



Joint submission to the Universal Periodic Review of Bosnia and Herzegovina by PEN International and PEN Bosnia and Herzegovina

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PEN International

Contact: Aurélia Dondo

Email: aurelia.dondo@pen-international.org

Website: <https://www.pen-international.org/>

PEN Bosnia and Herzegovina

Contact: Emina Kalafat

Email: pen.centar.bih@gmail.com

Website: <https://penbih.ba/>

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with registration number 05683997.
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charity in England and Wales
with registration number 1117088.
International PEN's registered office
is 167-169 Great Portland Street,
London W1W 5PF

I. Executive summary

1. PEN International and PEN Bosnia and Herzegovina welcome the opportunity to contribute to the fourth cycle of the Universal Periodic Review (UPR) of Bosnia and Herzegovina (BiH). This submission evaluates the implementation of recommendations made in the previous UPR and assesses the Bosnian authorities' compliance with international human rights obligations with respect to freedom of expression, particularly concerning:
 - Legislative restrictions on freedom of expression and association
 - Hate speech, disinformation, and propaganda
 - Safety of writers and journalists
 - Limitations on artistic expression
2. During its third UPR in 2019, BiH accepted 204 recommendations out of 207, including some aimed at guaranteeing the rights to freedom of expression (eight recommendations) and association (three recommendations), ensuring the protection of journalists (13 recommendations) and combatting hate speech (nine recommendations). However, new laws adopted in the period under review severely curtail the rights to freedom of expression and association in BiH. The continued glorification of war criminals, revisionist narratives and hate speech by political leaders in Republika Srpska fueled a climate of growing anxiety, fear, and insecurity. The safety of writers and journalists remained a concern, with inefficient investigations into cases of threats and attacks. Many writers felt they have no choice but to self-censor.

II. Legislative restrictions on freedom of expression and association

3. The right to freedom of expression in BiH is enshrined in Article II (Human Rights and Fundamental Freedoms) of the Constitution. However, as highlighted in a 2022 Report by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the safety of journalists and access to information in BiH, 'violations of the right to freedom of expression and threats or use of violence, harassment and intimidation targeting journalists call for a comprehensive response to address structural and emerging issues affecting the independence of the media and the safety of journalists.'ⁱ
4. In the period under review, authorities attempted to use laws to restrict expression under the guise of fighting COVID-19. In 2020, authorities in Republika Srpska adopted the Decision on Prohibition of Causing Panic and Riots During the State of Emergency on the Territory of the Republika Srpska at the initiative of the entity's Ministry of Internal Affairs.ⁱⁱ It aimed to prevent criticism and debate, with penalties for media of up to € 5000 for publishing articles that 'prevent or significantly hinder the implementation of decisions and measures of state bodies and organisations that exercise public authority.' The measure was revoked shortly after being adopted following a public outcry. In May 2023, the Government of the Canton of Sarajevo drafted a Law on offences against public order and peace, which similarly foresaw punishment for those who 'prevent or significantly hinder the implementation of decisions and measures of state bodies and organisations that exercise public authority.'ⁱⁱⁱ The proposal, which sought to impose hefty fines for publishing 'fake news', faced strong criticism from journalists and media

organisations and was subsequently withdrawn in June 2023. The authorities said they would reintroduce some version of the draft law in the future.

