

State of the Rule of Law in Europe in 2022

Reports from National
Human Rights Institutions

Bosnia and Herzegovina



Bosnia and Herzegovina

The Human Rights Ombudsman Institution of Bosnia and Herzegovina

Impact of 2021 rule of law reporting

Follow-up initiatives by the Institution

Despite the measures that are currently in effect to prevent the spread of COVID-19, the Human Rights Ombudsman Institution of Bosnia and Herzegovina (IHROBiH) has been carrying out its regular activities and has been acting on individual complaints. In 2021, the IHROBiH carried out activities with a view to strengthening regional cooperation with independent human rights protection mechanisms by a direct exchange of experience. There was cooperation with civil society organisations when special IHROBiH reports were drafted, when CSOs were requested to take part in IHROBiH activities and when IHROBiH participated in round tables and conferences organised by the non-governmental sector. Successful cooperation in the field of combating discrimination and hate speech and in the field of freedom of assembly was continued through projects with the Council of Europe and the OSCE Mission to BiH, pursuant to the European Convention on Human Rights.

Since restrictions were imposed on visits to correctional facilities to prevent the spread of the epidemic, the IHROBiH paid particular attention to monitoring the implementation of the measures adopted to prevent the spread of the COVID-19 pandemic and their impact on the exercise of human rights for persons whose freedom of movement were restricted by decisions of the competent judicial bodies. In the course of 2021, the IHROBiH visited the following correctional facilities: Zenica Correctional Facility, Tuzla Correctional Facility, Sarajevo Correctional Facility, Banja Luka Correctional Facility, Istočno Sarajevo Correctional Facility and Dobož Correctional Facility. In cooperation with UNICEF, the IHROBiH visited institutions accommodating children in conflict with the law, with a view to drafting the Special Report on the Situation in Institutions Accommodating Children in Conflict with the Law and drafting the Methodology for Visiting Institutions Accommodating Children in Conflict with the Law Implemented with a View to Establishing the Situation. There were two visits made to Ušivak Temporary Reception Centre for Migrants in 2021.

The Special Report on Professional Rehabilitation and Employment of Persons with Disabilities, the Special Report on Hate Speech in Bosnia and Herzegovina and the Special

Report on the Status of Exercise of the Right of the Child to Child Benefit in Bosnia and Herzegovina were published. In response to invitations and as part of their activities, the Ombudspersons attended the 19th and 24th sessions of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, the 18th session of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, the 8th and 12th sessions of the Joint Committee on Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina and the 16th and 19th sessions of the National Assembly of the Republika Srpska. They also attended the 20th and 21st sessions of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, the 10th and 11th sessions of the Commission for the Protection of Human Rights and Freedoms of the Parliament of the Federation of Bosnia and Herzegovina, the 28th session of the Legal Commission of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina and the 13th session of the Labour and Social Protection Committee of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina.

The IHROBiH delivered presentations at events in Banja Luka, Sarajevo and Mostar dedicated to identifying and acting on hate speech cases and on the topics such as freedom of expression, legal framework, protection mechanisms, and the role and position of civil servants. These events were organised and held as part of the joint Council of Europe/EU Delegation to Bosnia and Herzegovina (BiH) project entitled "Promotion of Diversity and Equality in Bosnia and Herzegovina" and aimed at comprehensively highlighting the unacceptability and harmfulness of hate speech and explaining the existing mechanisms for prevention and protection of victims and the penalisation of perpetrators (link to the Manual for Combating Hate Speech provided in references). As per a longstanding tradition, the Ombudspersons delivered a lecture at the School of Law in Sarajevo and received a letter of appreciation for their active cooperation with the academic community as one of its strategic partners, for the popularisation of legal science and the legal profession, the promotion of human rights and the creation of conditions for their exercise. The Institution repeatedly issued public statements on their website and thus raised awareness of particular issues.

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NHRI's Recommendations to National and European policy makers

- Support the partnership between the international community in Bosnia and Herzegovina and IHROBiH.

Independence and effectiveness of the NHRI

International accreditation status and SCA recommendations

The Human Rights Ombudsman of Bosnia and Herzegovina was last re-accredited with A-status in November 2017 (1).

