law on the Protection of People Who Report Corruption], 2017.

⁷⁰ The Law on the Protection of Persons Reporting Corruption of the Brčko District, adopted in 2018, applies to both private and public sector employees. See [Zakon o zaštiti lica koja prijavljuju korupciju](#) [Law on the Protection of Persons who Report Corruption], 2018. The Law foresees the establishment of an Office for the Prevention of Corruption and Coordination of the Activities on the Suppression of Corruption, which as of February 2022 was in the process of hiring employees. See [Whistleblower Protection - newsletter March 2022](#), Andersen Global, March 2022; and [Saopćenje Ureda za prevenciju i koordinaciju aktivnosti na suzbijanju](#)

58. Legislation at the state level applies only to public institution employees, prescribing that a report of corruption must be submitted bona fide and providing for external protection of whistle-blowers by the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK).⁷¹ In Republika Srpska, the legislation covers both the public and private sectors and allows whistle-blowers to apply to court for judicial protection.
59. ODIHR was informed that APIK received 87 reports of corruption in 2020, approximately one tenth of which resulted in criminal prosecutions, and 92 reports in 2021. ODIHR also learned that, from its establishment and until November 2021, APIK received 31 requests for whistle-blower protection, 22 of which were rejected because the requester was not a civil servant or did not meet the bona fide requirement. In July 2022, the Agency reported one additional case of granting protection to a whistle-blower.⁷²
60. Some civil society interviewees believed that the low number of cases of granting protection at the national level, as well as instances of retaliation against those who did receive it,⁷³ discourage individuals from reporting corruption and seeking protection. That assessment is echoed by Transparency International BiH in its reporting on the situation in Republika Srpska where only two requests for judicial protection were submitted in five years.⁷⁴ It concluded that the low number of filed reports in Republika Srpska was due to public distrust in the judiciary and the overall hostile environment for activists reporting on corruption.⁷⁵
61. Interviewed HRDs stressed the need to ensure that those who uncover information about irregularities do not face prosecution or punishment and to raise awareness about available protection mechanisms to encourage reporting.
62. HRDs were able to access some information of public interest, even with delays. Receiving information in a timely manner is essential for many requesters, and the value of a complete and user-friendly piece of information cannot be underestimated. ODIHR is not in a position to provide an in-depth analysis of the situation of whistle-blowers in Bosnia and Herzegovina, but the low number of people who report cases of corruption might be an indicator of low trust in the institutional protection they could count on. Cases of retaliation seem to confirm these concerns, and more effort is needed to improve the condition of whistle-blowers, both in law and in practice.

[korupcije](#) [Announcement of the Office for the Prevention and Coordination of Activities to Suppress Corruption], Government of Brčko District of Bosnia and Herzegovina, 28 February 2022.

⁷¹ APIK is a specialized body that examines reports of corruption, decides on requests for obtaining the whistle-blower status, and takes measures countering retaliation.

⁷² [Agencija zaštitila još jednog zviždača](#) [The Agency Protected Another Whistleblower], APIK, 15 July 2022.

⁷³ As, for example, in the case of Emir Mešić, see [Episode 127: Instead of Corruption, Bosnian Institution Probes Whistleblowers Good Faith](#), *Detektor*, 8 July 2021.

⁷⁴ [International Whistleblower Day! TI BiH Published Devastating Data on the Protection of Whistleblowers in BiH](#), *Transparency International BiH*, 23 June 2022.

