

Bosnia and Herzegovina

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1 Introduction

This report covers some of the most significant human rights issues in Bosnia and Herzegovina during the period 2017-2019, with additions, in several places, relating to the respect and care for human rights at the time of the global pandemic. The report consists of two parts. The first part examines the most important judgments of the European Court of Human Rights and the Constitutional Court of Bosnia and Herzegovina, which have created significant implications for domestic legislation or those decisions that represent the implementation of human rights in the domestic legal system. In addition to the judgements' overview, the first part of the report gives an overview of the relevant human rights events that took place in Bosnia and Herzegovina during the above-mentioned period. The second part of the report aims to provide a digest of relevant domestic human rights literature. It provides for an examination of the most relevant scientific and professional publications in Bosnia and Herzegovina that address human rights issues for a two-year period (2017-2019). In addition, the second part of the national report provides lists of master's theses and doctoral dissertations publicly defended in 2017, 2018 and 2019 (up until August) which represent research in the field of human rights. Certain reports of main state organs and international organizations concerning the state of human rights protection in the country are also taken into consideration. Finally, attention should be given to the fact that scientific and professional articles published in relevant domestic journals are not included in this report due to space constraints.

2 Practice Overview

2.1 *The Practice of the European Court of Human Rights*

The largest number of judgments against Bosnia and Herzegovina before the European Court of Human Rights (hereinafter ECtHR) in the period from 2017 to 2019 relate to the following three difficulties:

- the problem of non-enforcement of final judicial decisions in Bosnia and Herzegovina, i.e. violation of Article 6, Paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter ECHR);

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- the problem of the length of court proceedings, or the violation of the right to trial within a reasonable time, prescribed by Article 6 Paragraph 1 of the ECHR;
- the question of discrimination.

The issue of non-enforcement of final judicial decisions has been examined in a number of similar cases¹ in which the ECtHR has found that delays in the enforcement of final judicial decisions lasting five or more years are contrary to Article 6 Paragraph 1 of the ECHR. Therefore, waiting for compensation for more than five years violates the substance of the right to a fair trial.

It is evident that the issue of enforcement of final judicial decisions has become a burning issue in Bosnia and Herzegovina recently. In this regard, in 2018, the Council of Ministers of Bosnia and Herzegovina adopted certain conclusions aimed at finding a solution to this problem – in particular, it was proposed to introduce a legal remedy in cases of excessive waiting for the execution of final court decisions. It remains to be seen whether the above-mentioned proposal will be implemented and whether it will be effective.²

Besides the execution of final judicial decisions, the ECtHR also has been examining cases with other issues. In this regard, we mention one very interesting judgement related to the violation of the right to freedom of religion. In the case of *Hamidović v. Bosnia and Herzegovina*,³ the question arose as to whether a witness in criminal proceedings, when testifying in a courtroom, may wear religious garb and symbols.

In this case, the applicant testified in the criminal proceedings before the Court of Bosnia and Herzegovina, whereby he wore a skullcap that was part of Muslim tradition. After the judge's warning, he refused to remove his skullcap. The judge found this act in contempt of court, in accordance with Article 242 (3) of the Criminal Procedure Code of Bosnia and Herzegovina.⁴ Thus, the witness was removed from the courtroom and fined 10,000 BAM. The Court of Bosnia and Herzegovina in its decision, states, inter alia:

- 1 *Zahirović and others v. Bosnia and Herzegovina*, App. No 4954/15, 7294/15, 7311/15, 7356/15, 7419/15, 7434/15 and 10758/15, Judgement of 16 October 2018; *Spahić and others v. Bosnia and Herzegovina*, App. No. 20514/15, Judgement of 14 February 2018.
- 2 Information available on the following link: www.mhrr.gov.ba/ured_zastupnika/novosti/default.aspx?id=8258&langTag=bs-BA.
- 3 *Hamidović v. Bosnia and Herzegovina*, App. No 57792/15, Judgement of 5 March 2018.
- 4 Criminal Procedure Code of Bosnia and Herzegovina ("Official Gazette" of Bosnia and Herzegovina, 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09, 16/09, 93/09, 72/13), Art. 243 (3): *Should the Prosecutor, defense attorney, injured party, legal representative, power of attorney of the injured party, witness, expert, interpreter or other person present at the main trial disrupt the order or disobey the orders of the judge or the presiding judge to maintain the order, the judge or the presiding judge shall warn the person in question. If the warning is ineffective, the judge or the presiding judge may order that the person in question be removed from the courtroom and be fined an amount up to 10.000 KM. Should the Prosecutor or defense attorney be removed from the courtroom, the judge or the presiding judge shall refer the matter to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina or the Bar Association with which the defense attorney is affiliated, for further action.*

The witness's attention has, in particular, been drawn to the fact that people of various religious beliefs and belonging to different religious groups, appear before the court and that it is necessary to have confidence in court. Thus, the court is not a place where religious beliefs can be expressed in a way that discredits certain common rules and principles in a multicultural society. That is why the law obliges everyone who appears before the Court to respect the Court and its rules.