The SCA noted that the NHRI's enabling law provided for a limited promotion mandate but acknowledged that proposed amendments to the enabling law would address this

concern. Moreover, the SCA recommended that the law provides further details on the dismissal process.

The SCA took the view that the selection process enshrined in the enabling law was not sufficiently broad and transparent. Acknowledging that in practice, civil society are involved in the process, the SCA encouraged the NHRI to continue to advocate for the formalisation and application of a clear, transparent and participatory selection and appointment process.

The SCA encouraged the NHRI to continue to advocate for the funding necessary to ensure it can effectively carry out its mandate, including for its NPM function, and to continue to advocate for the proposed amendments that would enhance the NHRI's independence in respect of the budget.

Additionally, the SCA noted that there is no requirement that the NHRI's annual report is considered by or discussed in the relevant Parliaments. It recommended that the NHRI should advocate for the inclusion in its enabling law of a process whereby its reports are discussed and considered by the legislature.

Further, the SCA encouraged the NHRI to continue to maintain, develop and formalise working relationships with other domestic institutions established for the promotion and protection of human rights, including civil society organisations.

References

- (1) https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_Report_November_2017_-_ENG.pdf

Regulatory framework

The Institution's regulatory framework is based on an international treaty. The NHRI has the mandate to contribute to access to justice for individuals, including through complaints handling, providing legal assistance to individuals and awareness-raising.

The applicable regulatory framework has not changed since the 2021 report but needs to be strengthened.

Among others, Bosnia and Herzegovina has not yet fulfilled its obligation to establish an independent body mandated to visit all places of detention in order to improve the position of persons deprived of their liberty, in particular with regard to identifying possible torture and other inhumane or degrading treatment.

The Draft Bill on Amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina comprises four amendments and are as follows: financial independence,

cooperation with civil society, appointments and dismissals, and establishment of an Independent Preventive Mechanism pursuant to the Optional Protocol to the Convention against Torture. Pursuant to the recommendations made by the Sub-Committee for Accreditation (SCA), the Institution initiated amendments to the Law on IHROBiH in order to implement these recommendations. The European Commission's opinion from 2019 on this matter was similar to the SCA's. By adopting the Law on Amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina, the IHROBiH should be reformed in compliance with the Paris Principles and the recommendations of the Global Alliance of National Human Rights Institutions (GANHRI) made during the 2017 reaccreditation process to improve its independence and efficiency and enable it to function as a National Preventive Mechanism (NPM/PM). The adoption of the Law on Amendments to the Law on IHROBiH would greatly improve the functioning of IHROBiH and ensure an enabling environment for a more effective cooperation. Unfortunately, the Law on Amendments to the Law on IHROBiH has not been adopted yet, i.e. it is still tabled and it is not known when it should be put on the agenda again.

Enabling and safe space

The relevant authorities have developed awareness and knowledge of the IHROBiH mandate, independence and role to a certain extent, although not yet to a sufficient degree. It is indisputable that there should be a continued process to raise this awareness by training civil servants on human rights (IHROBiH held similar trainings in the past), by increasing the understanding and knowledge of IHROBiH's mandate (in particular through training judicial authorities), by increasing IHROBiH's visibility and its outreach to different groups in society, by informing the public on IHROBiH's role, by raising the level of awareness, cooperation and exchange of good practices with judicial bodies, legislative and executive bodies, police bodies, etc.

The IHROBiH is not a policy maker but can contribute greatly by guiding the design of the political and legal framework that defines the exercise of human rights. The policy makers, i.e. legislative bodies should engage with the IHROBiH in terms of the latter providing opinions on human rights issues when normative instruments are being adopted. The IHROBiH has had a long-term and correct cooperation with all competent state bodies in Bosnia and Herzegovina.

The addressees of the NHRI's recommendations are legally obliged to provide a timely and reasoned reply. With regard to whether authorities ensure timely and reasoned response to NHRI's recommendations, the IHROBiH expresses particular concern over the fact that certain representatives of the state authorities, courts and public institutions breach provisions of the Law on IHROBiH despite the Institution's recommendations. Next to

active breaches, passive attitude towards the IHROBiH, failure to cooperate with the IHROBiH (such as failure to comply with IHROBiH recommendations) and specific state administration bodies' failure to undertake activities aimed at fully implementing IHROBiH recommendations, all result in further violations of citizens' human rights and fundamental freedoms.