5. New laws adopted in the period under review severely curtail the rights to freedom of expression and association in BiH. On 20 July 2023, the Republika Srpska National Assembly adopted amendments to the Republika Srpska Criminal Code reintroducing criminal penalties for defamation, despite a national and international outcry.^{iv} While a draft amendment aimed at criminalising insult was eventually withdrawn, vaguely worded provisions punish defamation and other privacy-related offences with harsh fines of up 6,000 BAM (approximately € 3000), up to three times the average monthly salary. The law allows for subjective interpretation and poses a significant threat not only to those in Republika Srpska but to all writers, journalists, civil society actors and other citizens of BiH. Those unable to pay the fine may be subject to imprisonment. Anyone found guilty will have a criminal record, which could then impact the exercise of other fundamental rights and freedoms, including the right to work. In September 2023, Journalist Club Banja Luka filed a petition to formally challenge the law before the Republika Srpska Constitutional Court.
6. Of additional and serious concern is a proposal by Milorad Dodik, President of the Republika Srpska entity, to introduce a Russia-inspired 'foreign agents' law (the Draft Law on Special Registry and Transparency of the Work of Non-Profit Organisations), which would further stifle civil society and independent media by requiring NGOs receiving funds from abroad and active in the Republika Srpska entity to register as 'agents of foreign influence', with heavy penalties for non-compliance. The UN,^v the Council of Europe's Venice Commission and the OSCE/ODIHR^{vi}, as well as the EU all warned against its adoption. The draft law was withdrawn in May 2024. Dodik stated the need for 'further harmonisation' with European standards but added that it would be reintroduced soon.
7. The use of strategic lawsuits against public participation (SLAPPs) poses an increasing threat to independent media and to civil society actors in BiH. An analysis published in November 2023 by the Independent Journalists' Association of Vojvodina (based in Serbia) showed that the main targets of SLAPPs are journalists and activists reporting on environmental issues, criminal activities, and corruption.^{vii} The anti-SLAPP Recommendation of the Council of Europe Rec CM (2024)2, adopted by the Committee of Ministers on 5 April 2024, provides useful guidelines to help introduce anti-SLAPP provisions into the Bosnian legal framework.

III. Hate speech, disinformation, and propaganda

8. For over 24 years, the International Criminal Tribunal for the former Yugoslavia investigated genocide, war crimes and crimes against humanity, including summary mass executions of civilians, conflict-related sexual violence, and the destruction of cultural heritage, during the conflicts in the Balkans in the 1990s. Distortion of the past is a tool commonly used by political actors in the Western Balkans region for manipulation and propaganda purposes. In BiH, the situation is particularly concerning in Republika Srpska, where the authorities are pressing with secessionist narratives and actions, threatening peace and stability in the country and broader region.

9. In April 2024, alarmed by growing tensions, PEN members from the former Yugoslavia issued a call for peace, endorsed by nearly 100 writers from the region. In May 2024, PEN International urged political leaders in Republika Srpska to end the glorification of war criminals, revisionist narratives and hate speech, in the lead up to a UN General Assembly vote on a draft resolution declaring 11 July 'The International Day of Reflection and Remembrance of the 1995 Genocide in Srebrenica'. At the instigation of Dodik, a march against the UN resolution took place on 18 April, in Banja Luka, the main city in the Republika Srpska entity.^{viii}
10. PEN International and PEN Bosnia and Herzegovina have documented how media, writers, and journalists opposed to dominant, nationalistic narratives, who write about the 1990s based on facts, are routinely targeted in BiH by right-wing media, trolls and bots on social media, as well as politicians, their family members, and supporters. Independent writers and journalists are branded 'traitors' and 'enemies' – of their nation, of their country, of the faith of their community – to stir anger among radical groups and broader society, especially if such individuals are involved in activities of reconciliation and peacebuilding. The aim is to stigmatize them. Smear campaigns often result in direct threats and jeopardise their physical safety and mental health (see below, Safety of writers and journalists).^{ix}
11. Political manipulation, hate speech and disinformation campaigns are inter-connected and aimed at generating fear and uncertainty in society. Public service media also spread disinformation, as in the case in Republika Srpska. The fact-checking portal Raskrinkavanje labelled Radio Televizija Republike Srpske (RTRS – the public broadcaster in Republika Srpska) as a high-risk medium for publishing questionable content. It identified RTRS, together with the Republika Srpska public news agency 'Srna', as the single most prolific source of political disinformation in BiH.^x The influence of Russian media was present long before the Russian Federation's full-scale military invasion of Ukraine on 24 February 2022, mostly through the work of Sputnik news agency, which has an office in Serbia and whose articles are reproduced in the media in Republika Srpska without critical analysis.^{xi}
12. Most sections of the media in BiH are under direct and indirect forms of domestic political control, affecting published content and resulting in open support for specific political parties, a selective representation of political events, and unequal treatment of actors in the political sphere.

