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Submission by the Institution of Human Rights Ombudsman of Bosnia and Herzegovina on the implementation of the International Covenant on Civil and Political Rights in Bosnia and Herzegovina

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina is a national institution for the protection of human rights and Equality Body in Bosnia and Herzegovina (BiH) accredited with "A" status in accordance with its powers and the laws governing its work.¹

Institution of Human Rights Ombudsman of Bosnia and Herzegovina

Amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina. Amongst positive developments, we would like to point out that the amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina (*The Official Gazette of Bosnia and Herzegovina*, no 61/23) established a *Preventive Mechanism* and achieved financial independence, which enabled the authorities to implement point 10 of the Concluding Observations on the Third Periodic Report.

In accordance with Article 5 of the Law on Amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina ^[1], which entered into force on 13 September 2023, it is also stipulated that the approved budget must secure the functional independence of the Institution of Human Rights Ombudsman of BiH.

¹ IHROBiH's organizational structure includes the Department for Monitoring the Exercise of Political and Civil Rights in BiH, which has a mandate to act in cases related to the protection and promotion of civil and political rights in BiH. IHROBiH annual reports¹ show that half of the complaints filed by citizens relate to these rights, and in particular to violations of the right to access to court and a fair trial, denial of enjoyment of certain rights by the administration, freedom of access to information, actions of the police and prosecutor's office, freedom of the media, etc.

Article 5, paragraph 5 of the Law on Amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina states: *"The approved budget must secure the functional independence of IHROBiH and its functioning without additional conditions."*

For the purpose of implementing the Law on Amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina, IHROBiH has established a separate Department for the performance of the tasks of the Preventive Mechanism, and it comprises an Assistant Ombudsperson, two Advisors and one Officer. Other measures are also being taken to ensure the full efficiency of the newly established Department, such as the selection of external associates, and in this regard, requests have been sent to the Ministry of Security of Bosnia and Herzegovina to conduct security checks for the selected candidates.

Judiciary

The European Commission's 2024 Report on Bosnia and Herzegovina² states that BiH has some level of preparation to implement the EU acquis and European standards in the area of the judiciary and fundamental rights and that limited progress was made during the reporting period. The report points to certain signs of deterioration and the need for urgent measures to strengthen integrity and restore public trust in the judiciary.

In relation to the functioning of the judiciary, the European Commission's recommendations for the upcoming year relate to the appointment of judges to the Constitutional Court of Bosnia and Herzegovina to vacant positions, ensuring the full composition and functioning of the Constitutional Court, and for other courts, consistent appointment of judges based on merit, and evaluation of judges' work based on quality criteria.

The recommendations also refer to the finalization and adoption of new laws on the High Judicial and Prosecutorial Council of BiH and the courts of Bosnia and Herzegovina, in line with the recommendations of the Venice Commission, the adoption of a new justice sector reform strategy, the registration of judgments of international criminal courts in domestic criminal records, and the effective implementation of the revised national Strategy for the Processing of War Crimes Cases, in particular by strengthening regional cooperation.

The recommendations from the eighth meeting of the Subcommittee on Justice, Freedom and Security within the framework of the Stabilisation and Association Agreement between the European Union and Bosnia and Herzegovina referred, inter alia, to the priority recommendations from the Annual Report, and the judicial reform and work on war crimes cases, as well as law enforcement and judicial cooperation in criminal matters, were considered as a separate aspect.

Trial within a reasonable time

¹The Official Gazette of Bosnia and Herzegovina no 61/23.

²European Commission, Brussels 8 November 2024 SWD (2024) 691 final https://www.dei.gov.ba/uploads/documents/izvjesce-o-bosni-i-hercegovini-za-2024-godinu_1730986501.pdf

The European Convention for the Protection of Human Rights and Fundamental Freedoms guarantees the right to a fair trial and a public hearing within a reasonable time, before an independent and impartial tribunal established by law, in proceedings to determine civil rights and obligations or the merits of any criminal charge.³ The Constitution of Bosnia and Herzegovina⁴ indicates a dual application of the Convention, namely direct application, where the rights and freedoms provided for in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols are directly applicable in Bosnia and Herzegovina, and supremacy, which implies that these acts take precedence over all other domestic laws. The practice of the Constitutional Court of BiH also recalls that Article 6, paragraph (1) of the European Convention imposes on the Contracting Parties the obligation to organize their judicial systems in such a way that the courts can satisfy the requirements of that article, including the obligation to act within a reasonable time.⁵

The largest number of complaints in the field of justice considered by IHROBiH in 2024, as in previous years, related to the violation of the right to a fair trial, i.e. the length of the proceedings.⁶ In a significant number of cases, the cases were concluded during the proceedings before IHROBiH, i.e. following the intervention of the ombudspersons of BiH⁷. As for complaints that dealt with the length of the proceedings, the most common grounds were the failure to issue a decision by the first-instance court or the second-instance court, acting on the appeal, failure to schedule a hearing within the statutory deadline,⁸ failure to provide information on the status of the case, as well as failure to provide submissions to the parties to the proceedings⁹ (failure to provide the lawsuit).

In 2025, the Parliament of the Federation of Bosnia and Herzegovina adopted the Law on Trial within a Reasonable Time¹⁰. In the previous period, the National Assembly of the Republika Srpska¹¹ adopted the Law on Protection of the Right to a Trial within a Reasonable Time, the Assembly of the Brčko District adopted the Law on Protection of the Right to a Trial within a Reasonable Time of the Brčko District of Bosnia and Herzegovina,¹² and the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Protection of the Right to a Trial within a Reasonable Time before the Court of Bosnia and Herzegovina,¹³ which governs trials within a reasonable time before the Court of Bosnia and Herzegovina, thus achieving progress in this area.

High Judicial and Prosecutorial Council of Bosnia and Herzegovina

³European Convention on Human Rights and Fundamental Freedoms Article 6, paragraph (1);

⁴Article II.2.