In 2021, the IHROBiH issued 331 recommendations identifying human rights violations. Out of this number, 112 recommendations were implemented, 4 were partially implemented, there was cooperation in 60, no response for 74 and no implementation for 81 recommendations.

In 2021, the Committee on Human Rights of the Parliamentary Assembly sent a memo to all public bodies that failed to comply with IHROBiH recommendations in 2020 and instructed them to provide a written submission concerning the above. This proved to be an efficient mechanism for implementing the IHROBiH recommendations. The Prohibition of Discrimination Act of Bosnia and Herzegovina provides for penalties for minor offences in case of failure to comply with IHROBiH recommendations.

Measures necessary to protect and support the NHRI, heads of institution and staff against threats and harassment and any other forms of intimidation (including SLAPP actions) are not in place.

Although there have been no physical attacks on the Ombudspersons or IHROBiH staff so far, verbal threats have been made. The Institution believes this is somewhat understandable given the daily communication with complainants with different psychological profiles and misunderstandings in communication are inevitable. In 2015/2016, the IHROBiH was the defendant in a discrimination court proceeding, but the plaintiff gave up and dismissed the action at one point. In another case, the plaintiff addressed the competent authorities irrespective of the Law on the IHROBiH. In 2021, there was a case where a disgruntled plaintiff filed a report with the State Investigation and Protection Agency (SIPA), in which the Ombudspersons and the lawyer assigned to the case gave statements for SIPA. The Prosecutor's Office of BiH filed an indictment based on the IHROBiH recommendation. The lawyer assigned to the case was a witness at the trial; the first-instance judgement was an acquittal, and the second-instance judgement is pending.

The Institution believes cooperation between judicial authorities and IHROBiH should be strengthened.

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NHRI's recommendations to national and regional authorities

- Urgently table the Bill on Amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina;
- Create material assumptions/budget for the development of the IHROBiH in compliance with the mandates and recommendations of UN bodies and the Sub-Committee on Accreditation;
- Improve the Paris Principles, bearing in mind the identified needs of national human rights institutions;
- Continuously work on having all government levels recognise the role, importance and work of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina in the protection and promotion of human rights in Bosnia and Herzegovina;
- Ensure independence of the Institution of the IHROBiH;
- Strengthen the mechanisms for the implementation of IHROBiH recommendations.

Human rights defenders and civil society space

Access to and involvement of civil society actors in law and policy making

Civil society organisations (CSO) addressed the IHROBiH following the adoption of legal provisions not taking into account the CSOs' comments and positions on how the issues directly related to the exercise of their rights. The CSO believed that the possibility for civil society organisations to participate in the process of adopting laws by providing comments and suggestions was only offered by matter of formality. The IHROBiH acted on their complaints, pointed out the importance of CSOs' participation in legislative procedures and provided opinions concerning the adopted laws to the competent authorities (Example: acting on the complaint filed by the Paraplegic Association of Istočna Herzegovina Region and issuing a recommendation to the RS Ministry of Health and Social Protection in order to launch the initiative to amend the RS Social Protection Act).

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Threats and attacks, including strategic litigation against public participation (SLAPPs)

The most pressing challenges observed by the IHROBiH include the frequent phenomenon of online harassment of activists on social networks. This point is further developed under the media freedom section.

NHRI's recommendations to national and regional authorities

- Create/enact legal provisions while taking into account the position of civil society organisations.

Checks and balances

The IHROBiH regularly reports to UN committees via its submissions to UPR, CAT, CCPR, CEDAW, CERD, CESCR, CMW, CRC, CRPD, and ECRI. In 2021, the IHROBiH filed an Annex to the Report to the Committee on Economic, Social and Cultural Rights (CESCR), and is planning to prepare a submission to the UN Committee on Civil and Political Rights in the course of this year. Submissions to the UN Committee on the Elimination of Discrimination against Women (CEDAW) and the UN Committee on the Elimination of Racial Discrimination (CERD) are to follow.