The applicant appealed against this decision. However, the Appeals Chamber of the Court of Bosnia and Herzegovina upheld the first-instance decision, arguing that any expression of religion in the courtroom was prohibited. On the other hand, the Appeals Chamber reduced the fine to 3,000 BAM, holding that this act was not, however, the most serious case of an act of contempt of court. Moreover, the Constitutional Court of Bosnia and Herzegovina, deciding on the applicant's appeal, agreed with the Court of Bosnia and Herzegovina's argument and has decided that there had been no violation of the applicant's freedom of religion.

However, the ECtHR disagreed with the arguments and decisions of the domestic courts. First, the ECtHR established the difference between wearing religious symbols in the workplace and the case of wearing religious symbols in a private capacity, concluding that a prohibition on wearing religious symbols does not dictate citizens' behaviour when acting in a private capacity. In that context, the ECtHR concluded as follows:

The Court sees no reason to doubt that the applicant's act was inspired by his sincere religious belief that he must wear a skullcap at all times, without any hidden agenda to make a mockery of the trial, incite others to reject secular and democratic values or cause a disturbance [...] Pluralism, tolerance and broadmindedness are hallmarks of a "democratic society". Although individual interests must on occasion be subordinate to those of a group, democracy does not simply mean that the views of a majority must always prevail. The role of the authorities is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other. [...] Unlike some other members of his religious group [...] the applicant appeared before the court as summoned and stood up when requested, thereby clearly submitting to the laws and courts of the country. There is no indication that the applicant was not willing to testify or that he had a disrespectful attitude. In these circumstances, his punishment for contempt of court on the sole ground of his refusal to remove his skullcap was not necessary in a democratic society.

This judgment came after a controversial debate over the prohibition on the wearing of religious symbols in the government institutions in Bosnia and Herzegovina. Thus, in this decision, the ECHR definitely gave guidance to the domestic authorities on how to deal with such and similar situations.

In 2019, in the case of *Baralija v. Bosnia and Herzegovina*,⁵ the ECtHR unanimously decided that this was a case of violation of Article 1 of Protocol No. 12 (general prohibition of discrimination; in this particular case, inability of a resident of a city to vote and stand in local elections for a prolonged period of time) to the ECHR. The case in question was about the inability of the applicant, a local politician living in Mostar, to vote and be elected in local elections.⁶ The Court found that a so-called legal gap was created by the failure of the authorities to execute a decision of the Constitutional Court of Bosnia and Herzegovina from 2010, which was related to provisions of the 2001 Election Act that regulates the local elections in Mostar. Accordingly, the Constitutional Court of this state ordered the Parliamentary Assembly of Bosnia and Herzegovina to amend the unconstitutional provisions of the Election Act 2001⁷ with the Constitution. In practice, there was a situation that the last local elections in Mostar held in 2008,⁸ where the city was governed by a mayor who, from 2012, did not have the necessary democratic legitimacy.⁹ Hence, the ECtHR in its judgement characterized the situation as being not in line with the principles of the rule of law. Namely,

the Court reiterates that the failure to implement a final, binding judicial decision would be likely to lead to situations that were incompatible with the principle of the rule of law which the Contracting States undertook to respect when they ratified the Convention.¹⁰

It was therefore not possible to accept the argument from the government that a certain delay in the implementation of the Constitutional Court's decision "was necessary in order to ensure peace and stability in Mostar, and it amounted to an objective and reasonable justification for a certain delay"¹¹ to arrive at a long-term and sustainable solution for the division of power, and to preserve peace and enable dialogue between "the two most represented constituent peoples in Mostar, Bosniacs and Croats, which were still burdened with the wartime past"¹² The Court concluded that the respondent state therefore breached its obligation of taking measures to protect the applicant's complaints of discriminatory treatment based on her place of residence and to hold democratic elections in Mostar.¹³ The Court also determined unanimously, on the basis of Article 46 (execution of judgement), that the respondent state must amend "the Election

5 *Baralija v. Bosnia and Herzegovina*, App. No. 30100/18, Judgement of 29 October 2019.

6 European Court of Human Rights, Press Release (issued by the Registrar of the Court), ECHR 369 (2019), 29 October 2019.

7 *Baralija v. Bosnia and Herzegovina*, App. No. 30100/18, Judgement of 29 October 2019, Para. 9.

8 *Ibid.*, Para. 7.

9 *Ibid.*, Para. 12.

10 *Ibid.*, Para. 62.

11 *Ibid.*, Para. 44.

12 *Ibid.*

13 European Court of Human Rights, Press Release (issued by the Registrar of the Court), ECHR 369 (2019), 29 October 2019.

Act 2001 in order to enable the holding of local elections in Mostar¹⁴ no later than six months after this judgement becomes final.¹⁵

Should the State fail to do so, the Court notes that the Constitutional Court, under domestic law and practice [...], has the power to set up interim arrangements as necessary transitional measures.¹⁶

2.2 *The Practice of the Constitutional Court of Bosnia and Herzegovina and New Legislation*

Among the numerous decisions of the Constitutional Court of Bosnia and Herzegovina that have been made in the past two years,¹⁷ we single out one decision that influenced the amendments to the Criminal Procedure Code of Bosnia and Herzegovina, concerning the human rights of a suspect or an accused person. In its decision U 5/16,¹⁸ the Constitutional Court of Bosnia and Herzegovina decided that certain provisions of the Criminal Procedure Code are contrary to Article I/2 of the Constitution of Bosnia and Herzegovina or contrary to human rights prescribed by the ECHR.