⁷⁵ *Ibid.*

2.2. Freedom of peaceful assembly

63. The state Constitution, the entities' constitutions and the Statute of the Brčko District provide protections to the right to freedom of peaceful assembly. Twelve different laws govern the exercise of this right in the country.
64. At the Federation level, a draft law on public assembly has been in development since 2015. In its 2018 legal opinion, ODIHR noted that the draft law's provisions on notification procedures and maintaining order placed heavy burden on organizers.⁷⁶ ODIHR also recommended additional, extensive public consultations, including with HRDs.⁷⁷ Representatives of the Ministry of Interior of the Federation of Bosnia and Herzegovina told ODIHR that most of its recommendations had been incorporated by the drafters. In October 2022, the Government of the Federation of Bosnia and Herzegovina announced that the draft law had been submitted to the Parliament.⁷⁸
65. In Republika Srpska, the law on public assembly was described by several interviewees as "restrictive". This largely aligns with ODIHR's 2019 opinion on the draft of law, which concluded that the draft placed "massive obligations on organizers" regarding management and stewardship requirements for assemblies, and failed to recognize spontaneous gatherings.⁷⁹
66. By contrast, interviewees across the country consistently described the Law on Public Assembly of Brčko District, adopted in 2020, as "advanced" and "in line with international standards". At the time of its adoption, the law was also praised as "an important example of best practice and a model for human rights-compliant legislation" in the area of freedom of peaceful assembly.⁸⁰
67. While some of the interviewed civil society representatives enjoyed good cooperation with local authorities and the police in respect of organizing and holding assemblies, ODIHR was also informed about obstacles. Some interviewees shared their concerns about the practice of requiring assembly organizers to cover additional security costs, which, according to them, was selectively applied.⁸¹ For example, ODIHR learned that the Ministry of Interior of Sarajevo Canton requested the organizers of the LGBTI Pride march to provide additional security

⁷⁶ [Comments on the Draft Law on Public Assembly in the Federation of Bosnia and Herzegovina](#), OSCE/ODIHR, 24 April 2018.

⁷⁷ *Ibid.*

⁷⁸ [Utvrđen Nacrt zakona o javnom okupljanju](#) [The Draft Law on Public Assembly has Been Decided], Government of the Federation of Bosnia and Herzegovina, 20 October 2022.

⁷⁹ [Comments on the Draft Law on Public Assembly in Republika Srpska](#), OSCE/ODIHR, 27 December 2019.

⁸⁰ [International Community representatives commend the adoption of the Law on Peaceful Assembly by the Brčko District Assembly](#), OSCE Mission to Bosnia and Herzegovina, 29 July 2020.

⁸¹ The legal ground for this request is Article 22 of the Law on Public Assembly of Sarajevo Canton, which provides that the police, based on an assessment of the data contained in the application for holding a peaceful assembly, has the authority to request organizers to take additional security measures; in case these are not undertaken in a timely manner, the police applies Article 16 of the law, which regulates the prohibition of a public gathering. According to interviewed HRDs, Article 22 is vague and might be interpreted in a broad manner, which might be detrimental to the exercise of people's right to freedom of peaceful assembly. See [Zakon o javnom okupljanju](#) [Law on Public Assembly], 2009 (amended 2011).

measures in 2019 and 2021, to the sum of 50,000 KM and 30,000 KM respectively. The organizers found the necessary funds on both occasions (in 2021, the additional costs were covered by the government of the Sarajevo Canton and municipal authorities), but the requests placed a considerable additional logistical and financial burden on the organizers and created uncertainty about their ability to hold the events.

68. ODIHR understands the need for heightened security during Pride events, as it heard accounts of intimidation, hate speech and threats that organizers and other LGBTI activists experienced in the run-up. However, the costs of necessary security measures should not be demanded of the organizers. Ensuring the security of peaceful assemblies is part of the responsibility of the authorities in their protection of the right. ODIHR notes that the OSCE Mission to Bosnia and Herzegovina previously labelled such practice “an unnecessary and unreasonable impediment” to the enjoyment of the right and called for its abolition.⁸²
69. Other barriers to organizing assemblies in practice were reported to ODIHR. For example, interviewees cited the restrictive environment for freedom of peaceful assembly in Republika Srpska, with assembly prohibitions, blanket bans and fines for peaceful protesters in previous years.⁸³ A more recent and notable example is that of a civic group repeatedly being banned from holding public gatherings to call for an investigation into the alleged police cover-up of the death of a young local man, David Dragičević.⁸⁴ The reason given by the authorities was the group’s failure to comply with the law during previous rallies.⁸⁵ In December 2020, the Banja Luka Basic Court ruled in favour of two Justice for David activists who sued the authorities for discrimination.⁸⁶
70. Bosnia and Herzegovina benefits from a vibrant and active civil society, and exercising freedom of peaceful assembly further strengthens its visibility and effectiveness. While HRDs are indeed able to organize assemblies, albeit with hurdles in some cases, the authorities should still improve the legislation, relieve civil society of undue organizational and financial burdens and recognize spontaneous assemblies.

