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**HUMAN RIGHTS
DEFENDERS IN
BOSNIA AND HERZEGOVINA**
RIGHTS, POSITION AND CHALLENGES
(2023 – 2024)

**HUMAN RIGHTS DEFENDERS
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Banja Luka, November 2024.

TITLE: HUMAN RIGHTS DEFENDERS IN BOSNIA AND HERZEGOVINA – RIGHTS, POSITION AND CHALLENGES (2023 – 2024)

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Acronyms:

HRDs – Human Rights Defenders

BiH – Bosnia and Herzegovina

FBiH – Federation of Bosnia and Herzegovina

RS – Republika Srpska

BD – Brčko District of Bosnia and Herzegovina

EU – European Union

UN – United Nations

CCRS – Criminal Code of the Republika Srpska

Declaration – Declaration on the Rights and Responsibilities of Individuals, Groups, and Social Bodies in Promoting and Protecting Universally Recognized Human Rights and Fundamental Freedoms

TI BiH – Transparency International in Bosnia and Herzegovina

CIN BiH – Center for Investigative Reporting in Bosnia and Herzegovina

INTRODUCTION

Presented here is the second report on the position and challenges faced by human rights defenders in Bosnia and Herzegovina (BiH), titled ***Human Rights Defenders in Bosnia and Herzegovina – Rights, Position and Challenges (2023 – 2024)*** (Report).

The report covers a one-year period, **from June 1, 2023, to June 1, 2024.**

This text aims to present the main problems and challenges faced by human rights defenders (HRDs) in BiH during this period, *particularly in the context of the shrinking space for the work of human rights defenders and the declining level of human rights protection provided by public authorities.* The report is not only focused on reporting and highlighting problems and challenges but also on emphasizing the importance of the role of human rights defenders in preserving the basic rights of all individuals and groups.

During the reporting period, there was an increase in **institutional non-transparency** and **pressure** on human rights defenders in BiH. The authorities in Republika Srpska (RS) especially developed legal proposals that make it difficult for human rights defenders to act; the criminalization of defamation and the announcement of the establishment of a register of “*agents of foreign influence*” represented serious threats to freedom of expression, assembly and organization. In addition, many defenders of human rights experienced additional pressure through public statements by politicians and media sympathetic to the authorities, who labeled them as “*traitors*”, “*foreign mercenaries*”, and “*agents of foreign influence*”. Such rhetoric encouraged an “atmosphere of fear” and insecurity, thereby narrowing the space for the free action of human rights defenders in the country.

From our research and interviews with key actors, a clear conclusion emerges about **systemic neglect** and **the absence of true cooperation** with human rights defenders. Institutions at many levels of government in BiH often do not have effective strategies for cooperation with civil society organizations and human rights defenders, and the existing interactions

are mostly *improvised* and *formalistic*. This lack of coordination results in non-transparent selectivity, whereby certain organizations are engaged only when the authorities have a certain interest in engagement, especially in connection with international obligations.

Particularly concerning is the **lack of dialogue and participation in the shaping of public policies and laws**. On the rare occasions when consultative processes are organized, they often remain *mere formalities* with little significant impact on the adoption of regulations. Examples where civil society experts acting as human rights defenders are *marginalized* in working groups point to a trend in which dialogue with human rights defenders is becoming less *inclusive and substantive*. This approach prevents human rights defenders from contributing to certain legislative processes, which in the long term undermines the quality of public policies and laws. The negative effects of the political and institutional exclusion of human rights defenders *directly threaten* both the scope and the quality of human rights and freedoms for all citizens of BiH.

Also, during the reporting period, human rights defenders faced **various forms of threats**, while the support of competent institutions remained limited and often inadequate. Although certain threats were reported to the competent authorities, the institutions in the reporting system often *did not take concrete measures*, which indicates serious deficiencies in the system of protection of human rights defenders.

In addition to direct threats, human rights defenders also faced **other forms of intimidation**, including belittling, discrediting, pressure on family members and limited access to certain services. The digital space became the primary area for attacks on human rights defenders, so hate speech and threats directed at human rights defenders were much more frequent *online* than in the physical environment. However, the authorities often did not take such threats seriously and *did not take appropriate measures*.

A particular challenge for human rights defenders was the **hostile environment** towards human rights defenders, which was particularly

prominent in the Republika Srpska, where attempts at intimidation were largely supported by the authorities. This further contributed to the *feeling of insecurity and marginalization of human rights defenders*.

Given the findings from our research, it is clear that there is a **systemic problem of delegitimization and intimidation of human rights defenders**.

METHODOLOGY

The methodology for the preparation of the report was agreed upon at a joint meeting of researchers representing the member organizations of the Human Rights House Banja Luka and the Sarajevo Open Centre. The main methods applied in the research were *desk analysis of available materials and the method of semi-structured interviews* with individuals from the selected sample. The collected data were used to draw descriptive conclusions about the phenomena or to make causal conclusions about them.

Desk analysis of the available materials included collecting, organizing and synthesizing the available information, in the sense of achieving an understanding of the context of the issue being addressed and identifying gaps that need to be resolved during the collection of interview data. The analysis of the factual situation was carried out by comparing scientific studies and analyses, media reports, monitoring, regulations, official data and reports of domestic and foreign institutions and organizations, as well as with data that can be found in public statistics or other documents, along with reports, studies and analysis of domestic and international organizations that deal with the protection of the rights and freedoms of citizens. These sources were used to clarify the key dimensions of the context and to identify the key actors and their role in the issues concerning this report.

The second part of the research for this report focused on interviewing individuals who act as human rights defenders in BiH, specifically on the **analysis of semi-structured interviews** with representatives from the selected sample. The aim of the interviews was to cover all key aspects/perspectives in the selected cases by interviewing relevant actors. In selecting individuals for interviews, we aimed to choose relevant organizations and individuals who are active in the areas of human rights defenders' work that our research focused on. For the protection of the human rights defenders' identities, certain interviews were anonymized.

In order to maintain a clear focus in the research, **we selected five** out of the 20 standards for the protection of human rights defenders defined based on international documents, which we considered relevant to the context of this report. We did this by selecting narrowly *defined topics* that represent part of a specific standard for analysis:

- **Standard 2 | Counter Disinformation**

Context: Anti-gender Movements (Amil Brković)

- **Standard 3 | Ensure Public Participation and Engagement**

Context: Laws on Freedom of Information in BiH (Ena Kljajić Grgić)

- **Standard 4 | Don't Criminalise Defending Human Rights**

Context: Criminalization of Defamation in Republika Srpska (Jovana Đukić)

- **Standard 18 | Protect Environmental Defenders**

Context: SLAPP, Non-compliance and Relationship with Companies and International Actors (Dejan Lučka)

- **Standard 20 | Provide More Support in Conflict & Postconflict Situations**

Context: Lack of Concrete Actions and Institutional Support for Building Sustainable Peace (Dragana Dardić)

All terms used in this text to denote a specific gender are intended to include all genders in those parts of the text that are not gender-specific and that may refer to multiple genders.

1.

**WHO ARE
HUMAN RIGHTS
DEFENDERS?**

1. WHO ARE HUMAN RIGHTS DEFENDERS?

Human rights defenders are individuals or groups in society who promote and **protect universally recognized human rights and fundamental freedoms**, ranging from *civil and political* rights to those of *economic, social, and cultural nature*. They respect the universality of human rights for all, without discrimination of any kind, and defend these rights by peaceful means (EU Delegation in South Africa, 3; OSCE/ODIHR 2015, 3).

The right to defend human rights “derives from universal human rights, which are indivisible, interdependent, and interrelated.” Countries, including BiH, are committed to respecting, protecting, and fulfilling these rights for everyone within their jurisdiction (OSCE/ODIHR 2015, 3).

In the international context, the rights of HRDs are defined by **general international instruments** related to human rights and freedoms. Thus, all human rights defenders have **the rights** from civil, political, economic, social, cultural, and other spheres, such as, among others, the rights to life, liberty and security of person, respect for private and family life, equality and non-discrimination, freedom of thought, conscience, religion, expression, assembly, association, and movement, the right to a fair trial, work under just conditions, healthcare, social security, a healthy environment, etc. (UDHR 1948; ICCPR 1966; ISESCR 1966; CEDAW 1979; Aarhus Convention 1998; ECHR 1950; ESC 1996).

However, human rights defenders also have a specific legal framework for their protection and activities, and to understand their rights, it is particularly important to refer to the declaration adopted by the United Nations General Assembly at the end of the 20th century. This document, known as the ***Declaration on Human Rights Defenders*** (the Declaration), defines who human rights defenders are, what rights they have, and which attacks they must be protected from (DRRI 1998).

The Declaration states that **everyone has the right**, individually and in association with others, to *promote and strive for the protection and realization of human rights and fundamental freedoms*. It also states that every state should take the necessary steps to **ensure the actual**

guarantee of these rights and freedoms. Human rights defenders can be all individuals **advocating for human rights** or **those working within a group, organization, or association** (DRRI 1998, art. 1-2).

Among other rights, human rights defenders have the right to promote and defend human rights, form and join organizations and groups, meet and assemble, seek, acquire and possess information about human rights, provide and secure qualified legal assistance in defending human rights, communicate freely with other organizations, and participate in peaceful activities against human rights violations (DRRI 1998, ar. 1-20).

The state is **obligated** to ensure that all individuals under its jurisdiction enjoy human rights, conduct *prompt and impartial investigations into human rights violations*, promote public understanding of human rights, and *enhance and facilitate human rights training at all levels of education* (DRRI 1998, ar. 12, 14-15).

2.

**LEGAL STATUS OF
HUMAN RIGHTS
DEFENDERS IN
BIH**

LEGAL STATUS OF HUMAN RIGHTS DEFENDERS IN BIH

Bosnia and Herzegovina is characterized by a specific state structure and legislation at multiple levels, meaning that provisions regulating and elaborating the rights of human rights defenders are found at the state level, as well as at the level of the entities of the Republika Srpska and the Federation of Bosnia and Herzegovina (FBiH), at the level of the Brčko District of BiH (BD), at the level of the ten cantons in the FBiH, and at the local level of local self-government bodies.