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Trust amongst citizens and between citizens and the public administration

The Institution does not consider that state authorities sufficiently foster a high level of trust amongst citizens and between citizens and the public administration.

NHRIs as part of the system of checks and balances

Article 32 paragraph 5 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina stipulates that: "When, following the examination of a case, the IHROBiH finds

that the manner in which a law is implemented leads to unfair results, they may send recommendations to the relevant government body which would lead to a fair resolution of the situation of the affected individual. The IHROBiH may propose to the relevant body measures that are likely to remedy the situation to which the complaint relates, including payment of damages and may propose in the IHROBiH annual or special reports amendments to laws and other regulations they find necessary.”

In 2021, the IHROBiH, pursuant to its powers, recommended the following legislative amendments:

1. The initiative to amend Article 13, par. 3 and 4 of the Rulebook with the Recruitment Criteria for Preschool Institutions, Primary and Secondary Schools as Public Institutions Founded by Sarajevo Canton (The Official Gazette of Sarajevo Canton, no 29/21 and 31/21);
2. The initiative to amend Article 147 paragraph 1 of the Pension and Disability Insurance Act of the Federation of Bosnia and Herzegovina (The Official Gazette of the FBiH, no 3/2018 and 93/2019 – CC Decision) providing for the right to funeral benefit in case a pension user dies;
3. The initiative to amend the Health Insurance Act of the FBiH and Social Contributions Act of the FBiH;
4. The initiative to amend Article 35 of the Social Protection Act of the Republika Srpska (The Official Gazette of the RS, no 37/12, 90/16, 94/19 and 42/20);
5. The Special Report on the Status of Exercise of the Right of the Child to Child Benefit in Bosnia and Herzegovina sent with the governments of the entities and BDBiH, the governments of the cantons in the FBiH, recommending amendments to the Child Protection Act of the Republika Srpska so as to enable children to exercise the right to child benefit until they turn 18 and assess or analyse all effects of the 2019 Act on Amendments to the Child Protection Act (went into effect on 1 January 2020), both in terms of beneficiaries and the Republika Srpska budget and amendments to the Child Protection Act of the BD BiH so as to enable children to exercise the right to child benefit until they turn 18;
6. The initiative to amend the Enforcement Procedure Act of the FBiH.

References

- The Official Gazette of BiH, no 19/02, 35/04, 32/06 and 38/06:
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Functioning of the justice system

In general, the IHROBiH considers that the transparency of judicial institutions in BiH is not at a satisfactory level. In order to increase the transparency of the work of judicial institutions, in crisis situations and/or to generally increase citizens' trust in the work of the judiciary, the communication practices of the judiciary need to be improved. In 2014, the High Judicial and Prosecutorial Council (HJPC) drafted the Guidelines for Publishing Prosecutorial and Judicial Decisions on their Official Website to harmonise the practice for proactive publication of information, especially in terms of anonymising data and striking the balance between personal data protection and public interest. However, research has shown that judicial institutions in BiH do not apply these recommendations uniformly. Some institutions do not provide their public relations contacts on their official websites and publish very little news.

At its regular session held on 28 January 2021, the Council of Ministers of Bosnia and Herzegovina (BiH) issued a decision at the proposal of the High Judicial and Prosecutorial Council (VSTV) of BiH which allowed for free access to the Database of Court Decisions. The decision took effect on the day it was published in The Official Gazette of BiH no 13/21 on 5 March 2021. Decisions can be searched by case number, date of issuance, issuing court, and by free text. This decision ensures a proactive role of the authorities, transparency of work of judicial institutions, and encourages the strengthening of citizens' trust in judicial institutions.

The Bill on the Protection of the Right to a Trial within a Reasonable Time before the Court of Bosnia and Herzegovina is also tabled, proponent: Council of Ministers of BiH, no 01,02-02-1-764/21 dated 30 April 2021.