2.3. Freedom of association / access to funding and resources

⁸² [The enjoyment of Freedom of Peaceful Assembly in BiH: monitoring observations of the OSCE Mission to Bosnia and Herzegovina, 2021.](#)

⁸³ See for example: Ajla Škrbić, “Cijena protesta: Prakse nadležnih institucija u oblasti slobode okupljanja u BiH [The Price of Protest: Practices of Relevant Institutions in the Area of Freedom of Peaceful Assembly in Bosnia and Herzegovina], 2020: https://soc.ba/site/wp-content/uploads/2020/11/BH_verzija_FINAL.pdf.

⁸⁴ 'Justice for David' Group Banned from Gathering in Banja Luka Church, 7 June 2019, available at: <https://ba.n1info.com/english/news/a349103-justice-for-david-group-banned-from-gathering-in-banja-luka-church/>.

⁸⁵ 2021 Country Reports on Human Rights Practices: Bosnia and Herzegovina, US Department of State, 2021, available at: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/bosnia-and-herzegovina>.

⁸⁶ [Sud zaključio da je MUP Republike Srpske diskriminisao aktivistkinje](#) [The Court Concluded that the MUP of Republika Srpska Discriminated Against Female Activists], detektor.ba, 22 December 2020.

71. The Constitution of Bosnia and Herzegovina and the highest legal acts of the entities and the Brčko District protect freedom of association.⁸⁷ Legislation governing this area exists on State, entity and Brčko District levels.⁸⁸
72. At the state level, the Ministry of Justice of Bosnia and Herzegovina is responsible for the registration of CSOs.⁸⁹ Registration in the Federation of Bosnia and Herzegovina is also carried out within the ministries of justice at the federal and cantonal levels while, in Republika Srpska, some basic courts are in charge of the process. In Brčko District, CSOs acquire legal personality upon entry into the register of the Basic Court of the Brčko District.
73. As of June 2022, 25,646 registered associations and foundations reportedly existed in the country.⁹⁰ There was no country-wide unified register.
74. CSO representatives across the country generally described the registration process as straightforward. However, ODIHR was informed that the process might be more demanding for small organizations and that changing information in the registers might be complicated.
75. A number of civil society interviewees working in Sarajevo, Mostar and Bihać praised the practice of local authorities providing office space to NGOs. ODIHR learned, for example, that women’s rights organizations in these cities rent their premises from the municipality and that the Centar municipality in Sarajevo provided space to six CSOs to carry out human rights work as a coalition. At the same time, several interviewees were worried that the renewal of lease agreements, sometimes annually, might depend on the level of cooperation HRDs have with the local authorities, which may create uncertainty for NGOs relying on the scheme whenever the authorities change.
76. Access to adequate and sustainable funding was described as a challenge by many of the HRDs interviewed. While human rights CSOs across the country rely mostly on funds from international donors, small grants are typically available from the authorities. The process of accessing public funding was described by interviewees as “complicated”, “bureaucratic” and “burdensome”. Some HRDs highlighted the need for more transparency in decision-making on

⁸⁷ *Op. cit.*, notes 53, 55, 56 and 57.

⁸⁸ [Zakon o Udruženjima i Fondacijama Bosne i Hercegovine](#) [Law on Associations and Foundations of Bosnia and Herzegovina], 2001 (amended 2016); [Zakon o Udruženjima i Fondacijama Federacije BiH](#) [Law on Associations and Foundations of the Federation of Bosnia and Herzegovina], 2002; [Zakon o Udruženjima i Fondacijama Republike Srpske](#) [Law on Associations and Foundations of Republika Srpska], 2001 (amended 2005); [Zakon o Udruženjima i Fondacijama Brčko Distrikta Bosne i Hercegovine](#) [Law on Associations and Foundations of Brčko District of Bosnia and Herzegovina], 2020.

⁸⁹ Registration of CSOs at the national level is done in line with the Law on Associations and Foundations of Bosnia and Herzegovina and the *Rulebook on keeping the Register of associations and foundations of Bosnia and Herzegovina and foreign international associations and foundations and other non-profitable organizations*. See [Pravilnik o načinu vođenja registra udruženja i fondacija Bosne i Hercegovine i stranih međunarodnih udruženja i fondacija i drugih neprofitnih organizacija](#) [Rules on the manner of Keeping the Register of Associations and Foundations of Bosnia and Herzegovina and Foreign International Associations and Foundations and other Non-Profit Organizations], 2018.