The basic issues related to human rights and freedoms, as well as the rights of HRDs, are regulated by the highest legal acts of the state, entities, cantons, and BD – constitutional texts in BiH. Human rights are defined in the ***Constitution of BiH*** by listing them in a single article, which also prescribes the direct and priority application of the *Convention for the Protection of Human Rights and Fundamental Freedoms*. A specific “addition” to this list of human rights is provided in *Annex I* of the *Constitution of BiH*, which contains a list of international instruments for the protection of human rights that will be applied in BiH (Constitution of Bosnia and Herzegovina 1995, ar. II/2, Annex 1). Additionally, BiH has ratified a significant number of international documents related to human rights.

The Constitution of the FBiH defines human rights and freedoms through a list, with an addition in the *Annex of the FBiH Constitution*, which contains a list of instruments for the protection of human rights that have the legal power of constitutional provisions. On the other hand, the ***Constitution of the RS*** addresses human rights and freedoms in much more details than the constitutions of BiH and FBiH. This constitution provides a catalogue of human rights, which includes all three generations of rights, outlined and defined in a special section of the RS constitutional act (Constitution of FBiH 1994, II/A/2, Annex; Constitution of RS 1992, ar. 10-49).

The Statute of the BD specifies certain rights with references to the *Constitution* and laws of BiH and BD, while the **constitutions of the cantons** in the FBiH similarly specify, through different technical and

normative legal provisions, that full protection of human rights and freedoms established by the constitutions of BiH and FBiH will be provided within the cantons (Statute of Brčko District of BiH 2010, ar. 13/1, 2, 3; constitutions of the cantons in FBiH).

None of the constitutional texts in BiH directly mention human rights defenders in the sense of the *Declaration* or their specific protection. However, all the rights afforded to other citizens also apply to human rights defenders.

For HRDs in BiH, Annex 6 – the “**Agreement on Human Rights**” of the *General Framework Agreement for Peace in BiH* is particularly important. It outlines the duty to promote and encourage the actions of non-governmental and international organizations dedicated to the protection and promotion of human rights. It also stipulates the obligation to provide full and effective access to non-governmental organizations for the purpose of investigating and monitoring the state of human rights in BiH, as well as the *duty to refrain from preventing or obstructing* the performance of these duties (Dayton Agreement 1995, Annex VI).

The rights of human rights defenders in BiH are further elaborated through **laws and regulations** at all levels of government. The legal framework for the protection of human rights defenders is applied through general norms that are equally valid for all citizens.

3.

**COUNTER
DISINFORMATION**

3. COUNTER DISINFORMATION

“Disinformation campaigns are increasingly used to deter human rights defenders from participating in the public sphere, and ‘women journalists, women politicians, women human rights defenders and advocates for women’s rights are targeted in particular” (HRHF 2023, 9).

Context: Anti-gender Movements

Human rights defenders may be exposed to disinformation aimed at discrediting their work and silencing their voices. Disinformation tactics include spreading false information about human rights defenders, spreading false criminal charges, blackmail, falsifying documents, and portraying human rights defenders as foreign mercenaries (HRHF 2023, 9).

During the reporting period, we recorded an increase in activities related to the so-called **anti-gender movements** in Bosnia and Herzegovina, specifically in Republika Srpska. This trend has created a suitable ground for the spread of misinformation about defenders of human rights in the field of gender equality and LGBTI human rights in BiH.

3.1. How Did It All Begin?

In the historical context, the anti-gender movement was advocated by conservative religious and political leaders and has been present in public discourse since 1994 and 1995. In those years, the International Conference on Population and Development was organized in Cairo and the Fourth World Conference on Women in Beijing. In Cairo, the concepts of sexual and reproductive rights for women were introduced, while in Beijing, the word “sex” was replaced by the word “gender” at the UN level. These events, which were aimed at empowering women and gender equality on a global level, were used by conservatives to coin terms such as “**gender agenda**” and create a narrative in which gender **threatens** the so-called traditional families (Madrigal-Borloz 2021). From then until the moment of writing this report, the anti-gender movement gained

momentum in all countries of the world, including BiH.

At its core, this movement is based on a rigid and often absolutist understanding of gender perceived as a permanent and *unchanging biological category* that further *determines social* roles, including family relationships. The binary understanding of gender as an exclusively biological category opposite gender is treated as the only acceptable solution for social organization. Proponents of the anti-gender movement insist on heterosexuality, strict male-female social roles and the aforementioned “traditional families”. They believe that gender in relation to sex, homosexuality in relation to heterosexuality, transgender in relation to cisgender is a *deviant, unnatural, abnormal* phenomenon, and as such exclusively represents a foreign influence that corrodes and threatens to destroy “traditional families” and endanger rights women and children (Council of Europe Commissioner for Human Rights 2024, 99). Consequently, the anti-gender movement, its narrative and misinformation sow discord, polarize society and undermine human rights and democracy.

In the context of the Republika Srpska, anti-gender initiatives and organizations were activated as early as the beginning of 2023, when they directed initiatives to amend the *Family Law of the RS* with regard to limiting the rights of parents in order to protect children and confiscate children in case of abuse. In March 2023, the LGBTI flag was stolen from participants of the March 8 march in Banja Luka and later a physical attack on activists of the Pride Parade (Council of Europe Commissioner for Human Rights 2023). After the attack on LGBTI activists, additional stigmatizing statements by politicians from the RS followed, such as the one made by the President of the Republika Srpska, Milorad Dodik.

“In the next few months, the Republika Srpska will pass a law that will prohibit members of LGBT organizations from entering educational institutions. So, kindergartens, schools, faculties, they will not be able to work, they will not be able to approach, they will not be able to carry out propaganda. Why do you think we don’t have the right to do that? We will pass this law within a few months” (N1 BiH 2023).

Milorad Dodik, President of the Republika Srpska

This statement indicated a trend that would later continue in the direction of anti-gender narratives in the Republika Srpska becoming increasingly *institutionalized and gaining political support*.

3.2. Creating Fear Through Disinformation

In the atmosphere of increasing attacks on human rights and freedoms, especially those concerning the LGBTI community, the discourse in the public was often directed towards **creating fear and misinformation**. Such campaigns are designed to *discredit individuals and organizations* fighting for human rights, using traditional labels and hateful narratives.

“The narrative was a classic spread of fear, moral panic, the destruction of credibility through the standard labels attached to civil society. It was spread by the aforementioned civil society organizations, grouped around radical, right-wing, clerical ideas in Republika Srpska, furthermore, from certain marginal Islamic and right-wing circles, disinformation, fear and threats regarding my and SOC’s work on the issue of LGBTI human rights are continuously spreading. In this second case, they culminated mostly around visible events and those that in some way touch on religion, Islam and traditional values” (Pandurević 2024).

Darko Pandurević, Sarajevo Open Center

At the end of 2023, defenders of women’s rights in the context of **protection against gender- based violence** were also targeted by misinformation. Driven by the desire to improve the legal framework for protection against domestic violence and protection against violence against women in the Republika Srpska due to the particularly worrying trend of an increase in the number of femicides in BiH (Hanušić Bećirović et al. 2023, 97), women’s rights defenders submitted their proposals to the *Draft Law on Protection from Domestic Violence and Violence Against Women of the RS*. Among other things, the proposal was based on expanding the definitions of violence against women and defining femicide as the deprivation of life (Helsinki parlament građana Banja Luka 2024).

Although the initial proposal of this draft law was adopted at the Sixth Session of the National Assembly of the RS, which was in session on November 3, 2023, an unexpected twist occurred. Namely, 21 organizations from Republika Srpska, which aim to “preserve and protect family, religion and tradition”, wrote an **open letter** addressed to certain representatives of RS institutions. In this letter, they criticized the *Draft Law on Protection from Domestic Violence and Violence Against Women of the RS* for introducing the term “femicide, a broad definition of family and violence, and the proposal that girls under the age of 18 be considered women.”

“Anti-gender organizations believe that the introduction of femicide into the law is unnecessary. They focused their advocacy for the repeal of that provision on the fact that it is a foreign word that, first of all, has nothing to demand in the law. In addition, they argue that the law should not specifically protect women, because they are sufficiently protected through the crime of murder, so why should women be more important than men” (Interview number 1, 2024).

N. N. I

Criticisms of anti-gender organizations were based on the argument that such legal changes will lead to the “introduction of gender ideology into family legislation and the destruction of the traditional family, [...] the protection of persons who feel or declare themselves to be women but are not according to their biological sex.” At the end of the letter, they requested the withdrawal of the draft of the law from the further procedure. The letter also received the support of the President of the RS (Mondo 2024). As a result, a wider public debate on the Draft Law was opened in such a way that by **targeted dissemination of disinformation** to the detriment of the law and human rights defenders, it succeeded in undermining the process that was supposed to protect women from gender-based violence (Petrić 2023, 5).

However, the ultimate goal of the signatories of the open letter is to **withdraw** (Roditelji za prava djece 2024) from the *Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention), which Bosnia and Herzegovina ratified

on November 7, 2013. To this end, advocates of the so-called anti-gender movement have used various strategies and tactics, including those aimed at **shaping public opinion** through the *dissemination of misinformation*. Other trends that undermine democracy and human rights also benefited them {see the section on the criminalization of defamation in the Republika Srpska in this report}.

In this sense, human rights defenders in the field of gender equality and LGBTI human rights are attempted **to be presented in public as:**

- **foreign mercenaries who do not work in the interest of the Republika Srpska**

“They target us as someone who spends huge amounts of money coming from abroad on who knows what and that ultimately the benefit of our work is not seen, but quite the opposite, that we serve the interests of other countries, which makes absolutely no sense” (Interview number 1, 2024);

- **persons who abuse real victims** (in this case, women victims of violence) **in order to introduce the protection of sexual and gender minorities into laws through advocacy activities;**
- **persons who aim to undermine the so-called traditional family, traditional values, and traditional society.**

“There were statements to the effect that what we do is negative, that we promote ideologies that are foreign, that we receive money from other countries in order to promote these ideologies here. They are even public stated by representatives of anti-gender organizations at public discussions” (Interview number 1, 2024);

- **persons who advocate pedophilia**

“The introduction of the protection of girls in the *Draft Law on Protection from Domestic Violence and Violence Against Women of the RS*, they linked with the legalization

of pedophilia. Or what I absolutely do not know, common sense or legal, how they came to that conclusion” (Interview number 1, 2024).

3.3. Institutional Silence and Support

The above misinformation and anti-gender initiatives have resulted in human rights defenders dealing with gender equality and the human rights of LGBTI persons being faced with **continuous hate speech** that *contaminates public space and negatively affects their work*.