III. Safety of writers and journalists

13. The safety of writers and journalists in BiH remains a grave concern. The BiH Journalists' Association documented an increase in attacks on journalists during the period under review, with over 70 cases recorded in 2023, of which fewer than 25% were investigated. Most of these attacks were not physical but involved verbal threats, harassment and intimidation. Those who are exposed to such threats live in constant fear that violence might escalate.^{xii}
14. Milorad Dodik – as well as other politicians – routinely harasses and smears outspoken journalists in public fora, contributing to an atmosphere of fear and impunity for verbal and physical attacks. In March 2023, shortly after Dodik criticised journalists who had opposed his proposal to re-criminalise defamation, calling them 'freaks/spodobe' the cars of two journalists in Banja Luka were damaged by unknown individuals.^{xiii} Several rights activists and journalists

were verbally and physically assaulted in Banja Luka that same month after the Republika Srpska police banned a Pride parade event over security concerns.^{xiv} The ban and attacks were preceded by homophobic comments as well as threats on social media and homophobic comments by Dodik. No arrests have been made at the time of writing.

15. Harassment, intimidation, and smear campaigns often take place online and on social media platforms and are aimed at silencing not only journalists but other prominent individuals who are active in the public sphere in BiH. Smear campaigns online are conducted by anonymous trolls and frequently supported by public officials, who officially deny any responsibility or connection to persons and groups who attack journalists and prominent individuals online. Hate speech against journalists is reportedly on the rise, especially on social media platforms. These consisted mostly of anonymous messages, describing how they would be injured or killed, or most commonly insulting them with derogatory nicknames such as traitors, servants of foreign embassies, non-patriots, or destroyers of the state.
16. Disinformation campaigns against writers and journalists are usually the first step in their public discreditation, followed by smear campaigns and targeting online. The main goal is to expose engaged individuals to a frenzy of public anger, mainly on social media, labelling them in an attempt to turn them into state enemies and thus create an 'atmosphere of lynching' in advance of any potential physical attacks against them. It is crucial to stress that cases of threats and violence are used not only to cause harm to such individuals, but also to send a message to all independent voices that they will experience the same if they dare oppose dominant narratives – in other words, to provoke self-censorship.
17. Independent writers, journalists, and civil society activists are often harassed by tabloid media outlets and media that are mostly web portals, which do not have any kind of identification. Adopting laws on transparency of media ownership would help identify patterns that, according to previous research, involve interrelations between public officials, non-transparent media, and those economically powerful.
18. Overall, distrust in the police and the justice system in BiH prevails, which dissuades writers and journalists from reporting attacks and threats. The judicial process in criminal and civil cases remains slow. Substantial case backlogs have had a deterrent effect in reporting crimes. When cases do reach courts, proceedings are systematically lengthy, and the charges against perpetrators minimal. Impunity persists, encouraging further threats and attacks.^{xv}
19. PEN International and PEN Bosnia and Herzegovina welcome efforts by the EU and OSCE to support prosecutor offices and police across BiH to appoint and establish focal points for attacks against journalists, and the High Judicial and Prosecutorial Council to improve and systematize the registration of such attacks.^{xvi}

IV. Limitations on artistic expression

20. As documented by PEN International and PEN Bosnia and Herzegovina, writers in BiH operate in an increasingly toxic and suffocating atmosphere, with serious consequences for freedom of expression. Journalists who are reportedly close to certain political parties have become their mouthpiece. Those who do not want anyone to restrict their writings face numerous problems