⁹⁰ [Democracy and Human Rights - Civil Society](#), Delegation of the European Union to Bosnia and Herzegovina & European Union Special Representative in Bosnia and Herzegovina, 27 June 2022.

the allocation of public funds and proactive and regular provision of information on available grants.

77. ODIHR was told that funding opportunities from international donors decreased during the COVID-19 pandemic, and some NGOs even suspended their activities due to lack of funding. Journalists reported that their workload increased, but salaries remained low or had even been reduced.
78. Despite these challenges, the right to freedom of association was largely protected in Bosnia and Herzegovina. The situation should be further improved through ensuring the availability and sustainability of publicly provided resources.

2.4. Right to participate in public affairs

79. Bosnia and Herzegovina has established mechanisms and procedures for the participation of civil society in public affairs, including through consultations in law- and policymaking processes. At the national level, in line with the *Rules for Consultations in the Drafting of Legal Regulations of the Council of Ministers of Bosnia and Herzegovina* (the *Rules*),⁹¹ institutions have an obligation to conduct public consultations on all draft laws and policies.⁹² According to the Ministry of Justice, in 2020, institutions at the national level conducted 543 public consultations on draft legislative proposals and other acts and published 412 reports on consultations carried out.⁹³
80. The *Rules* introduced the possibility of online consultations between state institutions and other interested parties, including CSOs. To facilitate this, the authorities established an *EKonsultacije* online platform,⁹⁴ since shut down, on which citizens and organizations could submit comments on draft legislation.
81. Interviewees described the establishment of *EKonsultacije* platform as a positive measure, highlighting that public bodies used it systematically to post draft legal initiatives for consultation. Several interlocutors said that similar measures at the entity and local levels would enhance the public participation of civil society.
82. While the Ministry of Justice of Bosnia and Herzegovina noted that the platform allowed for two-way communication about draft legal initiatives, several HRDs mentioned instances in

⁹¹ [Rules for Consultations in the Drafting of Legal Regulations of the Council of Ministers of Bosnia and Herzegovina](#), 2017.

⁹² In line with the *Rules*, national institutions take into consideration the proposals and comments received, and provide an explanation of the reasons for accepting, partially accepting or rejecting input. When submitting a draft proposal to the Council of Ministers for adoption, they are also required to produce a report on the consultations conducted and a statement declaring that they met their obligations in this regard.

⁹³ [Izveštaj o provođenju pravila za konsultacije u izradi pravnih propisa za 2020. godinu](#) [The Report on the Implementation of Rules for Public Consultation for the year 2020], Ministry of Justice of Bosnia and Herzegovina, 2021.

⁹⁴ [EKonsultacije](#) platform.

which the absence of follow-up on the part of the consulting authority prevented meaningful consultation.

83. Other issues raised by civil society interviewees included insufficient timeframes for providing comments⁹⁵ and insufficient communication of initiatives available for consultation. In their view, those shortcomings prevented CSOs from making full use of the platform.
84. ODIHR also learned about mechanisms enhancing cooperation between the authorities and civil society at various levels. In the Federation of Bosnia and Herzegovina, the Ministry of Interior, the Ministry of Justice and the Gender Centre (a professional body of the Federal government that observes implementation of rights of women and promotes equal rights and possibilities) regularly posted draft laws and policies for comment on their websites (although some interviewees stressed the need to advertise calls better). In Republika Srpska, the Ministry of Administration and Local Government and the Ministry of Justice relied on roundtables, public debates or working groups as the main methods of consultation. At the local level, ODIHR received accounts of good cooperation between women's rights organizations and the Ministry of Interior and the Ministry of Health, Labour and Social Policy of the Una-Sana Canton.
85. Less positively, civil society interviewees informed ODIHR of shortcomings in how public consultations were conducted in practice. They complained that consultations were sometimes a box-ticking exercise, with their input making no visible impact. Roma rights activists and organizations were among those who consistently described this experience. Grassroots environmental activists gave similar accounts, adding they were sometimes excluded from environmental impact assessment meetings because their views were in opposition to those of the local authorities.
86. In summary, while there were certainly good practices in HRDs' participation in public affairs, there was considerable space for improvement. A wider spectrum of HRDs should be consulted on a greater number of laws and policies within their areas of interest and/or expertise, using various means of consultations, and earlier in the process. When their views are not taken on board, they should be made aware of the reasons for that.