“Personally, I was not exposed to intimidation and threats; however, indirectly, as a member of the organization that was targeted, I was. This was done by individuals via the Internet, social networks, and telephone. The anti-gender movements have impacted our work through the reorganization of priorities, new focuses in work and activities. Therefore, all the influence is of a professional nature and within expert considerations on how to act most effectively in the future.” (Pandurević 2024).

Darko Pandurević, Sarajevo Open Center

It is particularly worrying that the *response of the gender-institutional mechanisms* operating within the government in BiH was practically **minor**.

“In the RS, the Gender Center of the Government of the RS was also attacked by anti-gender groups and that attack is still ongoing. In particular, proceedings were initiated before the Constitutional Court of the RS to assess the constitutionality of their name and work as such. I think they were preoccupied with it. There were no specific activities that they reacted on their own, but in the situation when they were invited to say something about it, their answer was very ‘wrapped up’” (Interview number 1, 2024).

N. N. I

In addition to gender-institutional mechanisms, the *ministries of the Government of the RS* that initially led the process of drafting the *Draft*

Law on Protection from Domestic Violence and Violence Against Women in the RS also **withdrew under strong political pressure** from anti-gender actors.

“There was no argument to defend everything they did previously. Somehow there was no response from the ministries and I think it was a matter of a political decision to let it pass by them” (Interview number 1, 2024).

N. N. I

In addition to the fact that the advocates of anti-gender movements were defensive in relation to the *Draft Law on Protection from Domestic Violence and Violence Against Women*, in the reporting period a proactive role was also recorded, which is reflected in the **exclusion of sexual orientation** from the *Protocol for the Protection of Children from Violence, Neglect and Abuse* (Helsinški parlament građana Banja Luka 2024) and advocating the **removal of the word “gender identity”** from the *Criminal Code of the RS*.

For the purposes of this report, the Advisory Committee for the Protection of Human Rights Defenders in BiH (Agencija za ravnopravnost spolova 2024) was contacted, which during the reporting period *had no activities* that would respond to anti-gender movements in BiH.

Looking from a comparative perspective, the spread of misinformation towards defenders of human rights in the field of gender equality and LGBTI human rights is **not an isolated case** only for the RS, but a **phenomenon of global proportions**. Of the 458 survey respondents from 2023, 34% stated that they or their organizations have *experienced smear campaigns and false accusations*, primarily from governments (58%), followed by traditionalist leaders (42%), in third place from religious officials (39%) and in fourth place (38%) from anti-gender movements (Pruth and Zillén 2023, 9-14).

In the context of current events in BiH, it is evident that human rights defenders, especially those who deal with issues of gender equality and LGBTI rights, **operate in an extremely unfavorable environment**.

Disinformation campaigns, designed to discredit them, have become a common tactic of anti-gender movements.

Through strategies that include *false accusations, labeling and targeting of activists*, advocates of anti-gender initiatives seek to undermine not only the efforts of human rights defenders, but also the basic principles and standards of human rights. Such attacks not only polarize society, but additionally *threaten the safety and integrity of individuals and organizations* dedicated to protecting the rights of marginalized groups. This worrisome trend requires an urgent reaction of the relevant institutions, both at the entity level and at the state level. However, the responses of gender-institutional mechanisms and government bodies have so far been **insufficient and slow**, while representatives of institutions have even **provided support** anti-gender efforts, which additionally strengthened the position of anti-gender actors.

4.

**ENSURE PUBLIC
PARTICIPATION AND
ENGAGEMENT**

4. ENSURE PUBLIC PARTICIPATION AND ENGAGEMENT

“The United Nations has acknowledged the ‘important contribution of civil society, human rights defenders, journalists and media workers, to the promotion of human rights, democracy and the rule of law’. States are furthermore urged to ‘promote good governance at all levels and to develop effective, accountable and transparent institutions and more responsive, inclusive, participatory and representative decision-making processes’, including for human rights defenders.” (HRHF 2023, 11).

Context: Laws on Freedom of Access to Information in BiH

Laws on freedom of access to information are one of the **key tools for the work of human rights defenders**, as they enable *access to public data that authorities and administrations, as well as other public bodies, often try to hide*.

This data helps to detect lawlessness, corruption, abuse of power and human rights violations and data on cases of law violations. Through these laws, insight into the functioning of the judiciary, police and state bodies is facilitated, thus enabling human rights defenders to demand responsibility and to perform their work as HRDs.

4.1. Analysis of the Legal Framework

In BiH, there are currently three laws that regulate the procedure of access to information, one at the state level and two at the entity levels. Also, there are special regulations that regulate access to specific information, so we have e.g. laws on the environment at the level of the entity and the Brčko District of BiH, which regulate access to environmental information in more detail.

What is new in the reporting period is that the ***Law on Freedom of Access to Information at the Institutional Level of BiH*** entered into force in September 2023. This law regulates a **completely new** and different

procedure in relation to the previous situation and in relation to the procedures for accessing information in both entities.

In terms of exercising the rights of human rights defenders, the first specificity is already noticeable in the provision defining the subject of the law, which stipulates not only *the right to access information, but also the right to reuse certain documents* (Zakon o slobodi pristupa informacijama na nivou institucija BiH 2023).

The second specificity of the new law is reflected in the fact that the provisions of the European Union (EU) *Directive* on open data and the reuse of public sector documents have also been adopted. It is significant because it contains a set of minimum rules governing the reuse of information and outlines the thematic categories of high-value datasets (Directive 2019/1024 of the European Parliament and of the Council 2019).

Unlike the new state law, **the laws** on freedom of access to information of the **Federation of Bosnia and Herzegovina and the Republika Srpska** have been in force for *more than two decades*. Entity laws are more or less identical, with certain differences, which in practice **cause problems for HRDs**. This has been a standard situation for many years, and the same problems were identified in our reporting period.

The first difference refers to *the name of the decision* by which the request for access to information is decided: in the FBiH, the request is decided in the form of a *decision (rješenje)*, while in the RS it is decided in the form of a *letter (legal notice – dopis)*. The fact that the request is decided in the form of a letter, and not in the form of a decision, in practice leads to the fact that *certain authorities refuse to resolve complaints*, and deliver formally incorrect decisions that often do not contain the signature of an official or the stamp of an authorized authority.

The second difference is based on the *differing terminology used* for legal remedies in the process of further legal protection. In the FBiH, an *objection (prigovor)* is filed against a decision rejecting a request, whereas in the RS, an *complaint (žalba)* is filed against *the letter*.

The third difference is the *legally prescribed deadline for submitting objections/ complaints*, which in the FBiH is eight days, while in the RS the law itself does not specify the deadline for filing an appeal, and in this regard the procedure is supplemented by applying the provisions of the *Law on General Administrative Procedure of the RS*, which provides a deadline of 15 days for filing an appeal (Zakon o slobodi pristupa informacijama FBiH 2001; Zakon o slobodi pristupa informacijama RS 2001; Zakon o opštem upravnom postupku RS 2002).

The Law on Freedom of Access to Information in the Republika Srpska also does not contain provisions on inspection supervision, which in practice represents an aggravating circumstance, because in cases where inspection supervision is required from the Administrative Inspection of the Republika Srpska, the *inspectors refuse to carry out supervision*, because the law does not prescribe this jurisdiction (Predmet pred Institucijom ombudsmana za ljudska prava BiH Ž-BL-05-155/22; Preporuka Institucije ombudsmana za ljudska prava 171/22).

On the other hand, in the FBiH, a big problem is the length of administrative disputes before certain cantonal courts (even four years) and the non-adjudication of the costs of administrative disputes even when the parties succeed in the dispute, which is an issue that greatly affects the **effective exercise of the rights** of human rights defenders (Odluka Ustavnog suda BiH 2024).

4.2. Shortcomings of the New Regulation and Problems in Practice

In the new state law, **proactive publication of information** is established as a special obligation of BiH institutions, which was not the case before. Now, the bodies at the state level of government, in addition to the obligations entailed by administrative procedures, are obliged to do their own on the Internet or in another convenient way, *regularly publish and update information* from their scope of work. Also, the obligation to *submit documentation* to the Central Portal of Public Information was established for their permanent availability.

In addition to the proactive publication of information, the institutions of BiH are obliged to inform the public about the sessions and the agenda of the sessions, the way of working and the possibility of direct insight into their work, and the number of persons who can simultaneously provide direct insight into the work of the BiH institution. It is obvious that by prescribing the provisions on the proactive publication of information, an effort was made to *influence the greater* transparency of BiH institutions and openness to citizens, however, the real results of these provisions will only be seen in the coming years.

Nevertheless, despite the legally defined proactivity in publishing information, many defenders of human rights gain access to information through **requests for access** to it. This mainly refers to organizations dealing with specific areas, such as *human rights, corruption or detection of illegality*. Through several illustrative examples from the field of work of civil society organizations, we will try to show the **problem of access to information** that, despite the existence of a legal framework, many organizations and media, that is, defenders of human rights, faced in the reporting period.

In March 2024, Transparency International in BiH (TI BiH) requested the Ministry of Justice of BiH to submit the *Draft Law on the Court of BiH*, which was removed from the agenda of the Council of Ministers several times. The Ministry refused access to information and continued to hide from the public one of the most important reform laws in the EU integration process (TI BiH 2024a). Although it is the obligation of the Ministry to make the process of adopting such an important law transparent, in this case an administrative dispute was initiated before the Court of BiH, because the Appeals Council at the Council of Ministers of BiH rejected the appeal of TI BiH with the claim that the draft of this law went through the e-consultation process, although there was a completely different law on the e-consultation portal, i.e. the *Draft Law on the Courts of BiH*, not the *Draft Law on the Court of BiH* (TI BiH 2024b).

This practice shows that institutions, despite the new legal framework, still **hide crucial information from human rights defenders**.

In addition to the proactive publication of information, the institutions of BiH are obliged by the new law to inform the public about the sessions and the agenda of the sessions, the way of working and the possibility of direct insight into their work and the number of persons who can simultaneously be provided with direct insight into the work of the BiH institution.

However, the experiences of TI BiH employees are an indication that in practice there are **numerous obstacles to achieving direct insight into the work of institutions**. A good example in this regard is the request to attend the Tenth Session of the Joint Commission for Administrative Affairs of the Parliamentary Assembly of BiH. This request is timely submitted, but it was not decided due to the use of annual vacations by employees of the parliament. An employee of TI BiH contacted the Parliamentary Assembly by telephone and was promised that he would receive feedback on the possibility of attending the session. As the feedback was not provided, the employee visited the Parliamentary Assembly on the day of the session, registered and received identification, but was asked to leave the session and informed that his request would be considered at the end of the session.