The ordering and extension of special investigative actions that deeply affect the right of privacy of a suspected person should be in accordance with the rule of law and strike a balance between the right to privacy and the efficiency of criminal proceedings. This is one of the conclusions of the Constitutional Court of Bosnia and Herzegovina in the above-mentioned decision concerning the competence to order special investigative actions and its duration. The old provision prescribed that special investigative actions could be ordered for criminal offences for which, pursuant to the law, result in a prison sentence of three (3) years or more.¹⁹

In this regard, the new provisions of the Criminal Procedure Code of Bosnia and Herzegovina more restrictively set the conditions for special investigative actions. In particular, Article 2 of the Law on Changes and Amendments to the Criminal Procedure Code of Bosnia and Herzegovina cites offences for which special investigative actions may be ordered, and paragraph (e) prescribes a general provision that provides for the possibility of designating special investigative acts for "other criminal offences for which a prison sentence of five (5) years or more may be pronounced".²⁰

14 *Baralija v. Bosnia and Herzegovina*, Para. 62.

15 *Ibid.*

16 *Ibid.*

17 See *Bulletin of the Constitutional Court of Bosnia and Herzegovina*, No. 4, April 2018.

18 Decision of the Constitutional Court of Bosnia and Herzegovina U 5/16, June 2017.

19 Criminal Procedure Code of Bosnia and Herzegovina, Art. 117, Criminal Offences as to Which Undercover Investigative Measures May Be Ordered: Measures referred to in Para. 2 of Art. 116 of this Code may be ordered for following criminal offences: a) criminal offenses against the integrity of Bosnia and Herzegovina; b) criminal offences against humanity and values protected under international law; c) criminal offences of terrorism; d) criminal offences for which, pursuant to the law, a prison sentence of three (3) years or more may be pronounced.

20 Art. 2, Law on Changes and Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, 'Official Gazette of Bosnia and Herzegovina', 65/18.

Furthermore, the subject of the amendment was also Article 118, Paragraph 3 of the Criminal Procedure Code of Bosnia and Herzegovina, namely the formulation of ‘particularly important reasons’ as a reason for extending the duration of special investigative actions. The Constitutional Court of Bosnia and Herzegovina found that the above-mentioned formulation was imprecisely determined. In this respect, according to the Law on Changes and Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, special investigative actions may be extended “in the event that such measures result in some of the desired effects, where there is still any reason justifying their continued undertaking for the purpose of collecting evidence”.²¹

Finally, the provisions governing the completion of investigation have also been subject to change. An earlier provision of Article 225, Paragraph 2 of the Criminal Procedure Code of Bosnia and Herzegovina did not provide a deadline for the chief prosecutor to complete their investigation.²² The Constitutional Court found this provision was not in accordance with the right to a trial within a reasonable time.

In this sense, the Law on Changes and Amendments to the Criminal Procedure Code of Bosnia and Herzegovina provides for a deadline for the chief prosecutor to complete an investigation – “six months or one year for criminal offences punishable by imprisonment for a term of 10 years or a more severe punishment”.²³

As an addition to the above-mentioned overview, another decision of this Court is the subject of our observations. Namely, in time of the global pandemic caused by the COVID-19 virus, the Civil Protection Headquarters of the Federation of Bosnia and Herzegovina, the larger of the country’s two entities, issued an order dated March 2020 banning minors and people over 65 from leaving their homes. The Constitutional Court of Bosnia and Herzegovina rendered its Decision on Admissibility and Merits dated 22 April 2020. The Court, in this decision, upheld the application filed by Lejla Draganić and A. B. against the Orders of the Civil Protection Headquarters of the Federation of BiH where the Court determined the violation of the freedom of movement referred to in Article II/3.m) of the Constitution of Bosnia and Herzegovina as well as Article 2 of Protocol No. 4 to the European Convention on the Protection of Human Rights and Fundamental Freedoms in relation to Lejla Draganić, A.B., and all other persons who find

21 Art. 3, Law on Changes and Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, 65/18.

22 Art. 225, Completion of Investigation:

- The Prosecutor shall order a completion of investigation after he concludes that the status is sufficiently clarified to allow the bringing of charges. Completion of the investigation shall be noted in the file.
- If the investigation has not been completed within six (6) months after the order on its conducting has been issued, the Collegium of the Prosecutor’s Office shall undertake necessary measures in order to complete the investigation. (3) The indictment shall not be issued if the suspect was not questioned.