– existential, they work under pressure and are exposed to various verbal threats and insults.^{xvii}

21. Political leaders and public officials often contact media editors about the content they have published – sometimes through intermediaries, sometimes by calling personally – as they seek to directly interfere in editorial policies and encourage censorship. Hate speech and smear campaigns against writers and journalists typically start on social media platforms. Political leaders and public officials, their advisers and various public figures who are close to certain political parties are reported to be involved in such campaigns. Online harassment and threats are frequent and usually not investigated, leaving writers feeling deeply unsafe.
22. Writers in BiH cannot make a living exclusively from writing books. They must take on other roles to make ends meet. Writers tend to work for several media outlets at one time. As many media outlets face financial problems, columnists are regularly underpaid. The lack of adequate monetary compensation for work, as well as the irregularity by which writers receive fees, mean that the impact of these threats is more pernicious and disproportionately impacts their ability to continue writing.
23. Engaged writers are aware that their activities are visible to everyone, and that one vaguely worded sentence can trigger harassment, threats, and intimidation. Writers who focus on issues related to politics, wars, war crimes, corruption, social injustice and inequality, human rights, and minority rights, reported being exposed to media smears, online abuse, and insidious, persistent and vast lies and insinuations.
24. Censorship is very pronounced in BiH. Media owners and editors often do not want to publish texts for fear they could generate problems. They mostly justify their position to writers and journalists with some benign explanations, arguing that readers would not be interested in such topics.
25. All this strengthens self-censorship in BiH, which many writers told PEN International and PEN Bosnia and Herzegovina was most harmful to their work and greatly limit their freedom to write. Self-censorship further increased after authorities in Republika Srpska recriminalized defamation and initiated the draft law on ‘foreign agents.’

V. Recommendations

26. PEN International and PEN Bosnia and Herzegovina urge the authorities of BiH to fully uphold the right to freedom of expression and to create an environment in which free public debate can thrive.
27. In particular, PEN International and PEN Bosnia and Herzegovina call on the authorities of BiH to:
 - Immediately end the glorification of war criminals, revisionist narratives and use of hate speech, and the denial of war crimes, crimes against humanity and genocide.
 - Publicly, unequivocally, and systematically condemn all acts of violence and targeted attacks against writers, journalists, and activists.

- Ensure impartial, prompt, thorough, independent, and effective investigations into all alleged attacks against writers and hold those responsible to account. Dedicate the resources necessary to investigate and prosecute attacks.
- Strengthen national data collection, analysis, and reporting on attacks against writers and journalists.
- Ensure that newly established mechanisms for journalists' protection are effective in practice.
- Bring laws, policies, and practices pertaining to freedom of expression and media freedom fully in line with their international obligations and commitments. Specifically:
 - Repeal amendments to the Republika Srpska Criminal Code reintroducing criminal penalties for defamation.
 - Refrain from reintroducing the draft 'foreign agents' law and any other similar legislation.
- All attempts to regulate hate speech or other incitement to discrimination or violence must fully protect the right to freedom of expression and not be used to repress peaceful dissent.
- Establish a Media Register with all the relevant media indicators to enhance transparency of media outlet ownership and ensure that those targeted have the necessary information for potential legal actions.
- Recognise SLAPPs as a growing threat to freedom of expression and adopt anti-SLAPP legislation.

ⁱ OHCHR, the safety of journalists and access to information in Bosnia and Herzegovina, 2022, available at: <https://bosniaherzegovina.un.org/sites/default/files/2022-09/Report%20-%20Safety%20of%20journalists%20and%20access%20to%20information%20in%20Bosnia%20and%20Herzegovina%20-%20ENG.pdf>

ⁱⁱ RFE/RL, 12 April 2020, available at: <https://www.slobodnaevropa.org/a/doktore-i-novinare-po-u%C5%A1ima-i-nov%C4%8Daniku/30546070.html>