2.5. Freedom of movement and human rights work within and across borders

87. The constitutional and legal framework in Bosnia and Herzegovina guarantees freedom of movement to all people within its territory, and the right is generally upheld. Nonetheless, ODIHR received information about cases in which the authorities reportedly imposed restrictions on HRDs' freedom of movement.

⁹⁵ In line with the *Rules*, authorities must set a deadline of at least 15 days for sending proposals, or in exceptional cases they can give no less than 30 days, starting from the day of the publication of the initiative.

88. For example, within the assessment period, local authorities in the Una-Sana Canton reportedly prevented some international organizations from delivering humanitarian aid to migrants living in informal settlements in Bosanska Bojna, at the border with Croatia. Migrant rights defenders told ODIHR that the authorities also denied humanitarian CSOs access to other informal settlements where migrants were living. According to BH Novinari and the Free Media Help Line, in December 2020 and January 2021, police officers hindered journalists' access to the Lipa camp in the Una-Sana Canton, thus interfering with their work documenting conditions in the camp.⁹⁶
89. The above measures were part of a series of increasingly restrictive measures adopted by the Cantonal Operational Group for Migration.⁹⁷ In March 2021, the Operational Group published a conclusion concerning the work of CSOs and activists assisting migrants, stating that "humanitarian work must heavily rely on officially established reception centers" and not allow the distribution of aid outside locations established in coordination with the authorities,⁹⁸ which, in the view of ODIHR, unduly restricts their work.
90. In conclusion, HRDs' freedom of movement in the country was generally upheld, bar limitations that humanitarian CSOs and activists faced when working with refugees and migrants.

III. Recommendations

ODIHR offers recommendations to enhance the protection of HRDs and bring measures fully in line with OSCE commitments and other international obligations and standards, as elaborated in *The Guidelines*. ODIHR stands ready to assist the authorities in implementing these recommendations and to foster dialogue between the authorities and civil society on the recommendations and their implementation.

1. On the physical integrity, liberty and security, and dignity of human rights defenders

- a) Ensure prompt, thorough, independent and transparent investigations into cases of threats and attacks targeting HRDs, including gender-specific abuse and attacks on the physical and digital property of CSOs, activists, media outlets and journalists. (Principally addressed to law enforcement agencies and prosecutor's offices)
- b) Undertake measures to ensure that HRDs reporting cases of violations or abuse are able to report their cases in a professional, safe and impartial environment and do not face intimidation, re-traumatization or reprisals. (To law enforcement agencies, in consultation with CSOs and Human Rights Ombudsman)

⁹⁶ [BH Journalists: The Ministry of Security and MOI USK Must Enable Journalists to Work Freely and Undisturbed](#), *BH Novinari*, 19 January 2021.

⁹⁷ [Bosnia and Herzegovina - Submission for European Union Enlargement Package/Opinion](#), Amnesty International, 2021.

⁹⁸ [Vlada Unsko - sanskog kantona](#), 10 March 2021.

- c) Build the capacity of law enforcement officials to tackle more efficiently online attacks and threats targeting HRDs, and implement other appropriate measures to this end. (To Ministries of Interior in cooperation with international organizations)
- d) Develop, effective protection policies, programmes and mechanisms to ensure the safety and security of journalists and other at-risk HRDs, including by considering a system of temporary physical protection. (To the Ministry of Security, ministries of interior, in consultation with CSOs, including media organizations)
- e) Allocate adequate funding and resources to existing protection programmes and mechanisms, including the Advisory Body of the Council of Ministers of Bosnia and Herzegovina and the Institution of the Human Rights Ombudsman, to ensure their effective functioning and sustainability. (To the Council of Ministers, Parliamentary Assembly)
- f) Conduct awareness-raising activities, for staff of the ministries of interior, law enforcement agencies, prosecutor's offices and judges, on the role of HRDs and their important and legitimate work. (To the Human Rights Ombudsman and relevant CSOs, in consultation and cooperation with international organizations).
- g) Work through capacity-building and legal changes towards eliminating the practice of using judicial proceedings to harass or intimidate HRDs, including journalists, for the prevention of, or in retaliation to their human rights work. (To the Council of Ministers, ministries of justice, parliaments, courts)
- h) Refrain from publicly discrediting the work of HRDs or engaging in smear campaigns against them. (To public officials at all levels of government)
- i) Raise awareness among the general population about the importance and legitimacy of HRDs' work by publicly speaking in support of their work and condemning smear campaigns against them. (To high-level public officials)
- j) Adopt and implement proactive measures, including educational programmes that foster tolerance in society, to discourage and change attitudes and behaviours that target individuals often facing marginalization and discrimination, including HRDs with disabilities and women activists. (To ministries of education, in consultation and collaboration with HRDs)