⁵Decision on admissibility and merits of the Constitutional Court of Bosnia and Herzegovina, case no AP 2296/20, resolving the appeal filed by Rašid Mešanović;

⁶Ž-MO-08-154/24; Ž-BL-08-540/24; Ž-LI-08-151/24; Ž-SA-08-544/24;

⁷Ž-BL-08-108/24; Ž-SA-08-238/24; Ž-BL-08-275/24;

⁸Ž-BL-08-275/24 – After IHROBiH requested information from Zenica Municipal Court regarding the complaint in which the complainant pointed to the violation of the right to a trial within a reasonable time, namely the failure to schedule a hearing, the Court submitted information stating that the hearing was scheduled for 13 June 2024.

⁹Ž-LI-08-198/23;

¹⁰The Official Gazette of the Federation of Bosnia and Herzegovina no 92/25

¹¹The Official Gazette of the Republika Srpska no 99/20

¹²The Official Gazette of the BD no 2/21

¹³The Official Gazette of Bosnia and Herzegovina no 40/22

The High Judicial and Prosecutorial Council of BiH is an independent and autonomous body established with the aim of ensuring an independent, impartial and professional judiciary.¹⁴ The European Commission's 2024 Report on BiH indicated that an effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice. In terms of functioning of the judiciary, the European Commission has focused on the adoption of strategic documents (2024-2026 Reform Programme of the High Judicial and Prosecutorial Council emphasizes targeted reforms, particularly on comprehensive monitoring based on transparent evaluation mechanisms and the HJPC should adopt an accompanying action plan), the management body (ensuring independence and integrity in the method of appointing its members by reinstating randomisation for ethnicity and gender), and independence and impartiality .

The new Law on the HJPC should regulate the issue of the limited influence of the HJPC's actions in defending the independence of judges or prosecutors, and the adoption of a security strategy for the judiciary and an accompanying action plan is awaiting.

In September 2023, the HJPC BiH decided to adopt a new Reform Programme for the next three years, 2024 - 2026.

In 2024, the Institution of Human Rights Ombudsman of BiH received eight (8) complaints in which the High Judicial and Prosecutorial Council of BiH was designated as the respondent party. The most common grounds for filing complaints related to the inability to obtain information regarding the status of the case, as well as complaints about the work of judicial office holders.¹⁵ IHROBiH itself also advises parties of the competences of the High Judicial and Prosecutorial Council of BiH and the possibility of addressing it.¹⁶

As an example of positive cooperation and practice, it should be noted that in 2024, IHROBiH issued a Special Report entitled 'Analysis of the Implementation of the Recommendations of IHROBiH', wherein some of the recommendations referred to the courts in BiH. The High Judicial and Prosecutorial Council of BiH informed IHROBiH that it had received the Special Report, and that the information in question had been considered by the Standing Commission for the Efficiency and Quality of Courts, and upon whose conclusion the HJPC BiH contacted the courts that had not submitted the requested information. The courts' information on the implementation of the recommendations was submitted to IHROBiH.

Although there is an indisputable legal provision that regulates the issue of the statutory deadline for proceeding in cases of the disciplinary prosecutor, IHROBiH points out the importance of acting upon the requests of the parties, and the right of the parties to be informed about the status of the cases that conducted based on their reports, because this way trust and certainty in the work of this institution

¹⁴ The High Judicial and Prosecutorial Council of BiH has a wide range of competencies prescribed by Article 17 of the Law on the High Judicial and Prosecutorial Council of BiH ¹⁴which include appointing judges, chief prosecutors, deputy chief prosecutors and prosecutors, receiving complaints against judges and prosecutors, conducting disciplinary proceedings, determining disciplinary liability, imposing disciplinary measures, deciding on appeals in disciplinary proceedings, etc.

¹⁵Ž-BL-08-286/24; Ž-BL-08-463/24; Ž-MO-08-15/24;

¹⁶Ž-BR-08-7/24;

are strengthened. This certainly does not imply the provision of individual information classified as secret and collected during the investigation procedure, but rather the provision of information about the stage at which a specific case is.

Prosecutor's offices

IHROBiH points out that, although in some cases the parties stated that the competent prosecutor's offices failed to provide information on the stage of the proceedings conducted based on the reports, and whether the prosecutor's offices had taken measures and actions with the aim of prosecuting the responsible persons, the investigation procedure before IHROBiH established that the party has never contacted the prosecutor's office, and that the party was informed about the actions taken because they had been heard as a witness on the circumstances of the criminal report filed.¹⁷ IHROBiH advises complainants to employ the complaint to the collegium of prosecutors if dissatisfied with the decision of the Prosecutor's Office regarding the criminal report.

Free legal aid

Article 6 of the European Convention guarantees the right to free legal aid to a person charged with a criminal offence who is in need of such assistance due to financial circumstances or in the interests of justice. Through the case law of the European Court of Human Rights, this right has been extended to the obligation of the state to ensure the provision of free legal aid to citizens in criminal, civil and other disputes.¹⁸ Free legal aid is a form of exercising the right of an individual to a fair trial and equal access to justice before a court and other authorities, the costs of which are borne in whole or in part by the competent authority for the provision of free legal aid. It is a mechanism in which the state waives all or part of the original public revenues (court or administrative fees), assumes the burden of bearing (in whole or in part) the costs of the procedural actions undertaken, and then ensures the provision of legal advice and the engagement of a qualified legal advisor.

The system of free legal aid has not yet become functional in all administrative and political units. The law on free legal aid at the level of the Federation of Bosnia and Herzegovina and Central Bosnia Canton has not yet been adopted, so in this regard the institutional mechanism of the Institute for providing free legal aid has not been established. In Herzegovina-Neretva Canton, the procedure for appointing the Director of the Free Legal Aid Institute was completed in (August) 2025.