Based on the cases received by the IHROBiH and direct contact with parties, distrust of citizens in judicial institutions still continued to be noticeable in 2021. As a general rule, parties continued to express their dissatisfaction because of the inefficiency of the court system (length of court proceedings), inefficiency of prosecutorial work, distrust in the work of the High Judicial and Prosecutorial Council, inadequate HJPC treatment of disciplinary liability of judges, length of proceedings (Article 6), execution of judgements, judge appointment procedure, etc. Thus, in 2021, there was a 16.03 percent increase in complaints filed by citizens about the functioning of the judiciary in BiH (427 cases in 2021 compared to 368 cases in 2020), with a recorded 9.59 percent decrease in the field of the administration compared to 2020 (264 compared to 292).

Furthermore, there are evident shortcomings in terms of accessibility of free legal aid to citizens of BiH. This includes the situation where a Free Legal Aid Institute has yet not been

established in the Central Bosnia Canton, while this service has only recently become available to citizens in Canton 10.

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Role of the NHRI in contributing to the effective functioning of the justice system

The total number of judiciary and administration cases received in 2021 amounted to 774. This is a 10.41 percent increase compared to the previous year. The number of judiciary and prosecution cases received increased, while the number of administration cases decreased. Seventeen IHROBiH recommendations were implemented, twenty-two recommendations were not, no agreement was reached in 12 cases, and no recommendations were implemented partially.

The 2021 IHROBiH Annual Report is in its final drafting stages and will soon be available on the IHROBiH website. The English version should be available mid-2022.

Pursuant to the Law on Human Rights Ombudsman of Bosnia and Herzegovina, the IHROBiH has no competence to provide legal advice, to instigate legal proceedings, etc. and parties are referred to legal aid services for such actions and advised to exercise their rights in legal proceedings.

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Media freedom, pluralism and safety of journalists

The IHROBiH Public Relations Department monitors information flow daily and intervenes promptly if necessary. Journalists must be able to perform their duties unhindered, including in terms of their contribution to ensure accountability of public authorities and to prompt them to share public interest information.

In 2021, the IHROBiH received and registered a number of complaints concerning hate speech (2) and attacks on the press and freedom of information (9).

In 2018, the IHROBiH drafted a Special Report on the Position of Journalists and Cases of Threats Made against Journalists in Bosnia and Herzegovina. One of the most important recommendations made in the report and communicated to the relevant authorities (Ministry of Justice of the Republika Srpska, Ministry of Justice of the Federation of Bosnia and Herzegovina and Judicial Commission of the Brčko District of Bosnia and Herzegovina)

is the instruction to consider defining attacks against journalists as a specific offence. Furthermore, another recommendation was the instruction to consider defining attacks against journalists as a separate minor offence against public order in public order acts. However, these recommendations have not yet been incorporated in adequate amendments to the mentioned laws.

Although there is a strong legislative and institutional framework for combating hate speech in Bosnia and Herzegovina, the level of prosecutions of hate speech incidents is very low, as shown by different indexes and statistics of institutions responsible for the protection of human rights and enforcement of regulations in this area. There are multiple reasons for this dichotomy, and they include financial, staffing, sociological and political elements.

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Role of the NHRI in promoting and safeguarding an enabling environment for media and freedom of expression

Through their work, journalists inform and familiarise the public with actions taken by all public stakeholders. This contributes to opening discussions and creating possibilities for all stakeholders to express their positions on current phenomena and developments in society. The social function of journalists can only be fulfilled if their status is regulated and if their right to safety and dignity is guaranteed. In 2021, the IHROBiH continued to cooperate proactively and pay particular attention to information and cooperation with the media, and provided support to journalist associations in BiH.

By fostering the partnership with media representatives and in the context of promoting good governance and the rule of law, freedom of expression, proactive transparency and in the best interest of the citizens, the Ombudspersons of BiH made many media

appearances. The IHROBiH also acted on complaints filed by the BiH Journalists Association (three registered cases in 2021) and had a total of nine registered cases falling under the “Media and freedom of information” violation category. The complainants in these cases were natural persons, the School of Political Sciences in Sarajevo, the Central Election Commission of BiH, two portals, media outlets from the FBiH, etc. In 2021, the IHROBiH also had contacts with the BiH Journalists Association concerning the topic of initiating amendments to criminal legislation in Bosnia and Herzegovina, with a special focus on the protection of journalists and media rights, all with a view to legally protecting the rights and freedoms of journalists.