23 Art. 5, Law on Changes and Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, ‘Official Gazette of Bosnia and Herzegovina’, 65/18.

themselves in a relevant same factual and legal situation.²⁴ In the reasoning of its decision, the Court declared this application admissible. As for the merits of the case, the Court found that the interference was in accordance with the law, that this particular interference by the country's entity had a legitimate aim (protecting the health of a large number of people and preventing the spread of the epidemic). However, the Court concluded there was no adequate balance between the general interest of the community and the right to freedom of movement of individuals.²⁵ Interestingly, as for the compensation,

the Court considers that, given the overall situation with the crisis caused by COVID-19, the adoption of this Decision is sufficient satisfaction to the Appellants and that there are no grounds for awarding any compensation.²⁶

3 Human Rights Events

When it comes to the events organized by international organizations, we mention the Human Rights Summer School called Human Rights in a Digital Era organized by the Council of Europe for law students from Bosnia and Herzegovina and Serbia. The school was organized within the project Initiative for Legal Certainty and an Efficient Judiciary in Bosnia and Herzegovina and took place in Trebinje. The aim of the school was to teach about the right to personal data protection in the digital era and to address the challenges posed by the development of digital technology. Students had the opportunity to discuss the right to privacy, the right to freedom of expression and the right to be forgotten in cyberspace. Within the school, students were given the opportunity to analyse the recent case law of the ECtHR regarding these rights. At the end of the school, students had a moot court competition in which they were able to apply the acquired knowledge and skills to a specific hypothetical case.²⁷

The NGOs Human Rights Bureau and the Centre for Civil Society Promotion organized five roundtables named 'Prohibition of physical punishment of children – an obligation, not a need'. The roundtables were part of a project carried out by these NGOs in collaboration with United Nations Children's Fund (UNICEF), which aims to raise awareness of the problem of physical punishment of children. In addition, the project initiated a proposal to amend the Family Law, i.e. the introduction of an explicit prohibition on the physical punishment of children.²⁸

The BH Journalists Association, in cooperation with the Organization for Security and Co-operation in Europe (OSCE)'s Mission and the Civil Rights

24 Constitutional Court of Bosnia and Herzegovina, AP-1217/20, Decision on Admissibility and Merits, p. 2.

25 *Ibid.*, pp. 22-27.

26 *Ibid.*, p. 28, Para. 70.

27 www.coe.int/en/web/sarajevo/news (last accessed 3 September 2019).

28 www.civilnodrustvo.ba/cpcd/cpcd-novosti/zabrana-tjelesnog-kažnjavanja-djece/ (last accessed 25 August 2019).

Defenders, organized a conference named 'Position and Protection of Female Journalists in the Media in Bosnia and Herzegovina'. The conference participants tried to find solutions to the problem of low representation of women in management positions in the media.²⁹

In regard to the government bodies, the Regional Conference of the Ombudsman of Bosnia and Herzegovina, held in February 2018, named 'Exchange of best practices in resolving human rights violations with a special focus on combating discrimination' should be mentioned. The aim of the conference was to exchange experiences in the fight against human rights violations and strengthen the cooperation of these institutions in the prevention and fight against human rights violations.³⁰

The Faculty of Law of the University of Zenica hosted and organized several human rights events. Among others, we will, in this respect, specify the law clinic Justice for Children (Clinical Education for Students of the Faculty of Law of the University of Zenica), which took place in the period 20 December 2018 to 20 January 2019 in Zenica, within the Justice for Each Child project. The project was implemented by UNICEF in collaboration with the Swedish Development Agency (Sida), the Swiss government, the Tuzla Human Rights Bureau, the Criminal Policy Research Centre (CPRC), the Centre for Human Rights in Mostar and relevant ministries and institutions in Bosnia and Herzegovina. The aim of the project was to provide students with theoretical and practical knowledge in the field of protection of children's human rights.³¹

Furthermore, the Faculty of Law in Zenica celebrated International Human Rights Day. In this regard, the faculty organized a debate competition between the students of the Faculty of Law and the Faculty of Philosophy. The project was implemented by the OSCE Mission to Bosnia and Herzegovina, the Faculty of Philosophy and the Faculty of Law of the University of Zenica. During the debate, students discussed gender equality and discrimination against women in political, cultural and economic life.

During the global pandemic, the OSCE Mission to Bosnia and Herzegovina's Regional Office in Travnik organized an online workshop in the protection of the environment from the perspective of human rights in late September 2020.

4 Human Rights Literature

Fondacija Centar za javno pravo (Foundation Public Law Centre) in Bosnia and Herzegovina in 2017 published a study titled 'Ombudsmani za ljudska prava BiH: bilans jednog neuspjeha' (BiH Human Rights Ombudsmen: The Balance of a Failure) which was edited by Edin Šarčević.

29 <https://bhnovinari.ba/bs/2018/05/14/najava-konferencija-polozaj-i-zastita-novinarki-u-bh-medijima-u-sarajevu-15-i-16-maja/> (last accessed 25 August 2019).

30 www.ombudsmen.gov.ba/Novost.aspx?newsid=889&lang=BS (last accessed 26 August 2019).

31 www.prf.unze.ba/index.php?number=10&start_from=80&category=15&only_active=1 (last accessed 26 August 2019).

Several analyses of the work of the Ombudsman Institution have been published within the FCJP. [...] The book documents that, after its initial success, the Institution has seen a significant decline in the level of human rights protection in recent years. This applies equally to the content and type of concrete measures as well as to the professional and timely processing of cases. It turned out that the current structure of the Institution and its executives did not have the necessary capacity to bring the Ombudsmen into office for which they were established, and to restore the Institution the status it had in its first phase of existence.³²

In the field of media law, Ilija Musa wrote a monograph with a large number of pages (615) under the title *Medijsko pravo: sloboda izražavanja u Bosni i Hercegovini i Republici Hrvatskoj* (Media Law: Freedom of Expression in Bosnia and Herzegovina and in the Republic of Croatia) published by Školska naklada Mostar in 2017.