The fact that the law specifically regulates what is **not considered a request for access to information** is also a novelty in the procedures for access to information before the institutions of Bosnia and Herzegovina. Therefore, the following are not considered requests: giving opinions, explanations or instructions related to the realization of a right or obligation, making an analysis or interpreting a regulation and creating new information. In this regard, the Prosecutor's Office of BiH has in several cases **refused to act** on the request for access to information, qualifying it as a *request for the delivery of an opinion or a request for the creation of new information*.

An example in this direction is the case when the TI BiH, due to the information published in the public media, which lead to the conclusion that the leading civil servant of the High Judicial and Prosecutorial Council of BiH committed corrupt crimes, requested information from the Prosecutor's Office of BiH whether the Prosecutor's Office issued an order

to conduct *an investigation in a specific case*. However, the Prosecutor's Office took the position that the submitted request calls for the creation of *new information*. The Appeals Panel at the Council of Ministers of BiH rejected the appeal, emphasizing that the request should have been reformulated in such a way as to require an inspection of the document, after which the TI BiH initiated an administrative dispute before the Court of BiH (Rješenje Žalbenog vijeća 2023).

Also, there was a case where a lawsuit was filed due to the *denial of access to information about the actions of the BiH Prosecutor's Office* based on the findings of the Office of Foreign Assets Control (OFAC) of the United States Department of Finance regarding the involvement of numerous high officials of BiH in corruption. Information was requested against which persons the Prosecutor's Office of BiH acted, at what stage the proceedings are, if they have been initiated, and whether and in which cases prosecutorial decisions have been made. In this case, the *request was qualified as a request for answers to questions*, not information, simply because the request used an interrogative form of expression.

In both of these cases, the Prosecutor's Office of BiH **did not submit the decisions** of the Appeals Panel to the Council of Ministers of BiH **for a full eight months** (N1 BiH 2024), although it was obliged to submit the decisions within five days from the day it received them. When asked to provide information on the reasons why the decisions of the second-instance body were not forwarded, the Prosecutor's Office first refused to act, only to submit a notification after the second request that the specific request is not considered a request for access to information, as it requires an explanation.

Journalists of the Balkan Research Network also encountered similar problems, to whom the Prosecutor's Office of BiH refused to deliver decisions on not conducting investigations into corruption crimes. In a response to the *Detektor* portal of the Balkan Research Network, the Prosecutor's Office explained that they are rejecting the request "because there is an obligation to protect the information requested by the request according to a special regulation" (Muslimović 2024).

These specific examples show that **overbroad, inadequate, concealing and malicious interpretation** of exceptions in practice can especially affect defenders of human rights, i.e. associations, journalists and the media, whose role in society is to be on the sidelines of democracy and the protection of human rights (Lučka 2024).

4.3. Issues of Appeals Procedure and Inspection Supervision

The new law also stipulates that the Appeals Council at the BiH Council of Ministers is a **second-level body** to which appeals are filed against decisions denying access to information and appeals due to the “silence of the administration.” This Council is at the same time a second-level authority and an authority that should initiate the adoption, amendments and additions of regulations for the purpose of implementing and improving the right to access to information.

In the period from the entry into force of the new state law, and ending on August 27, 2024, the Appeals Council dealt with a total of 65 appeals, of which eight appeals were rejected (12.3%), 34 appeals were rejected (52.3 %), and only 35.4% of them were adopted, that is, 23 appeals (Rješenje Žalbenog vijeća 2024). Three administrative disputes were initiated against the decisions of the Appeals Council, of which the Court of Bosnia and Herzegovina issued a verdict rejecting the lawsuit in one dispute, while a court decision has not yet been reached in the remaining two disputes. From the above, it can be concluded that the decisions of the Appeals Council are **rejected in a higher percentage** and that a *very small percentage of appellants decide to have the Council’s decisions further reviewed before the Court of BiH.*

A very significant specificity that can make it *impossible to see the information* for human rights defenders, it refers to the rule from the new state law that the **lawsuit postpones the execution of the decision** allowing access to information, which in practice means that the applicant whose appeal is accepted and who is given access to information will have to wait for the administrative dispute to end (which can also be initiated by the institution of BiH) before it comes into possession of the

information, because the lawsuit postpones the decision enabling access to the information.

When it comes to the media and access to information, it should also be noted that institutions in certain cases **do not want to act according to acts** that favor journalists. Thus, the journalists of the Center for Investigative Journalism of BiH (CIN BiH) witnessed the situation of *non-action by the Prosecutor's Office of BiH* according to the decision of the Appeals Council, which accepted CIN's appeal and annulled the decision of the Prosecutor's Office. The Prosecutor's Office refused to act in accordance with the Council's legal understanding, and again refused CIN's request for information on the detailed biography of one prosecutor, information on the periods of performance of all functions in to the Prosecutor's Office and information on the monthly amounts of salaries and benefits earned through work at the BiH Prosecutor's Office. The CIN reported the specific violation to the Administrative Inspectorate of BiH, which conducted direct and indirect inspection supervision and concluded that in the specific situation there were *no elements for initiating a violation procedure* (Excerpt from written correspondence between the administrative inspector and the CIN).

This means that even when there are clear indications of a violation of the law, when a legal norm has been violated, in practice responsibility for the **violation is not established**. This points to the **problem of impunity**, and violators of the rights of HRDs, journalists and citizens are practically *allowed* to disobey the law.

In support of the aforementioned conclusion, the statistical indicators on the number of inspections carried out and the number of resolutions passed in which the inspectors determined that the law was violated and the number of misdemeanor proceedings initiated due to failure to act on the order of the inspector in cases of violation of the previously valid law that regulated freedom speak for themselves access to information at the BiH level. The Administrative Inspectorate of BiH submitted data for the five-year period from 2019 to 2023, from which it follows that the inspectorate acted in 35 cases related to the application of the then *Law on Freedom of Access to Information of BiH*, that in only three cases (8.5%)

irregularities were determined and resolutions were passed ordering administrative measures and that no misdemeanor proceedings were initiated (Rješenje Ministarstva pravde BiH 2024).

5.

**DON'T CRIMINALISE
DEFENDING HUMAN
RIGHTS**

5. DON'T CRIMINALISE DEFENDING HUMAN RIGHTS

“States must ensure that ‘the promotion and the protection of human rights are not criminalised,’ and that human rights defenders ‘are not prevented from enjoying universal human rights owing to their work.’ Everyone’s right to enjoy universal human rights includes the right to defend such rights without undue hindrance.” (HRHF 2023, 13).

Context: Criminalization of Defamation in the Republika Srpska

After more than 20 years since the decriminalization of defamation, at the end of August 2023, the National Assembly of the Republika Srpska adopted amendments to the *Criminal Code of the RS* (CCRS), which again provide for **defamation** as a **criminal offense** (Krivični zakonik RS, ar. 208a). Until then, protection against defamation could be *sought in civil litigation*.

Resistance directed towards this limitation of freedom of expression was publicly and loudly *provided* by numerous defenders of human rights in the media and associations for the protection of human rights and the fight against corruption, by lawyers and activists, but also by international organizations. However, the very criminalization of defamation was framed by the *secrecy* of institutions, *violation of procedures* and *ignoring of views* of HRDs from its beginning. The institutions were also **not determined** according to the requirements many organizations to state the real reasons for the criminalization of defamation and to do a detailed research on the need to introduce a new criminal offense such as defamation. The very amendments to the Criminal Code from August 2023 were preceded by a public debate, which was more of a **“facade of democracy”** than a true public debate, and the provisions that were adopted were written vaguely and without using clear legal standards, while the public could not become familiar with them – not even with the authors of the amendments to the CCRS. The main message of the defenders of human rights, from

the initiation of the amendments to the CCRS until the public hearings, was that the controversial articles for which defamation is considered a criminal offense must be withdrawn. Nevertheless, the institutions largely *ignored the views* of human rights defenders and defamation was criminalized, albeit with lighter penalties compared to the draft law that sought to change the CCRS (Lučka 2023; Jokić and Kisin Zagajac 2023, 7).

Such an undoubtedly retrograde move by the authorities regarding the breadth of freedom of expression and human rights has opened up a series of *legal doubts*, but also a *sense of fear and legal uncertainty* among part of the local population, especially journalists and human rights defenders who could be affected by the effects of those changes.

The criminalization of defamation took place in an *extremely specific political environment* in the Republika Srpska, when human rights defenders were exposed to serious verbal and physical *attacks*, while at the same time *not accepting* the warnings that came from the relevant international organizations, which specifically concern the violation of the constitutionally and legally guaranteed human rights and freedoms. In this way, a new political and social chapter in the fight for civil liberties was opened in the RS. Although the competent ministry claimed that the changes to the criminal legislation aimed at “regulating the public space” (Deutsche Welle 2023), there was still a justified fear that the law would be used as a **mechanism to persecute** journalists and activists who expose corrupt and other government affairs.

Such a conclusion is supported by a series of statements by holders of the highest positions in the Republika Srpska, in which individual journalists and activists are repeatedly referred to as “foreign agents” and “traitors”, thereby indirectly *endangering their safety* (Klix 2024; Milojević 2023).

Bearing in mind that there is constant targeting and labeling of independent media and activists, i.e. many defenders of human rights, one can rightly fear that the **law will not be applied cautiously** and in

accordance with international legal standards of human rights, and that it was enacted to *serve as a tool* which should **discipline journalists and activists**, i.e. defenders of human rights and, in the extreme, criminally sanction them.

This situation in which defenders of human rights in BiH find themselves is nicely summarized in the joint statement of the UN, the Organization for Security and Cooperation in Europe, Council of Europe and EU:

“Where criminal defamation laws exist, they risk being misused against journalists, human rights defenders and other civil society actors for performing their legitimate role to investigate and inform the public on issues public interest, which is fundamental for the functioning of any democratic society. The amendments represent a regrettable and undeniable major step backwards in the protection of fundamental rights and undermine the effective functioning of democracy in the Republika Srpska.” (OSCE 2023).