Every year, the IHROBiH makes announcements on its website to mark the occasion of the International Day to End Impunity for Crimes against Journalists (1.11.). The announcements highlight the importance of this issue and to call on the competent police bodies and prosecutor’s offices in BiH to take all measures with a view to examining all actions which result in endangering the safety of journalists and restricting press freedoms. In their appearances, the Ombudspersons always stress that attacks against journalists are attacks on democracy, security and the rule of law.

When the pandemic broke out, the IHROBiH issued a recommendation to all government levels to take adequate measures pursuant to their powers to have all decisions of crisis headquarters and other important information published in the media, without any limitation of actions. The recommendation was issued based on the Freedom of Information Act, in connection to monitoring the implementation of obligations referred to in Article 10 of the European Convention on Human Rights. The IHROBiH publicly, via a web statement, supported the initiative of civil society organisations to amend the Freedom of Information Act of BiH.

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NHRI's recommendations to national and regional authorities

Some of the recommendations issued to institutions included:

- The instruction to consider defining attacks against journalists as a specific criminal offence in criminal codes and a specific minor offence against public order;
- To consider having judges, prosecutors and police officers undergo professional trainings on how to process cases of attacks against journalists, and;
- Having the executive authorities initiate regular meetings with civil society organisations and journalist associations where information from this field and information on attacks against journalists were to be exchanged.

Corruption

Corruption is one of the greatest challenges of our time, and it is globally recognised as one of the underlying obstacles to the development of society and democracy. Transition countries, such as Bosnia and Herzegovina, are particularly susceptible to corruption given underdeveloped institutional capacities for law enforcement, and generally insufficient level of democratic culture in society as a whole. A high level of corruption is one of the major problems in BiH and it constitutes a major obstacle to its path to accession to the European Union. Acting on cases reporting corruption primarily falls within the competence of the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption of Bosnia and Herzegovina (APIK). In 2021, the IHROBiH received six complaints relating to corruption, which is a 100 percent increase compared to the previous year. An appropriate announcement was made on the IHROBiH website concerning the complaint from a non-governmental organisation indicating the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption as the respondent party.

NHRI's role in the fight against corruption

A burning issue in the work of the IHROBiH is the evident lack of staff (primarily lawyers). However, despite the lack of staff, the IHROBiH managed to actively participate and work jointly with the Office for the Fight against Corruption and the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption. The IHROBiH participated in all education programmes in this field, and provided an opinion on the Draft Act on the Prevention of Nepotism and Politically-Biased Hiring Practices in the Public Sector Bodies in Sarajevo Canton.

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Impact of measures taken in response to COVID-19 on the national rule of law environment

Bosnia and Herzegovina, and consequently the IHROBiH, continued to face a number of challenges in their everyday work and functioning during the COVID-19 pandemic in 2021. However, the situation got much better in 2021 compared to 2020. Many COVID-19 restrictions were lifted in 2021, allowing people to progressively return to their normal work and social life.

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Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

Impact on vulnerable groups

During the COVID-19 pandemic, the IHROBiH stressed the need for competent public bodies to increase supervision and take more efficient measures concerning groups at risk and vulnerable groups (older persons, persons with disabilities, children, single parents), persons falling within a group at risk due to chronic diseases, autoimmune diseases and/or other health difficulties, all with a view to protecting the rights and freedoms of vulnerable categories.

The IHROBiH also recommended that employers, whenever possible, allow persons with disabilities, parents of children and adults with disabilities or persons caring for them and single parents to work from home. If organising work from home was not possible in some cases, the IHROBiH recommended providing the most adequate conditions to ensure health protection and prevention. The public authorities are aware of the position of the United Nations Special Rapporteur on the Rights of Persons with Disabilities reading as follows: "Limiting their contact with loved ones leaves people with disabilities totally unprotected from any form of abuse or neglect in institutions". The elderly, infirm persons

and persons with disabilities often cannot function on their own and are forced to use different forms of support and assistance, such as delivery of food and medicines. Consequently, the necessity to consider the possibility and make additional efforts to ensure continued provision of services to all mentioned categories was stressed. Protective equipment should be provided to those providing assistance and support.