One of the basic concepts in the analysis of each communication system is freedom of media expression. So it is quite understandable that without defining the notion of what freedom of media expression is, it cannot begin any serious media and communication analytical and professional discussion. [...] Freedom of expression is a historical aspiration of every journalist, media institutions and all citizens in a modern democratic and pluralistic inclusive information society.³³

The Atlantic Initiative in Bosnia and Herzegovina in 2017 published a study titled *Rodne predrasude u primjeni prava: bosanskohercegovački i međunarodni pravni okvir i praksa* (Gender Bias in the Application of Law: Bosnian and Herzegovinian International Legal Framework and Practice). This study was done by Majda Halilović, Callum Watson, Heather Huhtanen, and Mylène Socquet-Juglard and amounted to 248 pages.

Although often unnoticed or ignored, gender bias is prevalent in all legal systems across the world, and Bosnia and Herzegovina (BiH) is no exception. The consequences of gender-based bias and discrimination affect everyone, from legal professionals to women and men who seek to assert their rights through the justice system. Gender bias can affect the atmosphere in courtrooms, the presentation of cases, the decisions of judges, and even whether cases come to court. By reducing and eventually eliminating these

32 www.fcjp.ba/index.php/15-news/429-zastita-ljudskih-prava-kako-to-rade-ombudsmani-bosne-i-hercegovine (last accessed 1 September 2019).

33 M. Plenković, Review of the book: I. Musa, *Medijsko pravo. Sloboda izražavanja u Bosni i Hercegovini i Republici Hrvatskoj*, Školska naklada d.o.o., Mostar, Mostar, 2017, 615 str., *Media, Culture and Public Relations*, 10, 2019, 2, p. 197.

prejudices, the justice system has the potential to become more effective, democratic, and fair.³⁴

Zlatan Meškić and Darko Samardžić are the authors of the university textbook under the title *Pravo Evropske unije II: Povelja Evropske unije o osnovnim pravima* (Law of the European Union II – EU Charter on Fundamental Rights), which was published by the University of Zenica's Faculty of Law in 2017 as well. Mirjana Marinković-Lepić is the author of the study titled *Uloga masovnih medija u afirmaciji ljudskih prava u Bosni i Hercegovini* (The Role of the Mass Media in the Promotion of Human Rights in Bosnia and Herzegovina). Arhiv Tuzlanskog kantona (Tuzla Canton Archive) and Društvo arhivskih zaposlenika Tuzlanskog kantona (Society of Archival Employees of Tuzla Canton) were the publishers. Tatjana Žarković prepared a bilingual study with the title *Women Who Inspire: Research of the Possibilities and Conditions of the Lives of Women in Small Local Communities in BiH*, which was published by Fondacija Cure in 2017. Moreover, Benjamina Londrc is the author of a historical monograph titled *Pravni položaj jevrejske zajednice u BiH od 1918. do 1945. godine* (Legal Status of the Jewish Community in BiH from 1918 to 1945), and the second amended edition was published by Sarajevo University Press (Magistrat) in 2017.

Sarajevski otvoreni centar (Sarajevo Open Centre) published several studies/guides in 2017 and 2018. Natalija Petrić, Boris Krešić, Gordan Bosanac, Goran Selanec and Fedra Idžaković are the authors of the 2017 study *Izvan zakona: pravna regulacija životnih zajednica parova istog spola u Bosni i Hercegovini* (Outside the Law: Legal Regulation of Same-sex Partnership in Bosnia and Herzegovina). Adnan Kadribašić is the author of *Vodič za primjenu izmijenjenog i dopunjenog Zakona o zabrani diskriminacije BiH – Pregled izmjena i dopuna sa objašnjenjima i odgovorom pravosuđa BiH* (Guide to the Implementation of the Amended Law on Prohibition of Discrimination in BiH – Review of Amendments with Explanations and Response of the BiH Judiciary), which was also published in 2017. Amar Numanović, together with collaborators, takes credit for the study *Numbers of Equality 2: Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 – Analysis on Findings*, whilst Dajana Cvjetković, Vladana Vasić and Saša Gavrić wrote *Towards Responsible and Professional Treatment of Lesbian, Gay, Bisexual, Transgender and Intersex Persons: A Guide for Representatives of Institutions on the Level of Municipalities, Towns/Cities and Cantons in BiH* in 2017. Edita Miftari prepared a guide in 2017 titled *Vodič kroz administrativnu proceduru upisa prilagodbe spola za transrodne osobe u Bosni i Hercegovini* (Guide to the Administrative Procedure for Enrolling Gender Adjustment for Transgender People in Bosnia and Herzegovina). Lejla Huremović and Jasmina Čaušević are the authors of the study *Ka pozitivnim praksama: izvještavanje medija u 2017. godini o LGBTI temama u Bosni i Hercegovini* (Towards Positive Practices: BH Media Reporting on LGBTI topics in 2017) that was published in 2018. On the other side, Helsinški parlament građana (Helsinki Citizens' Parliament) in 2017

34 M. Halilović et al., *Rodne predrasude u primjeni prava : bosanskohercegovački i međunarodni pravni okviri i praksa*, Sarajevo, Atlantska inicijativa, 2017, p. 7.

published an e-book written by Dragana Dardić and Lejla Gačanica called *Vodič kroz Ustav BiH od Ž(ena) do A(mandmana)* (Guide to the Constitution of BiH from (W)omen to the (A)mendments).