5.1. Activists and Organizations in the Era of Stifling Criticism

What is immediately noticeable in the overall atmosphere surrounding the criminalization of defamation is that HRDs and journalists who write critical articles about rights violations, corruption, and other government scandals have long been facing **continuous and serious** threats, pressures, hacking attacks on their websites, and even being labeled as “foreign mercenaries,” “agents,” or individuals “undermining the state.” The criminalization of defamation is, in fact, merely a continuation of such practices (Trifunović 2024).

Also, many threats have intensified in the last two years, which significantly affects the *work and private life* of employees in organizations. When these legal changes and the announcement of other laws targeting

human rights defenders were added to that, it also led to the **departure of certain employees** from organizations that deal with human rights, because many do not want to risk court proceedings or negative consequences for their personal life. So, for example, due to changes in the CCRS and the announcement of the so-called *Foreign Agents Law*, the Helsinki Committee for Human Rights from Bijeljina left as many as four employed (Todorović 2024).

When it comes to the media part of HRDs, changes in criminal legislation have apparently led to a **greater degree of self-censorship**. Namely, the fear of criminal charges for defamation breeds self-censorship among those who already operate in uncertain and unsafe conditions, which reduces the quality of reports dealing with key social issues. The exact degree of self-censorship cannot be determined with certainty, as it is primarily an internal process for each individual. However, journalists note that, for example, people with whom they previously worked regularly are *afraid to respond to calls* to comment on certain social events.

“I think that one can notice [...] a great self-censorship [...] and I think that this is our biggest problem at the moment. When I think of self-censorship, I think more of the self-censorship of the analysts we used to have. [...] We have noticed that a number of people who regularly contact us – no longer contact us, do not call, do not give an answer to a question, comment on a text, or something similar” (Trifunović 2024).

Aleksandar Trifunović, BUKA

However, the criminalization of defamation **has not influenced changes in the editorial policy** of certain independent media, but continuous *precautionary measures* are being taken within editorial offices, especially considering that the financial penalties that can be imposed for defamation on legal entities could ultimately *lead to the closure* of small and independent media outlets.

“We didn’t want to give up, we didn’t want to show that we were scared, even though we took all possible protective measures, specifically, we didn’t have an option where, I don’t know, anyone could attack our integrity in the long run, so to speak, or that we were unprepared for it. On the contrary, we acted very correctly throughout all of this, even towards the legislator, but we made it clear what we didn’t like and provided arguments for it.” (Trifunović 2024).

Aleksandar Trifunović, BUKA

During the process of defamation criminalization, and more broadly, there is a “**chronic lack of solidarity**” among journalists, as noted by interlocutors from Buka. This is reflected in the fact that journalists from outlets close to the authorities *do not support* their colleagues from independent media when they face attacks and threats. At the same time, younger journalists increasingly “play it safe” by choosing to write about non-sensitive topics, even as the situation in the country remains alarming (Trifunović 2024). Thus, instead of united common resistance to repressive measures and pressures, fragmentation within the sector actually weakened the common struggle for freedom of expression.

Since August 2023 and the entry into force of the amendments to the CCRS, certain organizations dealing with human rights have been forced to **redefine** certain **projects** in accordance with changed social circumstances, while others had to be made “**less visible**” for fear of attacks and conflicts. Threats, which have been standard for many years, also *intensified* and were often subtle or sent through intermediaries, which made it difficult to report them to the competent authorities.

“We were forced to redefine certain projects we were leading, therefore, to change them in the course due to social circumstances that have changed. On the other hand, we also had to make some projects, so to speak, less visible, due to the nature of the topics we were addressing in a society that, over the past two years, has

become increasingly [...] aggressive toward human rights and certain human rights issues. We had to make these certain projects [...] less visible to the public, to the media, fearing conflicts, fearing attacks and [...] the fact is that this changed atmosphere in the Republika Srpska, therefore, I am speaking in the context of the adoption of this law and the announcement of the adoption of another law related to agents of foreign influence, that in the true sense [...] it made our work more difficult, complicated our work” (Todorović 2024).

Branko Todorović, Helsinki Committee for Human Rights

A special problem in the whole story about the criminalization of defamation is that the institutions **did not provide** nearly enough **support** to HRDs. This applies equally to institutions at the level of the Republika Srpska, but also those at the level of Bosnia and Herzegovina.

“Here, human rights are suspended to the maximum extent in the Republika Srpska, freedom of thought, speech, assembly, association, sometimes threatened with punishment, and the Ministry of Human Rights did not say anything about it, nor did they feel the need to contact us and ask us [...]] How is it possible that in a country with a Ministry for Human Rights, the minister – or anyone from the Ministry, not necessarily the minister but any of their staff – does not see the need to at least publicly express support for human rights organizations” (Todorović 2024).

Branko Todorović, Helsinki Committee for Human Rights

When it comes specifically to the institutions of the Republika Srpska, during the reporting period, they made efforts to **discredit the non-governmental sector** through the criminalization of defamation and the announcement of the so-called *Foreign Agents Law*. Their aim was to create the impression among citizens who “lack sufficient political and democratic culture” that human rights defenders are *enemies* and “*those who are undermining the state,*” which seriously which puts the

human rights organization in **danger**. In addition to *domestic institutions*, according to the opinions of people from the non-governmental sector, *certain international organizations* are partly responsible for the decline in the level of human rights in BiH, primarily because of their passivity in concrete actions, because they often come into contact with civil society organizations in BiH only for the purpose of formulating certain reports and performing other formalities (Todorović 2024; Trifunović 2024).

5.2. A Step Backward

International human rights standards are of the opinion that freedom of expression in a democratic society is not unlimited, but also that defamation within the framework of the criminal law represents a serious danger to freedom of expression. Bearing in mind the degree of social danger of defamation and the negative consequences it can produce, the regulations of the Republika Srpska *already provided sufficient legal protection* of the reputation and good name of citizens, without the need to standardize defamation as a criminal offense.

Therefore, the amendments to the CCRS can be seen as an attempt by the authorities in RS to create an effective mechanism to fight against undesirable journalists and activists, thereby silencing any trace of criticism in the public space, which is an essential characteristic of a healthy democratic society.

Based on our research, it follows that the criminalization of defamation in the Republika Srpska brings a series of serious consequences and represents a **significant setback** for freedom of expression, the work of civil society organizations, and the media. The key conclusions indicate that this measure is a **continuation of the systematic** pressure on activists and HRDs, further complicating their fight for transparency, justice, and the rights of various social groups.

The amendments to the CCRS legally, but also in practice, intensified the **unfavorable environment for the work of human rights defenders**,

from the media to the activist sector (Todorović 2024; Trifunović 2024). Announcements of the adoption of other laws that directly target the scope of the rights of human rights defenders, such as the so-called *Foreign Agents Law* only contributes to further limiting the space for their work and strengthening the repressive environment.

In addition, the criminalization of defamation has further fostered an **atmosphere of fear**, in which activists can become the target of criminal charges, possible criminal court proceedings and potential punishments, which threatens their safety and motivation to work. There is no doubt that many small and independent media and non-governmental organizations will not have enough financial and other resources to withstand possible criminal proceedings, when the holders of political power appear as their opponents. Especially considering that criminal proceedings often take a long time, causing serious financial expenses for the parties.

“A painful atmosphere is created in which people who work in the non-governmental sector, and that is not a small number of people, need to feel threatened, in some way persecuted” (Trifunović 2024).

Aleksandar Trifunović, BUKA

Ultimately, the criminalization of defamation, in the current political environment in the RS, can lead to a **serious erosion of freedom of expression** in practice, both for human rights defenders and for other citizens. By stifling criticism that is fundamentally constructive and healthy for society, the actions of public authorities can remain unchecked, as any attempt at criticism is *potentially punishable*. Therefore, the re-criminalization of defamation is not only a question of legal and technical nature, but a question of vital importance for the future of civil society, free media and democracy in the Republika Srpska and Bosnia and Herzegovina.

5.3. Statistical Overview: Criminal Charges and Indictments for Defamation

As part of the analysis of the criminalization of defamation, we collected statistical data from district public prosecutors' offices in the Republika Srpska related to the number of criminal complaints filed and indictments raised for defamation, as well as the structure of individuals against whom the complaints were filed.

Requests for access to information were submitted to the prosecutor's offices, which provided certain information in response. The data refers to the period from the adoption of the amendments to the CCRS at the end of August 2023, until June 1, 2024. During this period, six public prosecutor's offices received **113 criminal complaints** for defamation, filed against individuals and legal entities. It was confirmed that six of these complaints were related to *journalists*. However, during this period, *no indictments were raised* based on these criminal complaints, which is to be expected since the law had been in effect for only nine months. Nevertheless, the number of criminal complaints filed is certainly concerning. The highest number of complaints was filed in Banja Luka, with 56, while only three were filed in Prijedor (Responses from district public prosecutors' offices in the RS to requests for access to information).

District Prosecutor's Office	Number of criminal complaints	Number of indictments	Individuals against whom charges have been filed
Banja Luka	56	0	The Prosecutor's Office did not provide data on the structure of the filed criminal complaints. The criminal complaints were filed against individuals and legal entities.
Doboj	18	0	There are no criminal complaints against journalists, HRDs, or activists.
Istočno Sarajevo	14	0	Three criminal complaints against journalists/bloggers, four against unidentified persons, and seven against citizens.
Trebinje	6	0	Natural persons, including public figures.
Bijeljina	16	0	12 criminal complaints against citizens, 3 criminal complaints against journalists, 1 criminal complaints against a public figure (politician).
Prijedor	3	0	No data is available about the individuals.

6.

**PROTECT
ENVIRONMENTAL
DEFENDERS**

6. PROTECT ENVIRONMENTAL DEFENDERS

“The United Nations has recognised and is deeply concerned that ‘human rights defenders working in environmental matters, referred to as environmental human rights defenders, are among the human rights defenders most exposed and at risk’. States are called upon ‘to take all measures necessary to ensure the rights, protection and safety of all persons, including environmental human rights defenders, who exercise, inter alia, the rights to freedom of opinion, expression, peaceful assembly and association, online and offline, which are essential for the promotion and protection of human rights and the protection and conservation of the environment.’” (HRHF 2023, 41).

Context: SLAPP, Procedural Non-Compliance, and Relationships with Companies and International Actors

Human rights defenders in the field of environmental protection face unique challenges due to the specific nature of their work. This is reflected in the fact that they often oppose *powerful interests* related to land use, mineral extraction, and large development projects, which can lead to serious conflicts between environmental protectors, investors, and holders of political power (HRHF 2023, 41). The situation in Bosnia and Herzegovina in this regard is similar to that in other countries where full democracy *has not been achieved*, which corresponds with the *hybrid democracy regime* present in the country, as there is insufficient rule of law and inadequate protection of citizens’ rights (EIU 2024, 11, 50, 66).