Processing war crimes

Certain progress has been recorded in the prosecution of crimes against humanity and other international crimes but the goals from previous action plans have not been achieved, thus leading the competent authorities to start drafting a new strategy.

¹⁷Ž-SA-07-52/24;

¹⁸The right to free legal aid in civil proceedings is based on the case of *Airey v. Ireland*, in which the European Court of Human Rights found a violation of the right to a fair trial (Article 6 § 1 of the Convention). There are also other cases in which the Court has found that a State has failed to fulfil its obligation to provide its citizens with free legal aid (*Airey v. Ireland*, 11 September 1979, Serie A, No. 32).

Right to property

Citizens file complaints in cases where the failure of competent authorities to act in accordance applicable legislation and principles of good governance affects the enjoyment of their civil and property rights due to: illegal construction,¹⁹ violation of the right to access property,²⁰ lack of information about the possibility of confiscation of property due to the implementation of projects of public interest,²¹ failure to implement adopted land use plans,²² violation of the right to peaceful enjoyment of property due to the fact that the real estate they live in has been declared a national monument,²³ land consolidation procedures,²⁴ inability to dispose of funds deposited with the bank,²⁵ as well as for procedures for changing data in the land registry, i.e. public display of real estate data.²⁶

By analysing complaints regarding violations of property rights, complaints against administrative bodies, especially inspection bodies, IHROBiH has identified the following issues: illegal construction, installation of advertising LED screens in populated areas and in the immediate vicinity of residential buildings, exploitation of mineral resources, issues of land use plans, land consolidation, preservation of national monuments, issues related to the survey and cadastral classification of land, harmonization of real estate, and especially the work of the Commission for Public Disclosure of Real Estate Data. Competent bodies must transparently inform citizens who have a legal interest about possible publication of public calls/advertisements for public disclosure of real estate data, changes in real estate boundaries, or conducting procedures that in any way affect the enjoyment of citizens' real rights, especially considering that a significant part of the population of BiH has been displaced, fled abroad, and/or changed their place of residence. Publishing information on websites or bulletin boards of local self-governance units is not sufficient.

Police

In 2024, IHROBiH prepared the Special Report on the Situation in Certain Police Departments in Bosnia and Herzegovina.²⁷ The police departments in Zenica, Travnik, Sarajevo, Mostar, Tuzla, Prijedor, Banja Luka, the Brčko District of BiH and Bijeljina were visited for the purpose of the report.²⁸ Special attention was paid to the premises where persons deprived of their liberty are accommodated, and, based on interviews with the management, an overview of documentation, as well as direct observation of the premises for the detention of persons, the current situation was determined and the extent to which the recommendations from the 2019 Special Report on the Situation in the Premises for Detention of Persons in Certain Police Departments in Bosnia and Herzegovina were taken into account.

¹⁹Ž-SA-08-245/24;

²⁰ Ž- BL-05-416/24, Ž-BR-05-212/24;

²¹ Ž-SA-05-08/24;

²² Ž-BI-05-529/24;

²³ Ž-Ž-BR-05-71/24;

²⁴ Ž-LI-05-29/24;

²⁵ Ž-BR-05-212/24;

²⁶ Ž-BL-05-197/24, Ž-SA-05-1107/24;

²⁷The special report was finalized in 2024 and presented to the general and professional public in October;

²⁸Visits carried out in the period from 4 October 2023 to 14 December 2023;

General recommendations have been sent to the Republika Srpska Government, the Government of the Brčko District of BiH, the Sarajevo Canton Government, the Zenica-Doboj Canton Government, the Central Bosnia Canton Government, the Tuzla Canton Government and the Herzegovina-Neretva Canton Government to allocate the necessary budgetary funds with a view to implementing the IHROBiH recommendations sent to the competent internal affairs ministries relating to the necessary adaptation of detention facilities (in accordance with and modelled on the standards provided for in the European Prison Rules), which also includes the installation of video surveillance for the purpose of controlling and preventing undesirable behaviour or self-harm of persons deprived of their liberty, paying particular attention to the arrangement of cameras (cameras should be positioned in the corridors leading to the detention facilities/cells and should not cover the so-called wet room); to allocate the budgetary funds necessary for the employment of additional staff - authorized officials in police administrations/stations in accordance with the approved job classification; to provide continuous, specialized and licensed training, within the framework of professional development of authorized officials who deal with persons deprived of their liberty, which will meet the highest domestic and international standards in this area.

Unprofessional conduct of police officers

Police officers, in the performance of their duties, must act in an impartial and lawful manner, guided by the public interest to serve and assist the public, promoting the development and preservation of democratic practices in accordance with the protection of human rights and fundamental freedoms. Behaviour of police officers that deviates from the stated principles or that in any way insults the physical integrity and dignity of citizens is unacceptable. In these specific cases **IHROBiH** recommends that all facts and circumstances related to the work and unprofessional conduct of police officers be reviewed, that the lawful conduct of police officers be ensured, and that the need for education of police officers be assessed, all with a view to ensuring respect for the rights and freedoms of citizens, but also of checking elementary knowledge related to the applicable legislation regulating the work of police officers and conduct within the scope of their duties.²⁹ IHROBiH, *ex officio*, and according to information from the media, have opened an investigation into the unprofessional conduct of police officers of the Zvornik Police Administration and the excessive use of force, which is ongoing.³⁰

Inspection

IHROBiH continuously issues recommendations to the competent authorities with a view to improving the functioning of inspection function as an element of the rule of law and the protection of citizens' rights. The Special Report on the Role of Inspection Bodies in the Protection of Human Rights in Bosnia and Herzegovina was published in November 2020, which presented the state of play in the field of inspection from the perspective of applicable legislation, financial, technical and human resources available to inspection bodies at all levels of government in BiH, scope of work,

²⁹Ž-BR-05-170/24, recommendation no P-327/24;

³⁰ Ž-SA-05-1284/24;

cooperation, defined difficulties in work and recommendations addressed to the competent authorities, the implementation of which should contribute to the strengthening of inspection bodies.³¹