2. On other aspects of a safe and enabling environment conducive to human rights work

- a) Effectively implement international obligations and OSCE commitments related to safety of journalists, including the 2018 OSCE Ministerial Council Decision on the Safety of Journalists. (To governments, parliaments)
- b) Ensure that requests for information of public interest are responded to within the legal deadlines, with sufficient precision and in a user-friendly format. (To all public authorities under the scope of freedom of information legislation)
- c) Ensure that defamation laws are used against journalists and other media actors only as a last resort, ensuring that any possible interference is justified by an overriding requirement in the public interest and proportionate to the legitimate aim pursued (To ministries of justice, courts)
- d) Adopt legislation in the Federation of Bosnia and Herzegovina on the protection of whistle-blowers. (To governments, parliaments)

- e) Take measures to protect whistle-blowers from retaliation resulting from their reporting. (To the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, APIK, law enforcement agencies)
- f) Raise public awareness about the safeguards and mechanisms relating to the protection of whistle-blowers. (To APIK)
- g) Raise awareness among ministries of interior, law enforcement agencies, municipal actors and other state bodies of the *ODIHR Guidelines on Freedom of Peaceful Assembly* and implement the obligations outlined therein. (To the Human Rights Ombudsman in collaboration with the OSCE; ministries of interior, law enforcement agencies, municipalities)
- h) Consider the legislation of the Brčko District on freedom of public assembly as a basis for improving legislation on other levels of government. (To governments, parliaments)
- i) Ensure, in law and practice, that the authorities provide adequate safety and security for participants of public assemblies and that this burden does not fall on the organizers of assemblies. (To ministries of interior, law enforcement agencies)
- j) Raise awareness among ministries of justice and relevant courts of the *ODIHR Guidelines on Freedom of Association*, and implement the obligations outlined therein. (To the Human Rights Ombudsman in consultations with the OSCE)
- k) Take measures to strengthen the availability, sustainability and transparency of public funding for CSOs. (To governments, local authorities)
- l) Build on the practice of supporting civil society organizations with non-financial resources, for example, by providing office space to NGOs. (To ministries, local authorities)
- m) Develop legal and policy frameworks regulating civil society participation in law- and policymaking processes and other initiatives of public interest in a way that allows genuine and meaningful participatory processes and provides feedback on recommendations and input. (To governments, parliaments)
- n) Provide meaningful, inclusive and regular opportunities for HRDs' public participation, e.g., in meetings, roundtable discussions, hearings and working groups, and ensure their input is taken into account, including by sharing feedback on consultation processes. (To governments, parliaments, public authorities)
- o) Establish sustainable online platforms for meaningful and inclusive consultation on laws and policies, including by providing a sufficient timeframe for HRDs to submit input and ensuring meaningful follow-up. (To governments)
- p) Actively engage with the Advisory Body of the Council of Ministers of Bosnia and Herzegovina for Cooperation with NGOs in the process of drafting a strategy for the development of civil society; consider ensuring mixed representation of government institutions and CSOs within the Body. (To the Council of Ministers)
- q) Strengthen the participation of HRDs working on the protection of Roma rights and environmental issues, including at the local level. (To governments, local authorities)
- r) Adopt measures to implement effectively and in a timely manner ODIHR's recommendations, including in cooperation with civil society and international organizations, where relevant. (To governments, parliaments)
- s) Take concrete steps to implement effectively the existing recommendations on the protection of HRDs made by intergovernmental bodies and international and regional human rights mechanisms. (To governments, parliaments)

- t) Follow the status of implementation of the present recommendations. (To the Ministry of Human Rights and Refugees, the Human Rights Ombudsman)
- u) Identify gaps in the existing legislation pertaining to the operation and protection of HRDs, with the view to addressing them; actively involving civil society in the process. (To parliaments)
- v) Consider seeking ODIHR's review of draft and existing laws relevant to HRDs areas of work, including in cooperation with the OSCE Mission to Bosnia and Herzegovina. (To parliaments)
- w) Provide oversight of the actions of state authorities pertaining to the protection of HRDs. (To parliaments)