In this report, we have addressed three areas related to the work of HRDs in the field of environmental protection, which are closely focused on *Strategic Lawsuits Against Public Participation* (SLAPP), intimidation, the lack of coordination in actions between different levels of government, and the relationship with large companies and the international community.

6.1. SLAPP and Intimidation

Companies in Bosnia and Herzegovina, especially those from the energy, construction, and mining sectors, use **strategic lawsuits against public participation** (SLAPP) by exploiting the judicial system to *discourage, silence, and intimidate* human rights defenders, as well as critical voices on issues related to specific projects that impact the environment. The goal of these lawsuits is not to achieve a legal victory, but rather to create a climate of fear among human rights defenders and *exhaust their resources* – both financial and emotional (Kardov 2024, 71; Maňko 2024, 2).

Activists who oppose the construction of mini-hydroelectric plants, mining facilities, or other projects with potentially destructive environmental effects are primarily faced with *defamation lawsuits* related to alleged damage to reputation or *obstruction of business operations*. In this way, companies, or “financially powerful entities,” send a clear message that any attempt to challenge their projects will be met with lengthy and expensive legal proceedings (Džumhur, Jukić, Vranješ 2024, 115). For environmental activists, who often work within small organizations or groups, or as individuals with limited resources, such lawsuits represent a **huge burden** and further **complicate their struggle to protect** the environment.

“There are a few SLAPP cases raised in Bosnia and Herzegovina. This is starting to be used as a tool, especially against individual activists and people who lead movements or are the only ones visible on a certain issue; while, for example, the same legal entities hesitate to initiate similar cases against us as an organization, since behind us there are logistical support and networks of various organizations to which we belong” (Dakić 2024).

Tihomir Dakić, Center for Environment

The social context in which these processes take place further complicates the position of human rights defenders. Specifically, strategic lawsuits against public participation are also used to **create the perception** that environmental activists are *destabilizers* or even opponents of *economic development*, which further marginalizes their efforts. These lawsuits also serve to **discredit their work**, redirecting

public attention to the alleged “damage” they cause to businesses, rather than focusing on the crucial environmental protection issues.

Malicious lawsuits have increased in recent years across all Western Balkan countries, but what is specific to Bosnia and Herzegovina is the concerning *rise in cases specifically targeting human rights defenders*, mostly initiated by large corporations and members of state and local authorities (Bosilkova-Antovska, Mladenovska 2024, 23). The *Coalition Against SLAPPs in Europe*, in its latest report for 2023, ranks Bosnia and Herzegovina among the top three countries in Europe with the highest number of recorded SLAPP cases per 100,000 inhabitants.

On the other hand, what is particularly problematic is that the current regulations in BiH do not provide **effective mechanisms for protection** against these lawsuits, although civil society organizations led by the Aarhus Center in BiH, through delegates in the FBiH Parliament, have submitted a *Draft Law on Civil Initiative and Protection of Citizens and Activists*, which includes anti-SLAPP provisions, to the parliamentary procedure (Džaferović, 2024; Aarhus centar u BiH 2024).

One of the cases that attracted significant public attention during our reporting period is the **lawsuit against activist Hajrija Čobo**. The British company “Adriatic Metals” filed a lawsuit against her for defamation, claiming damage to the reputation of this concessionaire involved in the exploration and exploitation of ores in Vareš (Midžić et al. 2024, 11). However, in June 2024, the Municipal Court in Kakanj delivered a ruling rejecting the lawsuit, in which Čobo was accused of defamation and damaging the plaintiff’s reputation, based on the plaintiff’s withdrawal from the case after activist Čobo vigorously fought against the lawsuit (Objavi.ba 2024; Judgment 2024).

The case of Harija Čobo is actually just a **continuation of the pressure** exerted through lawsuits by large companies, similar to previous cases such as those of *Sunčica Kovačević and Sara Tuševljak*, river protection activists who were sued by “Green invest/BUK d.o.o.”; or *Amela Šabić Ahmečković*, an environmental conservation activist from Jezero, who was sued for defamation by the company “Lykos Balkans Metals” (Jevđenić 2023a).

In addition to civil defamation lawsuits in the form of SLAPPs, human rights defenders are also particularly threatened by the **possibility of criminal proceedings**, as defamation was criminalized in the Republika Srpska in August 2023. Now, human rights defenders may face not only civil lawsuits but also criminal prosecution for their activism and criticism of the operations of environmental polluters. The mere fear of criminal sanctions could lead many environmental activists to self-censor, which can directly weaken the impact of their work. *{For more information on the topic of the criminalization of defamation, see the section on criminalization of defamation in the Republika Srpska in this report}.*

6.2. Fragmentation of Responsibility and Lack of Harmonization

Bosnia and Herzegovina is characterized by a specific federal arrangement, which includes complex legislation and numerous public bodies at different levels of government. This system directly affects the work of HRDs, because their rights and opportunities **differ significantly** depending on the competence and approach of public institutions in certain parts of the country.

One of the key challenges for environmental activists in BiH is the **inconsistency in behavior** between different levels of government. Namely, the attitude of institutions towards human rights defenders is *not consistent*; while certain institutions are more open to cooperation and dedicated to respecting the rights of activists, other institutions make it difficult for human rights defenders to access information or exercise other rights. Sometimes institutions do this because they deliberately *do not want* to respect the rights of HRDs, on other occasions because they hide certain information, but in many cases rights violations also occur due to *insufficient knowledge and expertise* in the institutions.

“When we reach out to municipalities from other cantons or cantonal ministries, we often encounter obstacles, primarily due to a lack of communication on their part. It seems that within our institutions, there still exists a mentality from the former state, where information is often withheld rather than shared. This approach can give the impression that the authorities are

deliberately avoiding providing information with malicious intent. However, I believe that in most cases, the reason for this is ignorance of the legislation rather than an intention to avoid cooperation” (Kreševljaković 2024).

Nina Kreševljaković, Aarhus center in BiH

Defenders of human rights in environmental matters are mostly in contact with administrative bodies. However, disharmony in treatment also occurs in the **relationship of courts** towards human rights defenders and their rights. There are differences in the application of the *Aarhus Convention* between the legal systems in RS and FBiH, especially when it comes to issues of legitimacy of lawsuits in environmental matters. Courts in the Republika Srpska, unlike those in the Federation of Bosnia and Herzegovina, have shown greater understanding in recognizing the rights of environmental organizations as “public concerned” with active legitimacy to file lawsuits.

However, despite differences in interpretation at lower court instances, the supreme courts or the Constitutional Court of BiH mostly rule in favor of environmental organizations, which indicates a more consistent interpretation of the law at this level. However, the big problem lies in the fact that it **takes a lot of time** to reach the highest judicial institutions, and the *costs of the procedures* that organizations have to reach decisions at the highest levels are not negligible either. This uneven practice indicates that even the authorities that should be on the sidelines of defending the rights of human rights defenders are in fact making it impossible for HRDs to fully enjoy all the rights they have according to international standards, as well as domestic regulations.

“In the Republika Srpska, we noticed that the first-instance courts understand the Aarhus Convention better than their counterparts in the Federation. At the level of the Supreme Courts, however, we have a more positive relationship with the Federal Supreme Court and a better understanding. We often file lawsuits referring to the Aarhus Convention, emphasizing that we are an interested public with active legitimacy to file lawsuits. In the Republika Srpska, not a single lawsuit has been rejected due to the challenge of active

legitimacy, while in the Federation, for example, it happens that our lawsuits are rejected with the explanation that, if the lawsuit refers to the thermal power plant in Tuzla, we are not located in that city, and therefore we are not considered as concerned public. As a whole, all the verdicts that we lost in the courts of first instance, and even at the level of the Supreme Court, after submitting a request to the Constitutional Court of Bosnia and Herzegovina, resulted in favorable outcomes for us” (Kreševljaković 2024).

Nina Kreševljaković, Aarhus center in BiH

Relevant reports from the field of the environment also talk about the fact that in BiH **there is a problem of insufficiently trained and under-capacitated personnel** at all levels of government, which affects the quality of application of regulations related to free access to information {for more information on the subject of access to information, see the section on laws on freedom of access to information in BiH in this report}, effective public participation in decision-making and access to justice in environmental issues; therefore, *directly to the actions of human rights defenders* who fight for a healthy environment (Midžić et al. 2024, 79).

In addition to the problem of inconsistent practices, the existence of **institutional passivity** in certain cases towards the work of environmental organizations is also noticeable. This is reflected in administrative disregard for their existence, *prolonged judicial and appeals processes*, and a fundamental denial of their significance and contributions. This attitude of institutions endangers the work of HRDs, since administrative obstacles make it difficult for them to realize their rights and goals.

“I think that we have entered a period when we have some new ministers and new decisions that come from both the East and the West, denying the existence of organizations. It means: by the silence of the administration, by trying to drag out all those court processes, that is, appeal processes, etc. So: we think you don’t exist” (Dakić 2024).

Tihomir Dakić, Center for Environment

One of the characteristic cases happened in **Vlasenica**, when activists gathered in the “Eco Activists” movement of Vlasenica during March 2023 collected almost 1,700 signatures of citizens for a civil initiative demanding a ban on the opening of a factory for chemical-thermal plastic processing. However, the municipal administration ignored the will of the citizens and refused to receive the citizens’ initiative, and when they sent it by mail, their request was rejected. That is why the activists, with the help of a lawyer, had to use further legal means regarding this refusal, such as a criminal report for the criminal offense of “violation of the right to file a legal remedy”, multiple appeals to the Supreme Court of the RS and the Ministry of Administration and Local Self-Government, as well as numerous submissions to other relevant institutions (E.K. i N.N. 2023, E.K., D.R. i N.N. 2023; Eko aktivisti Vlasenica 2024; Kosanović 2024). The situation of silence and inaction by the authorities also occurs in the case of ore exploitation in **Medna**, near Mrkonjić Grad, where smaller streams flowing into the Sana River are polluted with heavy metals, and the competent inspection does not react (Maksimović 2024).

In this way, environmental human rights defenders have been practically prevented from exercising their rights, protecting the environment, and participating in legal and democratic processes through legal mechanisms. If a favorable epilogue for HRDs does eventually occur, it may come **too late for the effective exercise of their rights**, precisely because of the protracted proceedings.