Electoral legislation

Amendments to the Election Act of Bosnia and Herzegovina after 2016, published in The Official Gazette of Bosnia and Herzegovina no 54/2017 - decision of the Constitutional Court of Bosnia and Herzegovina, 41/2020, 38/2022, 51/2022, 67/2022, 24/2024 and 24/2024 - corrigendum, mainly related to technical issues related to the implementation of electoral processes, the introduction of quotas and the Election Act and the Act on Financing of Political Parties. In the reporting period, women continued to be significantly underrepresented in the political institutions of Bosnia and Herzegovina. The decisions of the European Court in Strasbourg *Sejdić and Finci v. Bosnia and Herzegovina*, *Šlaku v. Bosnia and Herzegovina*, *Zornić v. Bosnia and Herzegovina* and *Pudarić v. Bosnia and Herzegovina*, the decision of the Constitutional Court of Bosnia and Herzegovina in the *Ljubić et al. v. Bosnia and Herzegovina* case have still not been implemented, although more than 15 (fifteen) years have passed since the adoption of the decision in the *Sejdić and Finci* case.

Reparations for war victims

There have been no changes regarding the issue of reparations for war victims, nor have there been any changes regarding missing persons investigations, and these issues have remained almost unchanged in the past period. Certain developments relate more to the issue of civilian victims of war, and in the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina, children born after rape during the war have been granted the status of civilian victims of war. There have been no changes regarding reparations for war victims, nor have there been any changes regarding missing persons investigations, and these issues have remained almost unchanged in the past period.

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Rights of the child

When it comes to corporal punishment of children, a full legal ban has not been adopted at BiH level. Accordingly, corporal punishment of children is illegal in the household in the Republika Srpska, while the FBiH has limited provisions in the Family Proceedings Act and the 2025 amendments to the Criminal Code. As for children with disabilities, in the reporting period, the Child Protection Act was adopted in the Republika Srpska, which includes special provisions for children with disabilities and their parent carers. Important regulations were also adopted that regulate the assessment of needs and the quality of education of children with disabilities. The Act on Financial Support to Families with Children was adopted in the FBiH, which includes the rights of children with severe disabilities. Therefore, significant progress has been recorded in the field of prevention of corporal punishment of children.

³¹<https://www.ombudsmen.gov.ba>

The issue of child marriage remains a major social challenge in BiH, and remains without systemic legislative changes in the reporting period. When it comes to the exercise of children's rights, IHROBiH prepared the Special Report on Underage Marriages in Bosnia and Herzegovina in 2022.³² In Bosnia and Herzegovina, children without parental care are still most often placed in social protection institutions (institutional care for children). There is progress in the area of foster care, but there is still a need to take measures and activities to improve the position of children without parental care (transformation of institutions, introduction of new services).

The position of children with developmental disabilities is particularly difficult in the field of education, but also in other areas. IHROBiH has recorded an increased number of complaints in the Department for Monitoring the Exercise of Children's Rights in the last two years, mostly in the fields of education, healthcare and violence against children, especially in relation to peer violence. When it comes to protecting children from sexual violence and abuse, the criminal legislation of the entities and the Brčko District of BiH is largely harmonized with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).

Gender discrimination

The Human Rights Ombudspersons of Bosnia and Herzegovina, by conclusion from the session held on 19 May 2023, having recognized the need for systematic monitoring and improving the framework for combating gender-based violence, prepared *the Special Report on Gender-Based Violence against Women in Bosnia and Herzegovina*.³³

Complete information on the prevalence and presence of this type of crime in Bosnia and Herzegovina was identified as the starting point for the development of such essential documents. Such information is often accompanied by an increased level of stigmatization and different obstacles to reporting, including negative gender stereotypes (mainly towards women), public condemnation, and minimization of consequences or acceptability of questionable behaviours, including domestic physical violence. The need for a strategic approach to gender-based violence against women is caused, among other things, by the increased, primarily negative, sensitivity of citizens regarding the adequacy of the judicial response to the aforementioned crimes that protect women and family members from violent acts.

The Ombudspersons are aware of the fact that in Bosnia and Herzegovina there is generally a problem of exercising the rights of mothers depending on their place of residence, which puts them in an unenviable position and deprives them of the financial compensation to which they are undoubtedly entitled, taking into account the fact that the amount intended for taxes and contributions is paid at the place of employment, i.e. the employer's registered office. IHROBiH considered this issue in the context of the challenges posed by the constitutional order of Bosnia and Herzegovina, where the competence for social protection is entrusted to the entities, and in the FBiH, the competence is shared between the FBiH and the cantons.

³²https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2024041214322748bos.pdf

³³ www.ombudsmen.gov.ba

The lack of efficient coordination also results in citizens not enjoying equal rights in the field of social protection, as the Committee on Economic, Social and Cultural Rights pointed out in its concluding observations³⁴ and recommended that the authorities of Bosnia and Herzegovina take measures to eliminate these weaknesses in the system by the next periodic report. IHROBiH reminds that every allocation under the Act on Social Protection and Protection of Families with Children is equally important, and accordingly, no category of the population, regardless of their place of residence, must not be neglected and exposed to violations of fundamental human rights.

Domestic violence

A significant step forward is a greater commitment to protecting women and punishing violence against women by the authorities, which has been achieved through better regulation of the functioning of safe houses, action plans for prevention, commitment to better functioning of police authorities and prosecutors' offices, and standardization of femicide as a separate criminal offence.

The Parliament of the Federation of Bosnia and Herzegovina adopted the FBiH Act on Protection from Domestic Violence and Violence against Women,³⁵ which has the character of a *lex specialis*. Article 2 of the Act stipulates that the Harmonisation with the European Union Acquis "*This Act partially transposes Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence (OJ L2024/1385) into the legislation of the FBiH.*"

It is particularly important that by adopting this law, the FBiH has partially harmonized with Directive (EU) 2024/1385 on combating violence against women and domestic violence, as well as the recommendations of the Committee of States Parties to the Istanbul Convention.