Due to the COVID-19 pandemic, access to healthcare services in Bosnia and Herzegovina has become more complicated and certain services, including hospital services, are difficult to obtain, with some being suspended. The situation improved in 2021 but remained challenging and problems in the functioning of the health system remained. All of these issues have had immeasurable consequences to the health and wellbeing of the population. However, the Institution pointed out that the problems undermining society cannot just be attributed to the impact of COVID-19 and the measures adopted.

Impact on the judiciary

The epidemiological measures adopted to prevent the spread of COVID-19 have affected the work of judicial institutions in BiH. In the beginning of 2020, judicial institutions adopted a set of measures such as adjourning most hearings and organising on-call duty, working from home and reducing working hours. Some judicial institutions failed to publicise the information on the adopted measures on their websites. The solutions were partial, non-uniform and different from one place to another. Most of them did not have explanations or instructions on how to organise communication with the media, on how to inform parties, citizens and journalists about new measures. Lawyer notifications were also non-uniform and improvised. The media covered the work of judicial institutions mostly online, via e-mail and direct contact with spokespersons.

The adjournment of most hearings due to the pandemic and the adopted epidemiological measures brought about communication challenges. The hearings for cases that held important social significance such as cases of corruption, organised crime and war crime were adjourned, and the delays and lack of information on when they would reconvene further affected the public's negative perception of the judiciary. The situation improved in late 2020 and in the first half of 2021. The relaxation of measures and restoration of the regular work regime began, with the adherence to the epidemiological measures and scheduling trials only when it was possible to keep physical distance.

On 16 March 2021, the Court of Bosnia and Herzegovina issued an order to take eight measures, instructing, inter alia, to hold or possibly adjourn trials at the discretion of the trial chamber or judge, depending on the area from which the parties came, the number of participants in the proceedings and the need for the given hearing. Employees falling

within categories at risk were suggested to take sick leave and working hours were modified, from 8 am to 4 pm to 8.30 am to 3.30 pm. Only three visitors were allowed to enter the Court of BiH at the same time and the Judicial Police of BiH were responsible for ensuring this.

As stated by the Court of BiH, parties were allowed to file submissions by post or in person and visitors had their temperature checked at the entrance, with protective masks and disinfectants provided. Judges and court staff were advised to work from home, while ensuring on-duty judges (for activities that cannot be delayed) and staff in the court building. The number of hearings was reduced to trials that could not be delayed, mostly detention and extradition hearings. By deciding to relax the measures imposed to combat the spread of coronavirus, the Court of BiH began scheduling individual trials while still avoiding holding trials involving large numbers of defendants.

Impact on socio-economic rights

As is the case with the exercise of some other rights, the COVID-19 pandemic has brought about some difficulties in the enjoyment of socio-economic rights. For example, it caused concern for pensioners when they exercise their rights to collect their cheques. Namely, pensioners are obliged to collect their cheques within 90 days if they receive their pensions via a transfer account. Furthermore, the situation in the social protection field was extremely difficult in 2021 as a significant number of workers in the private sector were laid off, small-scale companies ceased to operate, and service facilities were restricted. Despite being aimed at preventing and containing the spread of the infection, these measures still had a major impact on the economic prosperity of citizens and resulted their need for social care.

More generally, medium-term implications of the pandemic on the socio-economic situation of people are already visible in specific cases. For example, distance learning has had a serious impact on children, and restrictions have impinged on the enjoyment of the right to family life. This may affect children's psychosocial and behavioral development in the long run. These problems were observed before the outbreak of COVID-19 and have now become even more obvious.

Reduced economic activity and the situation in social protection were very difficult in 2020 but the situation somewhat improved in 2021. Compared to November 2020, the number of people registered as unemployed went down by 8.5 percent (men by 9.8 percent and women by 7.5 percent). In November 2021, the number of people registered as unemployed in BiH was 378,079, out of which 217,947 were women. Compared to October

2021, the number of people registered as unemployed went down by 1.1% (men by 1.3% and women by 0.9%).