6.3. Relationship with Large Companies and the International Community

Environmental activists in Bosnia and Herzegovina also faced a major challenge arising from the **connection** between large companies and local authorities, as well as **lobbying** by representatives of the international community. Namely, certain companies that are engaged in projects such as the construction of mini-hydroelectric power plants or mines often maintain close ties with politicians and authorities (Eko akcija 2021), and certain diplomatic representatives and representatives of the international community in BiH *support initiatives* that are contrary to the efforts of human rights defenders (Lippman 2024).

Certain companies use their influence with domestic actors to secure permits and pass inspections regardless of the violation of environmental standards (Katić 2024; Lippman 2024). When human rights defenders point this out and start proceedings before the competent authorities, companies try to *prevent the activities* of environmental activists. In this connection, there are certain pressures on defenders, from subtle ones such as inquiries about their contacts, to offering bribes to withdraw lawsuits or direct threats.

“From that individual, allegedly a coordinator for mining operations, there was an attempt to obtain a contact number through the company’s owner [...]. He tried to reach out via another colleague, saying: *‘Tell that Dakić [...] we’ll pay whatever it takes for him to withdraw the lawsuit’*” (Dakić 2024).

Tihomir Dakić, Center for Environment

Human rights defenders are also caught **between the hammer and anvil** between the interests of the West and the East. They are often *asked questions* by representatives of international organizations or foreign embassies about their allegiance to one side or the other, while their fight for a healthy environment is *ignored*. Due to their work, human rights defenders are therefore exposed to both indirect and direct pressure from representatives of the international community (Eko BiH mreža et al. 2023).

“We have pressures regarding foreign organizations, that is, embassies and representatives of foreign countries. We had in mind soft diplomatic hand-wringing. We had, let’s start with the mildest one, which is to completely ignore the issue that was presented to them at the meeting. No reaction. [...] When I talked about these companies in relation to coal, that coal could potentially be transported to Poland and Germany. Then, if we had lithium mining, Vareš and the like, the lady director rather arrogantly asked the question: ‘Would you react and protest in the same way if it was a Russian or Chinese company?’ So that shows a very, very focused level of action” (Dakić 2024).

Tihomir Dakić, Center for Environment

“And we had an inquiry apropos the highway about our work by [...] a Chinese corporation. Not corporations, but secret service” (Dakić 2024).

Tihomir Dakić, Center for Environment

Environmental activists are also exposed to **media discrediting campaigns** that come from various sources, including the companies themselves that are involved in the projects and lobby groups. These campaigns often portray activists as opponents of progress and development, which tends to *reduce public support* for their activities. One of the characteristic cases is the tagging of 24 people on the Facebook page called “**Ozren na dlanu**”, on which opponents of geological research and mining activities are marked under the title “Ozren Dossier,” by stating their names and surnames and displaying their photos. At the same time, they were “identified” as “enemies of the economic prosperity of the Republika Srpska” (Lj. Đ. 2024).

In addition, a special problem is the obvious **lobbying** of some representatives of foreign countries and international organizations **for research and exploitation of natural resources on the territory of BiH**, often working for the **interests of certain companies**. These interests are often directed against a healthy environment, and thus indirectly against the advocacy of human rights defenders in the field of environmental protection. Some representatives of the international community can hear *identical accusations* against environmental activists coming from the authorities in BiH, but also from different media under the direct or indirect control of politicians from the authorities (Gerila info 2024; Jevđenić 2023b). They are aimed at showing how the struggle of human rights defenders for a healthy environment actually *prevents the economic development of BiH*.

“I heard this sentence from several representatives of international organizations, and that is: ‘Bosnia and Herzegovina was a mining country for 100 years. This is an opportunity for the development of Bosnia and Herzegovina. Why are you trying to keep it from developing economically?’ [...] It is interesting that you have pressure from countries that promote the right of citizens to think

and to act, and on the other hand, they say: 'You know how things are done here.' or 'You know, you are a mining country'. So, I cannot make my own strategy, they made a development strategy for me. [...] Where it clearly shows, in essence, that the interests of one country can violate certain laws of another country and the rights of citizens to exercise their rights to a healthy environment" (Dakić 2024).

Tihomir Dakić, Center for Environment

On the other hand, although the authorities, media controlled by the authorities and certain representatives of the international community accuse them for working against the economic interests of BiH, human rights defenders in BiH generally **enjoy great support from the citizens** and there are very rare cases of certain groups rebelling against them. If this happens, it is mostly a question of *political instrumentalization* of individuals or groups or *the interest of a certain company* expressed through individuals and groups.

"Now we have to separate whether some individual is against it, because there will always be some individual. [...] When the village comes together and the locals come together, they mostly contact us to get involved to help with a certain process" (Dakić 2024).

Tihomir Dakić, Center for Environment

Human rights defenders in the area of the environment will be especially *in focus* in the coming period, as a large number of investor projects in BiH are focused on the exploitation of natural resources, which often results in environmental degradation. This is especially important, because throughout BiH citizens are mobilizing to **fight against harmful projects** that threaten to damage or have already destroyed parts of the environment in which they live. In many local communities across the country, a **widespread movement** for environmental protection, protests and resistance in defense of rivers, forests and other natural resources is taking place (Lippman 2024).

This is also the birth of a *new generation of human rights defenders*,

who will have to face the challenges mentioned in this report, but also many other challenges and threats in the defense of the basic human right to a healthy environment.

7.

**PROVIDE MORE
SUPPORT IN CONFLICT
& POSTCONFLICT
SITUATIONS**

7. PROVIDE MORE SUPPORT IN CONFLICT & POSTCONFLICT SITUATIONS

“In post-conflict situations, they may face a lack of transitional justice mechanisms and inadequate reconciliation efforts. They may be targeted for their work in documenting war crimes, calling for accountability, or advocating for marginalised groups” (HRHF 2023, 45).

Context: Lack of Concrete Actions and Institutional Support for Building Sustainable Peace

Transitional justice is a relatively new discipline in the theory and practice of human rights protection. This discipline primarily finds its purpose in the need of societies **to face** their criminal past. This need, on the one hand, was initiated by the *activity of civil society organizations* that pointed to the state’s responsibility for human rights violations and insisted on establishing justice for the victims, as well as the *obligation of states* based on international law, on the other (Popović 2009).

At the BiH level, there are still **no key laws and strategies** regulating the issue of transitional justice, i.e. dealing with the past, respecting the rights of victims and creating all the necessary conditions so that the horrors of war do not repeat themselves.

The Transitional Justice Strategy has not yet been adopted, as has the *Law on Victims of Torture*, and only with the amendments to the *Criminal Code of BiH* in July 2021, which were imposed by the former high representative of the international community in Bosnia and Herzegovina, Valentin Incko (Odluka visokog predstavnika 2021), crimes were criminalized at the level of the entire country related to the denial of genocide, crimes against humanity or war crimes.

But despite this, many *politicians* continue to **deny or minimize war crimes**, which makes the process of documenting the crimes and seeking justice for the victims *difficult*. This creates a *climate of impunity*, in which criminals are often free and victims are marginalized. The different interpretations of the war events that lasted from 1992 to

1995, the relativization of war crimes and the disharmonisation of laws and regulations regulating the rights of civilian victims of war, especially women who survived wartime sexual violence and children born as a result of wartime rape, greatly complicate the work of HRDs in this area and “represents an obstacle to the progress of BiH towards true and lasting reconciliation” (OSCE 2024).

Also, the Platform for Peace, which was adopted by both houses of the Parliamentary Assembly of BiH (Parlament BiH 2018), did not result in concrete actions on the ground – the Strategy for Sustainable Long-Term Peace in BiH was not developed, nor did Education for Peace enter the formal educational systems in BiH.

7.1. Institutional Sluggishness vs. the Passage of Time

The work of human rights defenders on building peace in BiH includes a *wide range* of areas, topics and activities, from monitoring court processes for war crimes, representing victims in court, providing free legal and psychological assistance, pointing out unilateral textbook policies, collecting data on missing persons, initiating legal reforms, conducting research, working with youth, engaging in public appearances, and organizing street actions.

Institutions at different levels of government, which should be partners and listen to the voices and proposals coming from activists who work in the field and very well recognize and identify the needs of citizens, often **ignore these voices**.

“What occasionally happens is a kind of failure of communication by institutions. For example, when an institution you send a request or letter and they handles it with silence. Sometimes, this makes it seem like these institutions don’t consider us relevant, even though these institutions are crucial to us if we want to advocate for systemic changes” (Interview No. 2, 2024).

N. N. II

What is of particular concern to human rights defenders working on peacebuilding and providing assistance and support to particularly

vulnerable categories of war victims is the slowness of the work of institutions, the *lack of harmonisation* of legal regulations and the *failure to implement* decisions and solutions of both domestic and international bodies.

They are also fighting a specific battle – a **battle against the passage of time**, which brings with it old age, illness, and even death of victims and witnesses, and diminishes the hope of victims’ families for justice.

“We don’t have much time to maneuver. This is a time-sensitive process that must offer certain answers and solutions during the lives of the victims. We cannot be satisfied knowing that the rights of victims are still uneven throughout the territory of BiH, that some victims did not even enter the current legal solutions, or that they entered many years later, and should have been earlier. Unfortunately, because of this approach, the victims are still exposed to manipulation for daily political purposes, and their specific problems are captured in ethno-national narratives” (Interview number 2, 2024).

N. N. II

The “Forgotten Children of War” Association points to the passage of time. Children born from an act of wartime sexual violence were legally recognized only in 2022, when the Brčko District Assembly made a decision to include this category in the *Law on Civilian Victims of the war BD*. This was followed by the adoption of the new *Law on the Protection of Civilian Victims of War in FBiH* (Službene novine FBiH 2023), which brings a number of improvements for this category of population.

“It is still a symbolic recognition. However, society is made aware that this category exists and discrimination is being corrected due to the absence of recognition for the past 30 years, and especially discrimination in relation to children, for example, of the veteran population, who all had priority health care, priority housing, scholarships, education [...] and the children of the civilian victims of the war did not enjoy it” (Muhadžić 2024).

Merjem Muhadžić, Forgotten Children of War

Muhadžić, however, warns that the harmonization of cantonal regulations with the federal *Law on the Protection of Civilian Victims of War* has not yet taken place and that the situation in the Republika Srpska is quite different.