The Ombudspersons of Bosnia and Herzegovina express dissatisfaction with the fact that this progress has been made after a series of murders of women who, in most cases, were victims of prolonged abuse. Another worrying factor is the fact that the aforementioned murders are still being relativized, and that such behaviour is relativized and even approved on numerous internet forums, and we are also faced with a case of femicide that was broadcast online on social networks, during which a certain number of followers praised and encouraged the perpetrator, which indicates the need for additional engagement of the entire society in the fight against stereotypes. This piece of legislation introduced the term "violence against women", which is defined as a form of discrimination and violation of human rights. The list of acts that constitute violence has been significantly expanded, and, in addition to the previous forms of violence, it also includes sexual violence, abuse, harassment and exploitation of a family member. At the same time, the law explicitly stipulates that threats of violence are considered an independent form of violence. The domestic violence-related legislation of the Republika Srpska has undergone amendments that were adopted in the reporting period, while the draft RS Act on Protection from Domestic Violence and Violence against Women was adopted. In order to respond to frequent attacks against women within the family, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina has prepared the Special Report on the Manifestations, Mechanisms of Protection and Prevention of Domestic Violence in Bosnia and Herzegovina.³⁶

³⁴E/C.12/BIH/CO/3: Committee on Economic, Social and Cultural Rights: Concluding observations on the third periodic report of Bosnia and Herzegovina, Published 11 November 2021 UN symbol E/C.12/BIH/CO/3;

³⁵ "Official Gazette of the Federation of Bosnia and Herzegovina" no 19/25

³⁶https://www.ombudsmen.gov.ba/documents/obudsmen_doc2025112814084770bos.pdf

Annex VII of the General Framework Agreement for Peace in Bosnia and Herzegovina

During the reporting period, BiH made some progress in closing collective centres for internally displaced persons through appropriate projects. However, collective centres still exist.

The revised strategy for the implementation of Annex VII of the Dayton Agreement has been adopted and tabled in the parliament, with a report on implementation. Certain efforts are being made, but full implementation has not been achieved.

IHROBiH has initiated *ex officio* investigations following information from the media that the safety and integrity of returnees has been threatened in any way. Annex VII of the General Framework Agreement for Peace in Bosnia and Herzegovina stipulates that the signatory parties shall ensure that refugees and displaced persons are allowed to return safely, without risk of harassment, intimidation, persecution or discrimination, in particular on the grounds of their ethnic origin, religious affiliation or political opinion.³⁷

Returnees who embark on procedures to exercise their rights to assistance in the reconstruction of their residential facilities face several problems. First of all, there is the complex administrative procedure related to the allocation of donor funds, which they have difficulty following through, the lack of funds for reconstruction, and after reconstruction, the inability to connect the building to the electricity grid. IHROBiH considers it devastating that 100,000 people in Bosnia and Herzegovina are still waiting for assistance in housing care, given the lapse of 30 years since the end of the war. The authorities need to make additional efforts to provide returnees with assistance in the reconstruction of their housing, which is why they must find and review all legal and financial options in order to find appropriate solutions.

Freedom of assembly

When it comes to public gatherings, no progress has been recorded in harmonizing regulations between entities, cantons and the Brčko District. The FBiH still has not adopted a law, despite the 2022 draft. In 2019, IHROBiH prepared the Special Report on the Right to Freedom of Peaceful Assembly³⁸ with a view to determining the situation in the area of freedom of assembly in Bosnia and Herzegovina, including checking the degree of compliance of domestic legislation with international standards, as well as pointing out the challenges that organizers of public gatherings, on the one hand, and police and security agencies, on the other, face when organizing and holding public gatherings, and IHROBiH's recommendations were formulated and sent to the competent authorities with the aim of improving the situation in this area.

During 2024, four proceedings related to freedom of assembly and association were recorded.

Freedom of expression

³⁷Chapter I, Article 1, paragraph (2);

³⁸https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2020022808504462bos.pdf

The European Commission's 2024 Country Report on Bosnia and Herzegovina indicates that the Freedom of Information Act at the level of BiH institutions still needs to be fully aligned with international standards on the independence of the complaints process, while the Brčko District of BiH needs to adopt its own law in this area. The report indicates that rules on data protection and access to information are still interpreted at all levels of government in a way that protects private rather than public interests, and that the IHROBiH recommendations to public authorities continue to focus mostly on ensuring access to information.³⁹

The eighth meeting of the Subcommittee on Justice, Freedom and Security under the Stabilisation and Association Agreement between the European Union and Bosnia and Herzegovina was held in December 2024.⁴⁰ The recommendations from the meeting, within the framework of freedom of expression, call for the following: to ensure the proper implementation of the state-level Freedom of Information Act and the timely adoption of by-laws (establishing a central data portal and proactively publishing information); and amend the regulations at the state level with the aim of establishing an independent and specialized oversight mechanism, including a complaint procedure in matters related to freedom of information ; and draft regulations on free access to information at the entity and Brčko District levels of BiH, harmonised both across the country and with relevant European standards and the EU *acquis* , using the model Freedom of Information Act developed by SIGMA (Support for Improvement in Governance and Management) as a basis for drafting new laws and fulfilling the recommendations of TAIEX (Technical Assistance and Information Exchange instrument of the European Commission).

The competent authorities interpret the provisions of the Freedom of Information Act (FoIA) differently, as well as their obligations under this law. Many do not adhere to the legally prescribed form, do not provide legal remedies and do not provide the requested information. The protection of personal data is often cited as a reason for refusal, but without basis, because the protection of personal data must be proven. The media often report sensationally. As IHROBiH has previously pointed out, the Freedom of Information Act at the level of BiH has complicated and divided competencies between different institutions.⁴¹

The law has prescribed a number of obligations that public authorities are required to fulfil. Given that only a year has passed since the new law entered into force, it is still not possible to fully monitor the fulfilment of all obligations. It is noticeable that institutions have not complied with some of the obligations, such as the establishment of the Central Public Information Portal.