ⁱⁱⁱ Skupština Kantona Sarajevo, available at: <http://skupstina.ks.gov.ba/nact-zakona-o-preksajima-protiv-javnog-reda-i-mira-na-podrucju-kantona-sarajevo>

^{iv} PEN International, Bosnia and Herzegovina (Republika Srpska): Drop criminal defamation bill, 22 May 2023: <https://www.pen-international.org/news/bosnia-and-herzegovina-republika-srpska-drop-criminal-defamation-bill> ; Radio Free Europe/Radio Liberty, Defamation Law Adopted By National Assembly Of Bosnia's Republika Srpska Despite Criticism From Rights Activists, 21 July 2023, available at: <https://www.rferl.org/a/bosnia-srpska-defamation-law-criminalization-criticism/32512853.html>

^v See joint report by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders, 27 October 2023, Ref.: OL BIH 3/2023

^{vi} Bosnia and Herzegovina - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the draft law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organizations, adopted by the Venice Commission at its 135th Plenary Session (Venice, 9-10 June 2023), available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)016-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)016-e)

^{vii} SLAPP — Mechanism for silencing the public: Analysis of Strategic Lawsuits against Public Participation in Serbia, BiH and Montenegro, available at: <https://www.rcmediafreedom.eu/Resources/Reports-and-papers/SLAPP-Mechanism-for-silencing-the-public-Analysis-of-Strategic-Lawsuits-against-Public-Participation-in-Serbia-BiH-and-Montenegro>

^{viii} PEN International, Western Balkans: End dangerous rhetoric ahead of UN Srebrenica resolution vote, 17 May 2024, available at: <https://www.pen-international.org/news/un-srebrenica-resolution-vote>

^{ix} PEN International, *Toxic Narratives. Silencing Expression in the Western Balkans*, 18 October 2023, available in Albanian, English, Bosnian, Montenegrin, Serbian at: <https://www.pen-international.org/news/new-report-toxic-narratives-silencing-expression-in-the-western-balkans>

^x Cvijetićanin T., et al. (2019). Disinformation in the Online Sphere. The Case of BiH. Sarajevo: Association of Citizens 'Why not'.

^{xi} EU vs Disinfo, How Serbian Sputnik infiltrated a disinformation HUB IN Bosnia and Herzegovina, 14 June 2019, available at: <https://euvsdisinfo.eu/how-serbian-sputnik-infiltrated-a-disinformation-hub-in-bosnia-and-herzegovina/>

^{xii} Amnesty International, 2023 annual report, available at: <https://www.amnesty.org/en/location/europe-and-central-asia/western-central-and-south-eastern-europe/bosnia-and-herzegovina/report-bosnia-and-herzegovina/>

^{xiii} Mediacentar, 9 March 2023, available at: <https://media.ba/bs/vijesti-i-dogadaji-vijesti/osteceni-automobili-novinarar-morace-i-trifunovica>

^{xiv} AP News, Bosnia: rights activists assaulted following LGBT event ban, 19 March 2023, available at: <https://apnews.com/article/bosnia-serb-lgbt-assault-2bd5a4836f047fe88ff039ee2f190af7>

^{xv} OHCHR, the safety of journalists and access to information in Bosnia and Herzegovina, 2022, available at: <https://bosniaherzegovina.un.org/sites/default/files/2022-09/Report%20-%20Safety%20of%20journalists%20and%20access%20to%20information%20in%20Bosnia%20and%20Herzegovina%20-%20ENG.pdf>

^{xvi} Portal pravosuđa Bosne i Hercegovine: <https://pravosudje.ba/vstvfo/E/10001/kategorije-vijesti/122916>

^{xvii} PEN International's report, *Toxic Narratives. Silencing Expression in the Western Balkans*, published on 18 October 2023, is based on desk research and interviews with 20 writers in the Western Balkans. The empirical part of the report, based on interviews, uses key interlocutors as witnesses of events and trends in the environment in which they work, and relies on their experiences and observations.