“We have another problem in the RS. It is an inseparable story about mothers and their children. It is one category and one conditions the other, even when the child had no contact with the mother. In the RS, the deadline for mothers to apply for civilian victim of war status expired in 2023. So, until 2023 you can be, if you want, a civilian victim, but after that you can’t, even if you want. This is the message sent by the Law on Victims of War Torture of the RS. And until we fix that, we have no place to talk about children born because of war” (Muhadžić 2024).

Merjem Muhadžić, Forgotten Children of War

In addition to non-harmonization, these challenges also reflect a wider problem that is happening, which is the ignoring of the specific needs of survivors of war trauma in the legal framework, while at the same time limiting the space for human rights defenders to act. Advocating *for changes in laws and harmonization* of regulations in working conditions in BiH requires constant pressure on the authorities, in which HRDs face a lack of institutional support, as well as political will for changes.

7.2. Ignorance and/or Discrediting

A major challenge for defenders of human rights who work to build a culture of remembrance is the **lack of will and willingness** of political leaders to work on confronting the past. They face a series of complex challenges in their efforts to build a more just and peaceful society.

Their work in the field of transitional justice remains crucial, but **insufficiently recognized and supported** by state institutions. At the same time, the lack of legal and institutional frameworks that would regulate issues of dealing with the past further complicates efforts to provide justice to victims and document crimes.

Human rights defenders who *speak out* publicly about war crimes or

demand accountability are in a particularly bad position. They often face threats, intimidation and attacks. This includes verbal attacks, as well as hate speech in the media and on social media. Such attacks often come from nationalist groups or individuals who oppose narratives that expose the crimes committed. The **lack of adequate protection** for human rights defenders further exacerbates the situation, as they are often left to fend for themselves when they receive threats or become targets of hate campaigns.

This is exactly what Srđan Puhalo, an analyst, blogger and activist who researches and writes about various war topics, faced when he publicly raised the question of the number of children killed in Sarajevo.

“In the last two years, in principle, I think I’ve managed to make everyone hate me. Which I see as a compliment, not as a problem, but a problem that causes other problems. What does that mean? It means that no one wants to have anything to do with me. I’m either perceived as a conflicted personality or I’m perceived as someone who is an undesirable partner in the sense that, if you work with me, they can pin all sorts of things on you. Especially in these public institutions, where it turns out that, sooner or later, it will come back to haunt you for working with me.” (Puhalo 2024).

Srđan Puhalo, analyst and activist

There is also a problem with the **lack of integration of transitional justice** into the education system, which is why younger generations are not sufficiently informed about war crimes and the importance of justice. Human rights defenders often work to document war crimes in conditions where access to information and archives can be *limited* or *selective*, which slows down the process of research and publication of facts.

As one of the examples of avoiding or preventing work, Puhalo cites the case of the sudden denial of a hall in the Cultural Center Istočno Novo Sarajevo for the holding of a forum on the topic “Activism and Art” in early September 2024.

“First we got permission for the venue, and two days before that, the director calls you and says, you can’t. And the topic of the panel was activism and culture, something completely, completely benign. That can’t go through either. A man calls and says they called me and I can’t give you the space. Now, is it because of me, because of the guests, because of the topic, because of Friedrich Ebert, how do I know, it doesn’t matter, in any case, they canceled two days before [...] And now, how are you supposed to do your job? How are you supposed to work tomorrow in Bijeljina, in Trebinje, in Banja Luka, anywhere you look, if someone calls and says – you can’t. It’s happening more and more often in the Federation too” (Puhalo 2024).

Srđan Puhalo, analyst and activist

7.3. Tensions and War-mongering Narratives

Politicians, who often obstruct processes related to reconciliation, on the other hand, continue to **inflame ethnic divisions and spread narratives** that glorify war criminals. In such an environment, activists are faced with *threats and intimidation*, not only by political structures, but also by a part of the public that perceives them as destabilizers of society, accuses them of “national treason” or calls them “foreign mercenaries.” These threats are not only verbal, but also include hate campaigns as well as institutional discrimination.

While key political leaders in Bosnia and Herzegovina continue to fuel ethnic tensions and spread harmful, war-mongering narratives (Kuća ljudskih prava Banja Luka 2024), it is civil society activists who typically work on issues of justice for victims, trauma healing, providing legal and psychological support to victims, and fostering a culture of remembrance. Due to their activism, sometimes their *families can suffer consequences*.

“It affects my finances, my livelihood, and thus my family... Well, look, the argument that we are a democratic society is that Puhalo walks down the street without any problems. And that’s the argument! The greatest achievement is that you can walk freely around the city. And no one does anything to you. I pretend everything is normal.

Imagine if I were thinking, 'Can I go into the city or not?' Imagine if I were thinking, 'Will my children go to basketball or not?!' My family doesn't suffer in terms of having any problems, but you never know who you might run into." (Puhalo 2024).

Srđan Puhalo, analyst and activist

The lack of political will and support from state institutions not only hinders progress, but also reinforces the feeling of impunity among those who have committed crimes. At the same time, the persistent *stigmatization* of human rights defenders contributes to their marginalization and makes it difficult to achieve the goals of transitional justice. Therefore, it is important to continuously highlight these problems in order to put pressure on political and social structures to take responsibility for dealing with the past.

Ultimately, the process of transitional justice is not only a legal issue, but also a moral obligation of society to ensure justice for victims, recognize crimes and build a future based on peace and respect for human rights.



**INSTEAD OF
A CONCLUSION –
RECOMMENDATIONS**

INSTEAD OF A CONCLUSION – RECOMMENDATIONS

The role of human rights defenders in Bosnia and Herzegovina is an indispensable **element of the struggle for a more inclusive, free and equal society**. Their work and engagement are crucial for advancing democratic processes, strengthening institutions and protecting the fundamental rights of citizens.

However, HRDs face numerous challenges that make it difficult to achieve their mission, from legal obstacles and lack of institutional support, to *threats, pressures and negative public perception*. Some of them are presented in this report.

In order to improve the position and enable more effective work of human rights defenders, it is necessary to adopt concrete measures based on the recommendations we offer below. This set of recommendations targets different sectors and includes changes in regulations, institutional interventions, the development of good practices, as well as raising awareness and public support. These recommendations aim to provide a foundation for creating a **more enabling environment** in which HRDs can **operate freely and without fear of repercussions**.

Standard 2 | Counter Disinformation

- The state and all its organs should be proactively involved in the fight against anti-gender initiatives through the fight against disinformation;
- It is necessary to develop security strategies for civil society organizations that are the target of attacks by anti-gender initiatives;
- International financiers should invest more money and resources in projects aimed at combating anti-gender movements;
- When reporting on the topics of gender equality and LGBTI human rights, the media should take special care to ensure that misinformation about HRDs and their work is not spread to the public.

Standard 3 | Ensure Public Participation and Engagement

- It is necessary to standardize the legal framework for free access to information at all levels of government in order to enable equal access to information throughout the country;
- Proactivity in the publication of information at the entity and state level should be increased in such a way that the information is regularly updated and easily accessible;
- It is necessary to reduce the obstacles in the appeal procedure and shorten the time of decision-making;
- It is necessary to establish an independent body that would guarantee a fairer consideration of appeals in the second instance procedure of access to information at the BiH level, instead of the Appeals Council;
- It is necessary to improve the interpretation of exceptions in laws in order to reduce abuse by overly broad and malicious interpretation of laws.

Standard 4 | Don't Criminalise Defending Human Rights

- Defamation should be decriminalized because transferring defamation exclusively to the domain of civil law would reduce the risk of the law being misused to suppress freedom of expression, which is a key foundation for the protection of human rights;
- Institutions should create clear and transparent legal mechanisms to protect the freedom of expression of HRDs (this includes introducing protective measures that would prevent the misuse of the law for political repression);
- Institutions must provide clear and continuous support to human rights defenders, including legal assistance and public condemnation of threats and attacks;
- To effectively counter repressive measures, citizens, NGOs, and the media must strengthen solidarity and joint resistance against attacks on freedom of expression and the work of human rights defenders.

Standard 18 | Protect Environmental Defenders

- Legislative measures against Strategic Lawsuits Against Public Participation (anti-SLAPP) should be adopted;
- Strengthening the capacity of administrative and judicial bodies is necessary through training on strategic lawsuits aimed at public participation and the implementation of the Aarhus Convention to ensure consistent interpretation of laws that protect public participation in environmental matters, regardless of administrative differences within the country;
- Harmonizing procedures across different levels of government should be encouraged to ensure equal rights for environmental activists throughout the country, through improved communication and standardization of procedures in administration and the judiciary;
- Increasing transparency in public institutions is necessary to reduce administrative barriers and ensure the timely and transparent provision of information to environmental organizations and activists;
- Financial and legal assistance should be provided to smaller environmental organizations and individual activists facing strategic lawsuits against public participation so they can continue their work without the fear of financial exhaustion;
- Support programs for the creation and development of watchdog organizations should be established;
- International organizations and embassies should be publicly called upon to support the protection of environmental activists and monitor the implementation of international standards concerning environmental protection rights.

Standard 20 | Provide More Support in Conflict & Post-Conflict Situations

- Efforts to create sustainable peace and a culture of remembrance should be a priority at all levels of government, with public recognition and support for the work of HRDs in this area;
- War-mongering rhetoric should be rejected, and a consistent

criminal policy should be implemented for the spread and incitement of national, racial, and religious hatred, division, and intolerance, as well as the denial of genocide and war crimes and the glorification of war criminals;

- Laws related to transitional justice should be harmonized throughout BiH;
- Civil society organizations providing specific services and working on the protection of war victims' rights should be recognized and financially supported, such as those offering free legal and psychological assistance;
- The previous efforts and knowledge of human rights defenders in the field of peace education should be taken into account, and Peace Education should be introduced into the formal education system.

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Human Rights House Banja Luka is a platform for strengthening associated civil society organizations and their impact on the state of human rights in the country and the surrounding region. The initiative to establish the Human Rights House in Banja Luka started in 2016. The initiative was supported by 17 civil society organizations based in Banja Luka and its surroundings. In April 2023, the Human Rights House Banja Luka officially became part of the Network of Human Rights Houses operating in 11 Eurasian countries. The founders of the Human Rights House Banja Luka are: Helsinki Citizens' Assembly Banja Luka, Hi Neighbour, Transparency International BiH, Center for Environment, and Banjaluka Centre for Human Rights.