A significant contribution to data protection in Bosnia and Herzegovina occurred with the adoption of the Personal Data Protection Act⁴², which entered into force on 8 March 2025, and implementation

³⁹European Commission Report on Bosnia and Herzegovina 2024 - Commission Staff Working Document, Report on Bosnia and Herzegovina 2024, Brussels, 30.10.2024. SWD (2024) 691 https://neighbourhood-enlargement.ec.europa.eu/document/download/451db011-6779-40ea-b34b-a0eada451746_en?filename=Bosnia%20and%20Herzegovina%20Report%202024.pdf&prefLang=hr

⁴⁰The eighth meeting was held on 10-11 December 2024 in Brussels (hybrid meeting);

⁴¹According to this law, the Appellate Council of the Council of Ministers of BiH decides as a second-instance body, the General Secretariat of the Council of Ministers of BiH runs and maintains the Central Public Information Portal, the IHROBiH is provided with information related to the Information Officer, as well as records on the number of requests received, the type of information requested, the number of decisions issued, the number of final decisions, etc., while the Ministry of Justice of BiH, through the Administrative Inspection, performs inspection supervision over the implementation of the FoIA.

⁴² Official Gazette of BiH no 12/25

began on October 4, 2025. The law is aligned with the EU General Data Protection Regulation (GDPR) and Directive (EU) 2016/680, which supports Bosnia and Herzegovina's European integration.

Freedom of the media and safety of journalists

Freedom of the media is a condition for the development of a democratic society committed to protecting and respecting fundamental human rights and freedoms, and includes freedom of expression, independence and pluralism of the media, freedom to collect, research, publish and disseminate information for the purpose of informing the public, openness of the media to different opinions, beliefs and content, independence, freedom and safety of journalists.

The Ombudsmen recall the important role of journalists who are expected to investigate and present to the public information based on verifiable facts, point out abuses of all authorities, violations of rights and freedoms committed by all actors in a society, including unethical conduct and violations of human dignity. Through their work, journalists actualize the issues and problems facing a society, contribute to opening debate and create opportunities for all actors to express their views, which they inform the public about, contributing to the level of democracy and the building of a society that tolerates and accepts other views and beliefs. IHROBiH recalls the conclusions, opinions and recommendations from the Special Report on the Position of Journalists and Cases of Threats Made against Journalists in Bosnia and Herzegovina⁴³ and call on the competent authorities to take active action in order to improve the position, safety and independence of journalists in Bosnia and Herzegovina by implementing the recommendations.

Statelessness/Civil Registry

In terms of reducing discrimination against Roma, significant efforts have been made to raise awareness of their rights and improve civil registration, and it is necessary to continue with measures and programs for their full inclusion. Roma make up the majority of stateless persons in the territory of Bosnia and Herzegovina. The Ombudsmen of Bosnia and Herzegovina, in cooperation with UNHCR and the Association "Vaša prava BiH", have prepared *a Special Report on the Prevention of the Risk of Statelessness in Bosnia and Herzegovina*.⁴⁴

In the period from 2010 to the present, six United Nations human rights mechanisms have issued 21 recommendations to Bosnia and Herzegovina and observations regarding progress or the need for further improvement in the area of civil registration. Despite the significant level of progress achieved in the adoption of legal regulations (laws and by-laws) in the area of citizenship at the level of Bosnia and Herzegovina, entities, permanent residence and temporary residence, the establishment of a system of central records, civil registers, free legal aid, amendments to the law on non-contentious proceedings, in terms of their compliance with international standards, there are still certain obstacles and shortcomings in both the content and the implementation of regulations that need to be removed in order to establish an efficient system of prevention and elimination of the phenomenon of statelessness. The report identifies key directions for institutional action in order to resolve the problems observed in this area. The Ombudsmen of Bosnia and Herzegovina, through their actions

⁴³<https://www.ombudsmen.gov.ba>

⁴⁴ Published in 2024 www.ombudsmen.gov.ba

and recommendations, seek to contribute to the creation of policies and practices for the protection of the best interests of stateless persons and persons at risk of statelessness. Obstacles in the implementation of relevant regulations and shortcomings are presented in the Special Report.

The subject of consideration is the Citizenship Act of Bosnia and Herzegovina, the Citizenship Act of the Federation of Bosnia and Herzegovina, the Citizenship Act of the Republika Srpska, the Public Records Acts of the Federation of Bosnia and Herzegovina and Republika Srpska, and related by-laws on the implementation of the aforementioned laws, the Non-Contentious Procedure Acts of the Federation of Bosnia and Herzegovina and Republika Srpska, the Free Legal Aid Acts throughout the territory of Bosnia and Herzegovina, and related compliance of domestic relevant legislation with international standards. In the territory of Bosnia and Herzegovina, the maintenance of civil registry records at the entity level is regulated by the Public Records Acts of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District of BiH.

The Constitution of Bosnia and Herzegovina sets the foundation for citizenship of Bosnia and Herzegovina and citizenship of the entities, while the Citizenship Act of Bosnia and Herzegovina and the Citizenship Act of the Federation of Bosnia and Herzegovina and the Citizenship Act of Republika Srpska determine the conditions for acquiring citizenship of BiH/FBiH/Republika Srpska. In this way, the laws regulate the avoidance of statelessness. Legislative reform and increased and coordinated efforts of institutions in Bosnia and Herzegovina have largely resolved the issue of statelessness. The Ombudsmen of Bosnia and Herzegovina emphasize that the harmonized legislation of Bosnia and Herzegovina with international standards represents positive aspects in the work of institutions of Bosnia and Herzegovina at all levels in the field of resolving issues of citizenship, civil registration and, in this regard, issues of statelessness. In order to fully ensure that no person is at risk of statelessness or stateless persons, it is necessary to fully harmonize regulations with international standards.