In 2018, Sulejman Topoljak wrote the book titled *Ljudska prava i slobode u islamu* (Human Rights and Freedoms in Islam), which was published by the AKOS (Association for Culture, Education and Sport in BiH). It is a university textbook where the author gives a brief overview of human rights and freedoms and points out the specificity in each socio-economic formation in the preface. He particularly emphasizes the fundamental thesis that humans throughout history have moved away from basic postulates which have dehumanized them and led them into a moral and every other abyss (according to a review by Mujo Demirović). Moreover, Sanja Vlasisavljević is the author of the 96-page book *Dijalogom do ljudskih prava* (Through Dialogue to Human Rights) that was published by Centar za kulturu dijaloga in Sarajevo in 2018 as well as the book *Politička filozofija i ljudska prava za početnike* (Political Philosophy and Human Rights for Beginners) that was published by the same centre the same year. In 2018 Analitika – Centar za društvena istraživanja (Centre for Social Research) published a collection of papers titled *Evropski sud za ljudska prava i zaštita od diskriminacije: jurisprudencija i evolucija standarda* (European Court of Human Rights and the Protection against Discrimination: Jurisprudence and the Evolution of Standards). Edin Hodžić is the editor of the publication, with Zlatan Meškić, Mario Reljanović, Vanja Kovač and Amila Kurtović as the co-authors.

The European Convention on Human Rights and Fundamental Freedoms [...] entered into force in 1953, but it took a long time for the European Court of Human Rights [...] to become a respectable forum for protection against discrimination. Namely, only in the last fifteen years has the Court developed significant jurisprudence in which a violation of the right to freedom from discrimination has been established.³⁵

In 2018 The same publisher Analitika – Centar za društvena istraživanja published a study book titled *Kvadratura antidiskriminacijskog trougla u BiH: zakonski okvir, politike i prakse 2016-2018* (The Square Footage of the Anti-Discrimination Triangle in BiH: Legal Framework, Policies and Practices 2016-2018). Three authors worked together on this human rights publication: Dženana Radončić, Edin Hodžić and Midhat Izmirlija.

This report is a continuation of the ongoing activities of the Analitika – Centre for Social Research on the monitoring and analysis of the application of the Anti-Discrimination Law (hereinafter: ZZD), with an emphasis on the

35 E. Hodžić (ed.), *Evropski sud za ljudska prava i zaštita od diskriminacije: jurisprudencija i evolucija standarda*, Sarajevo, Analitika, Centar za društvena istraživanja, 2018, p. 9.

functioning of key protection mechanisms and the work of key institutions in the anti-discrimination system.³⁶

The Ministry of Human Rights and Refugees of Bosnia and Herzegovina in 2018 published *Okvirni akcioni plan o obrazovnim potrebama Roma/Romkinja u Bosni i Hercegovini* (Framework Action Plan on the Educational Needs of Roma in Bosnia and Herzegovina: [2018-2022]). In the introduction, the authors stressed that

The Roma are the largest national minority in Europe as well as in Bosnia and Herzegovina. But they are at the same time the most vulnerable group in society. According to all relevant indicators, the Roma are in an extremely highly difficult social and economic situation. The right to education is one of the most important but also one of the most endangered human rights of the Roma national minority. It is precisely the threat to the right to education that prevents them from accessing all other social and political functions of importance in society so is their personal life progress. The right to education is closely related to their economic and political position in society. The Roma, as is well known, have always been disadvantaged in this respect and have been at the bottom of the economic and other rankings in Bosnia and Herzegovina.³⁷

The same ministry in Bosnia and Herzegovina in 2018 published the guidebook *Smjernice za procjenu i utvrđivanje najboljeg interesa djeteta: vodič za profesionalce* (Guidelines for Assessing and Determining Your Child's Best Interests: A Guide for Professionals), written by Mirsada Bajramović, Suzana Bubić and Berina Ceribašić. With the help of UNICEF, in 2017 this ministry published a collection of papers under the title *Mediji u najboljem interesu djeteta: pregled znanja i iskustava za kreatore medijskih sadržaja* (Media in the Best Interests of the Child: A Review of Knowledge and Experience for Media Creators).

Through the consultation process on protecting the best interests of the child in the media, a review of knowledge and experience for all content creators has emerged. [This review] combines an academic approach with practical experiences. The review is for every media creator.³⁸

The Constitutional Court of Bosnia and Herzegovina, together with The Aire Centre London, in 2018 published a collection of papers under the title *Pravo na obrazloženu sudsku presudu – obavezni standardi u sudskim postupcima: zbornik radova* (Right to a Reasoned Judgement – Mandatory Standards in Court

36 Dž. Radončić et al., *Kvadratura antidiskriminacijskog trougla u BiH : zakonski okvir, politike i prakse 2016-2018*, Sarajevo, Analitika – Centar za društvena istraživanja, 2018, p. 7.