According to the Union for Sustainable Return and Integration in BiH, 56,987 people emigrated from BiH in 2019, then 85,000 emigrated the following year, and the number rose to 170,000 in 2021. The IHROBiH believes the public health crisis highlighted the need for enhanced critical thinking in both authorities and citizens. Without critical thinking, there is no agreement and no way to solve or overcome problems. This includes problems brought by the pandemic and those that eroded society in BiH prior to the pandemic.

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Actions taken by the NHRI to promote and protect rule of law and human rights in the crisis context

The intensity of cooperation of the government with international institutions and organisations in Bosnia and Herzegovina at international level was lower than in previous years due to the priority given to the fight against the pandemic. Against this background, the IHROBiH initiated a number of joint activities to ensure enough attention be paid to human rights challenges. For example, a Manual for civil servants in Bosnia and Herzegovina on how to identify and act in hate speech cases was developed as part of a joint project with the Council of Europe. The successful cooperation on the project was also completed by the delivery of trainings for civil servants on hate speech in Banja Luka, Sarajevo, Mostar, Brčko, Tuzla, Bijeljina and Bihać. In line with its capacities, the IHROBiH continued to cooperate with international and domestic institutions in 2021 through research projects on topics including: violence against women, torture victims, position of Roma in society, implementation of the Aarhus Convention, political participation of young people belonging to ethnic minorities in CoE member states, as well as environmental protection issues, climate change, the situation in social welfare institutions, freedom of information acts, the status of migrants and migration in BiH, the situation of human rights defenders, the situation in prison and detention units, fight against corruption, protection of personal data, (un)vaccinated persons, freedom of assembly, pension and disability insurance, gender-based violence, hate speech and other forms of discrimination. These IHROBiH activities as well as many others are covered in the 2021 Annual Report, which should soon be made available on the IHROBiH website (www.ombudsmen.gov.ba).

In 2020 and 2021, the Department for Monitoring the Exercise of the Rights of Persons Deprived of Liberty adapted its functioning to the new situation and the newly adopted protection measures. Visits to correctional facilities were restricted in 2020 and were reduced to the minimum in 2021, in order to prevent the spread of the epidemic and strictly adhere to the measures of the relevant institutions. During 2021, the institutions for the execution of criminal penalties functioned in special, much more difficult, circumstances because certain rights of convicted persons were largely denied or restricted by the adoption of measures aimed at protecting the life and health of persons from this population. For example, a number of measures were taken to facilitate the contact of detainees and prisoners with the outside world in order to balance the restrictions imposed for reasons of public health protection.

The way in which these restrictions were implemented by the management of the institutions, significantly contributed to the fact that there was no major dissatisfaction expressed (strikes, riots) in institutions, especially in large groups, and that regardless of the overall situation there were no major difficulties in terms of the functioning of institutions or spreading of the virus in these groups.

Within its mandate and with the view to protecting human rights, the IHROBiH monitored the implementation of measures adopted by the relevant authorities at all government levels, including institutions for the execution of criminal penalties on the treatment of persons deprived of their liberty during the pandemic. The IHROBiH also issued several recommendations to the crisis headquarters and other relevant bodies, and issued statements in which they highlighted the need to ensure the rights of particularly vulnerable categories.

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NHRI's recommendations to national and regional authorities

- When making key decisions and taking key measures, always ensure the protection of the rights of the individual, especially vulnerable categories of society, as well as the rights of the public in general;
- Respect human rights standards;
- During crisis situations, key managerial persons (or person, depending on the size of the institution) need to be identified at the level of every institution, who would in turn monitor the situation, each in their own segment of work; and appropriate

recommendations need to be made in order to be able to take appropriate decisions regarding the organisation of the institution in emergency situations. After decisions are made, the central persons to monitor the operational implementation of these decisions and exchange information need to be assigned, with a view to reacting to new developments in a timely manner.

Other relevant developments or issues having an impact on the national rule of law environment

NHRI's recommendations to national and regional authorities

In order to better address the human rights and rule of law challenges identified by the IHROBiH, as also illustrated in this report, the Institution recommends authorities:

- To ensure the implementation of judgements of the European Court of Human Rights and provide regular training to civil servants on human rights.