The research has shown that in practice, situations arise in which certain categories of persons, due to the circumstances in which they find themselves, and due to the inability to provide the required evidence, may be at risk of statelessness. Several of the most vulnerable categories have been identified, such as:

- persons who are not registered in the birth register, because registration in the birth register proves facts that are decisive for acquiring citizenship of BiH and the entities by origin or birth, and this especially applies to children born abroad, one of whose parents is a BiH citizen, and who do not possess proof of birth prescribed by laws and regulations on birth registries;
- persons who do not possess proof of citizenship of any country, but have ties to multiple countries based on origin, birth or residence;
- citizens of the former SFRY who have resided in BiH continuously for a long period of time, and who cannot acquire citizenship in accordance with the applicable legislation in BiH (due to lack of identification documents, irregular residence, documents from Kosovo*, etc.);
- and migration context, children of foreign nationals born in BiH whose parents do not have a regulated residence status, proof of identity or citizenship of the parents. The conditions for registration in the register of births in the FBiH in the event that the mother does not have an identification document are difficult and the registration of children is often slow and lengthy,

which means that children in such situations cannot exercise basic rights, such as medical treatment or social protection.

IHROBiH's research showed that the authorities (registry offices) responsible for dealing with public records cases point to the slowness of the work of the Department of International Legal Assistance of the Ministry of Justice of Bosnia and Herzegovina, and the insufficient professional training of employees in diplomatic and consular missions of the Ministry of Foreign Affairs of Bosnia and Herzegovina in matters related to public records. In this regard, it was emphasized that the Department of International Legal Assistance of the Ministry of Justice of Bosnia and Herzegovina should be more efficient and more up-to-date in its work, especially since it concerns personal, status issues that require urgent action.

In specific cases, the practice of basic courts in the Republika Srpska was different, so that decisions were issued that established continuous residence or they declared themselves absolutely incompetent.

Considering the fact that these proceedings are initiated and conducted in the majority of cases by persons of poor financial status without any documents, the Ombudsmen of Bosnia and Herzegovina point out that this is an excessive burden for this category of persons, and in this regard, the essential right of access to court guaranteed by Article 6 of the European Convention on Human Rights is called into question.

Namely, non-contentious proceedings in cases of determining the time and place of birth are initiated and conducted in the majority of cases for “legally invisible persons” without any documents, employment and income, or persons with poor financial status. Such excessive burden in the form of payment of procedural costs imposed on persons initiating these proceedings, which are often caused by objective circumstances that these persons have not influenced in any way, essentially calls into question their very right of access to court guaranteed by Article 6 of the European Convention on Human Rights. It is certainly worth highlighting the good practice of non-contentious departments of certain courts in dealing with cases of determining the time and place of birth of a person, in which they did not order expert assessments of the age of the person whose time and place of birth is being determined, but rather made court decisions based on all other available relevant evidence.

All non-contentious divisions of courts in procedures for determining the time and place of birth are obliged to issue decisions within the legal period of ninety (90) days, as prescribed by paragraph (1) of Article 73j of the Act on Amendments to the Non-Contentious Procedure Act of the Federation of Bosnia and Herzegovina. All this in order to ultimately enable persons at risk of statelessness, or “legally invisible persons”, to acquire citizenship of Bosnia and Herzegovina as soon as possible, or to provide access to basic human rights (the right to education, health and social protection, etc.). In practice, this deadline is often not respected and non-contentious procedures take a long time. State and entity institutions have an obligation to take care of stateless persons and are assisted in this by organizations such as UNHCR and the Association “Your Rights of Bosnia and Herzegovina”.

Migration and asylum

The issue of asylum and protection of migrants has been improved with the adoption of the Foreign Nationals Act⁴⁵ and the Asylum Act⁴⁶.

The House of Representatives of the Parliamentary Assembly of BiH recently adopted the proposal to amend the Asylum Act.⁴⁷ This represents the first step in the legislative process and a clear signal that there is political will to improve the asylum system in the country. The proposal received both a general and entity majority, which showed parliamentarians' willingness to support solutions aligned with European practices. The most significant innovation relates to the reduction of the deadline for access to the labour market for asylum seekers - from nine to three months from the date of application. This practice is fully aligned with EU Directive 2024/1346, and Bosnia and Herzegovina would thus come closer to the standards of European Union member states, such as Croatia, Germany, Austria and Slovenia, which already allow work after three months.

However, Bosnia and Herzegovina continues to rely on foreign donors to provide funds for legal assistance to asylum seekers as well as to provide various services (healthcare, nutrition, maintenance) in temporary reception centres. Institutional actions and often uncoordinated responses in the past period of dealing with irregular migration have revealed all the weaknesses of social disorder.

IHROBiH receives complaints directly submitted by migrants and asylum seekers, relating to issues of registration, inadequate accommodation, health care, freedom of movement, length of proceedings, violence in temporary reception centres, violations of children's rights, etc. IHROBiH most often receives complaints submitted through the Association "Vaša prava" BiH, which provides free legal aid and has concluded a cooperation agreement with IHROBiH and the Ministry of Security of Bosnia and Herzegovina.