37 www.mhrr.gov.ba/PDF/djeca/Okvirni%20Akcioni%20Plan%20fin%20verzija.pdf, p. 9 (last accessed 1 September 2019).

38 N. Mujagić, N. Kačmarčik – Maduna, *Mediji u najboljem interesu djeteta: pregled znanja i iskustava za kreatore medijskih sadržaja*, Sarajevo, Ministarstvo za ljudska prava i izbjeglice Bosne i Hercegovine, p. 10.

Proceedings: Collection of Conference Papers) (the conference of the highest courts in Bosnia and Herzegovina in 2017). This publication represents a contribution to better understandings and protection of the right to a fair trial in the country. Along with this, the same publisher published a collection of papers titled *Pravosudni forum za Bosnu i Hercegovinu: posebne istražne radnje: odabrani slučajevi iz prakse Evropskog suda za ljudska prava* (Judicial Forum for Bosnia and Herzegovina: Special Investigative Actions: Selected Cases from the Jurisprudence of the European Court of Human Rights) (papers from the second annual conference of the highest courts in Bosnia and Herzegovina, Banja Luka, 2018).

Furthermore, *Priručni leksikon demokratije i ljudskih prava* (Lexicon of Democracy and Human Rights) from the publisher Meligrafprint Zenica was published in 2018 and written by Faruk Kozić. Moreover, Foundation Heinrich Böll, Office for Bosnia and Herzegovina, (North) Macedonia and Albania, in 2018 published a book titled *Suzbijanje diskriminacije: uloga pravosuđa* (Suppression of Discrimination: The Role of the Judiciary) (authors: Dženana Hadžiomerović *et al.*). The authors in the introduction noticed that

Modest practices to date in applying the Anti-Discrimination Act and other laws and norms relating to illegitimate discrimination and practical experience in the region indicates the need for analysis, interpretation and commentary on the application of adequate legal norms and standards. Countries created by the dissolution of Yugoslavia share a very similar or the same legal heritage and practice; the process of accession to the European Union was coordinated by existing legal norms or new so-called European norms and standards were adopted.³⁹

According to the COBISS (Republika Srpska), there are several publications in this respected scientific field for the years of 2018 and 2019. *Teorija Republike* (Theory of the Republic) was published in 2019 by the Faculty of Political Science in Banja Luka. The author of this book is Aleksandar Savanović. Another publication from this period is *Ljudska prava i policijska etika: priručnik za policijsku obuku kadeta Policijske akademije Banja Luka* (Human Rights and Police Ethics: a Handbook for Police Training of Cadets of the Banja Luka Police Academy), written by Milovan Đurić.

Esma Kučukalić Ibrahimović wrote '*Ciudadanía y etnicidad en Bosnia y Herzegovina*' (Citizenship and ethnicity in Bosnia and Herzegovina), which was published in 2019 by Universitat de València in Spain. In this book, the author discusses the Dayton Peace Agreement and the peace: a binomial complex, whilst the third, last part of the monograph analyses rights and freedoms in Bosnia and Herzegovina. According to this research, the peace signed in Dayton in 1995 has not yet succeeded in turning Bosnia and Herzegovina into a functional, inclusive, effective and unequivocally democratic state. There remains a Bosnian problem,

39 H. Dženana *et al.*, *Suzbijanje diskriminacije: uloga pravosuđa*, Sarajevo, Fondacija Heinrich Böll, Ured za Bosnu i Hercegovinu, Makedoniju i Albaniju, 2018, p. 5.

not as bloody as in other more or less recent times in our history, but in any case, unsolvable, on whose understanding this study focuses. According to the author's views, there is no place for Bosnia and Herzegovina in Europe if the country does not first abandon its current constitutional structure and move towards the construction of a state for all citizens.

Anja Gengo, Enis Omerović and Kristina Ćendić are the authors of the national study '*Assessment of Media Development in Bosnia and Herzegovina. Based on UNESCO's Media Development Indicators*', which was published by UNESCO in 2019.

This study provides an overview of the media landscape in Bosnia and Herzegovina (BiH). Its findings will help public authorities, policy makers, civil society organizations, professional associations and other relevant actors to ensure a healthy media environment in the country. Implementing its recommendations can contribute to the implementation of the Sustainable Development Goals, which recognise the value of public access to information and fundamental freedoms, which in turn depend on a healthy media landscape. A free, independent and pluralistic media environment is crucial for peaceful and democratic societies. In this regard, the study can support the peacebuilding process BiH has been undertaking since the peace agreements were signed in 1995.⁴⁰

5 Master's and Doctoral Theses in Human Rights

We now turn to present a list of master's theses and doctoral dissertations in the field of human rights that were defended at universities in Bosnia and Herzegovina.