Addresses regarding the right of residence of foreign nationals in Bosnia and Herzegovina⁴⁸, the impossibility of exercising the rights of a foreign citizen in the diplomatic and consular representation of Bosnia and Herzegovina abroad⁴⁹, the right to stay in an institution for the reception and accommodation of foreign nationals⁵⁰, the status of unaccompanied minor migrants⁵¹, the violation of the right of foreign citizens to an effective legal remedy in the procedure of being placed under supervision⁵², the impossibility to express intent to seek asylum were considered.⁵³

According to the Information of the Ministry of Security on the situation in the field of migration in Bosnia and Herzegovina for the nine months of 2024, which was submitted to the Council of Ministers of Bosnia and Herzegovina, a total of 4,600 first temporary stays were granted to foreign nationals in Bosnia and Herzegovina for the nine months of this year, and 5,118 of them were extended, among which the largest number was based on work with or without a work permit and family reunification. In this period, 307 permanent residence permits were granted, of which the largest number were for citizens of Croatia, Montenegro and Austria. The Border Police of Bosnia

⁴⁵ The Official Gazette of Bosnia and Herzegovina no 88/15, 34/21 and 63/23

⁴⁶ The Official Gazette of Bosnia and Herzegovina number 11/16

⁴⁷ 18 September 18 2025

⁴⁸ Ž-BL-05-54/24;

⁴⁹ Ž-SA-08-195/24;

⁵⁰ Ž-SA-05-211/24;

⁵¹ Ž-SA-05-289/24;

⁵² Ž-SA-05-382/24;

⁵³ Ž-SA-05-879/24;

and Herzegovina detected 9,600 persons illegally crossing or attempting to illegally cross the border during this period. 3,817 were detected at the entrance to the country, and 5,783 at the exit from Bosnia and Herzegovina, which is an increase of 10.1% compared to the same period in 2023. The most detected persons were citizens of Syria, Turkey, Afghanistan, Morocco and Pakistan. In the nine months of 2024, 21,143 illegal migrants were reported to the Service for Affairs with Foreign nationals, which represents a 16% decrease compared to the same period in 2023, when 25,174 were reported. According to IOM data, collected on a sample of 558 migrants, the average length of their stay on the territory of BiH was 34 days, the minimum number of days was six, and the maximum was 730 days.

For 2,662 foreign nationals who were discovered to be illegally staying in Bosnia and Herzegovina, in the first nine months of this year, expulsion measures were imposed from the territory of BiH, while 1,409 persons were subject to surveillance measures and 516 to the measure of cancellation of residence, and visas were cancelled for 131 foreign nationals.⁵⁴

Considering the above indicators, it can be concluded that the problem of unregulated migration is still present, which requires a great deal of involvement from state services, given the procedures they must implement.

The Association Vaša prava Bosnia and Herzegovina, based on the Protocol signed with the State Ministry of Security, provides free legal assistance to victims of trafficking, asylum seekers in Bosnia and Herzegovina and other persons under international protection in Bosnia and Herzegovina. In addition, in accordance with the Protocol with the Ministry for Refugees and Displaced Persons, the association's legal assistance is also provided to beneficiaries under the jurisdiction of this Ministry. They have filed several complaints with IHROBiH on behalf of foreign citizens and migrants in order to exercise and protect their rights before the competent authorities.

IHROBiH highlights the important issue of the position of minors who are on the move in the territory of Bosnia and Herzegovina, without parents or guardians, which is why they call on the competent authorities to act urgently in each specific case in order to appoint a guardian for minors as soon as possible and thus protect the best interests of the child, especially taking into account the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings, and the recommendations of the Group of Experts on Action against Trafficking in Human Beings (GRETA)⁵⁵, and due to the fact that children continue to make up a significant percentage of victims of human trafficking in BiH and are subjected to sexual exploitation, labour exploitation, forced begging and child marriage. In real situations when minors, unaccompanied migrants, remain on the streets at night, without protection and supervision from the state, they are exposed to danger as potential victims of human trafficking.

Rights of national and religious minorities

⁵⁴https://www.vijeceministara.gov.ba/saopstenja/sjednice/saopstenja_sa_sjednica/default.aspx?id=44261&lang=hr-HR

⁵⁵International body for monitoring the implementation of the Council of Europe Convention on Action Against Trafficking in Human Beings;

Laws on the protection of the rights of persons belonging to national minorities at the state, entity and cantonal levels prescribe a number of rights that authorities must ensure to minorities, including the right to language, information, ensuring the enjoyment of economic and social rights, and participation in government bodies.

Complaints regarding the rights of national and religious minorities were mostly filed by the European Roma Rights Centre AISBL from Brussels, Kingdom of Belgium, or their regional office from Skopje, Republic of North Macedonia, and relate to the position of members of the Roma national minority due to the difficult legalization of Roma houses and settlements in several local government units in Bosnia and Herzegovina, ⁵⁶unequal access to water, infrastructure and social protection, ⁵⁷provision of alternative accommodation for Roma families, etc.⁵⁸

As a result of the low employment rate of Roma and the difficult economic situation, their nomadic movement in the territory of Bosnia and Herzegovina is evident in search of an accessible form of income, which is most often reflected in jobs related to the collection and trade of secondary raw materials. There are numerous problems that they encounter in this way of life. Residential buildings, or rather the settlements they form, are most often unsuitable for living, do not meet the conditions for possible legalization, and access to water and infrastructure facilities is difficult. Resistance from the domicile population is often present.

Roma also face special challenges when it comes to registering their residence and place of residence, which is crucial for the possibility of employment, access to health and social services, and integration into society. Civil registration and possession of personal documents are prerequisites for the exercise of all other rights, but at the same time a form of protection against the danger of becoming victims of human trafficking.

IHROBiH points out that it is necessary to continuously take action to ensure identification documents for all persons belonging to the Roma national minority. Work intensively to remove obstacles and provide support in order to improve the position of Roma in the areas of housing, healthcare, education and all forms of inclusion in social, cultural and political life. Improve the issue of Roma employment in the public and private sectors, through the implementation of strategies that will include various forms of training for jobs on the labour market, the development of programs to encourage employers to hire and the establishment of independent monitoring mechanisms. It is necessary to actively and systematically promote the basic values of acceptance of diversity, tolerance and empathy in relation to those who do not share the same nationality, economic status and origin in all spheres of public opinion.

THE HUMAN RIGHTS OMBUDSMAN INSTITUTION OF BOSNIA AND HERZEGOVINA

⁵⁶Ž-SA-03-603/24;

⁵⁷Ž-SA-03-604/24;

⁵⁸Ž-SA-03-749/24;