Master's theses from 2017: *Apsolutna ljudska prava i zaštićene vrijednosti* (Absolute Human Rights and Protected Values) (Ermin Šahbazović); *Načelo zaštite prava stranaka i zaštite javnog interesa kod vanrednih pravnih sredstava* (Principle of Protection of Parties' Rights and Protection of Public Interest in Extraordinary Legal Remedies) (Anesa Tarčin); *Pluralno društvo i prava manjina* (Plural Society and Minority Rights) (Aldijana Adrović); *Primjena dvojnog državljanstva u Bosni i Hercegovini* (Application of Dual Citizenship in Bosnia and Herzegovina) (Mirha Kaldžija) and *Lični odnosi djeteta sa roditeljima i drugim osobama: praksa Evropskog suda za ljudska prava* (Personal Relations of the Child with Parents and Other Persons: The Case Law of the European Court of Human Rights) (Maja Hrkalović).

Master's theses from 2018: *Evropski sistem zaštite ljudskih prava* (European System of the Protection of Human Rights) (Anela Muratović); *Krivična djela protiv zdravlja ljudi u svjetlu Evropske konvencije o ljudskim pravima: područje FbiH u*

40 A. Gengo, E. Omerović, K. Ćendić, *Assessment of Media Development in Bosnia and Herzegovina. Based on UNESCO's Media Development Indicators*, Paris, UNESCO, 2019, p. 5.

ySTEM od 2012. Do 2016. Godine (Criminal Offenses against Human Health in light of the European Convention on Human Rights: FbiH Territory from 2012 to 2016) (Dalila Budimlić); *Mjere za zaštitu ličnih prava I interesa djeteta* (Measures to Protect the Personal Rights and Interests of the Child) (Edina Zahirović Vilašević); *Pravo na zaštitu ličnih podataka u Bosni i Hercegovini, s osvrtom na zdravstveniySTEM* (The Right to the Protection of Personal Data in Bosnia and Herzegovina, with Reference to the Health Sector) (Begzada Avdukić); *Presude Evropskog suda za ljudska prava i izborniySTEM Bosne i Hercegovine* (Judgements of the European Court of Human Rights and the Electoral System of Bosnia and Herzegovina) (Anel Ibelić); *Uloga obavještajnog ciklusa u donošenju odluka* (The Role of the Intelligence Cycle in Decision Making) (Goran Radoš); *Zaštita najboljeg interesa djeteta u postupku razvoda braka u Federaciji Bosne i Hercegovine* (Protection of the Best Interests of the Child in Divorce Proceedings in the Federation of Bosnia and Herzegovina) (Merima Osmanović); *Trgovina ljudima – perspektiva multidisciplinarnog pristupa u asistenciji žrtvama trgovine ljudima u Bosni i Hercegovini* (Trafficking in Human Beings – A Multidisciplinary Approach to Assistance to Victims of Trafficking in Bosnia and Herzegovina) (Samira Hunčec).

Master's theses from 2019: *Normativno-pravni i institucionalni okvir borbe protiv trgovine ljudima u Bosni i Hercegovini s osvrtom na sudsku praksu* (Legal and Institutional Framework for Combating Trafficking in Human Beings in Bosnia and Herzegovina with Reference to Case Law) (Mehmed Baljić); *Ostvarivanje ekonomskih, kulturnih i socijalnih prava u Bosni i Hercegovini* (Exercise of Economic, Cultural and Social Rights in Bosnia and Herzegovina) (Emina Nokto); *Pravo djeteta na obrazovanje: praksa Evropskog suda za ljudska prava i njen uticaj na sudsku praksu u Bosni i Hercegovini* (The Right of the Child to Education: The Case Law of the European Court of Human Rights and Its Impact on Case Law in Bosnia and Herzegovina) (Mersid Zafirovski); *Sekundarna viktimizacija žrtava predstavljena kroz rad policije* (Secondary Victimization of Victims Presented through Police Work) (Marija Đekić).

Doctoral dissertations: We have been able to find only six theses registered in COBISS, two from 2018 and four from 2017: *Međunarodni investicijski ugovori i ljudska prava: Analiza primjene temeljnih ljudskih prava u okvirima međunarodnih investicijskih ugovora* (International Investment Treaties and Human Rights: An Analysis of the Application of Fundamental Human Rights in the Framework of International Investment Treaties) (Mahir Muharemović); and *Registri za identifikaciju građana: zaštita ljudskih prava i efikasna državna uprava* (Citizens Identity Registries: Protecting Human Rights and Effective Government) (Siniša Macan). Doctoral dissertations from 2017 are as follows: *Pravo na pravično suđenje u praksi Evropskog suda za ljudska prava* (The Right to a Fair Trial in the Case Law of the European Court of Human Rights) (Martina Matić); *Apelacijska nadležnost Ustavnog suda Bosne i Hercegovine* (Appellate Jurisdiction of the Constitutional Court of Bosnia and Herzegovina) (Cvija Jurković); *Pravo na slobodu i sigurnost iz članka 5. Evropske konvencije za zaštitu ljudskih prava i temeljnih sloboda i njegova dopustiva ograničenja* (The Right to Liberty and Security Referred to in Article 5 of

the European Convention for the Protection of Human Rights and Fundamental Freedoms and Its Permissible Restrictions) (Mirela Perić); and *Starateljstvo nad osobama kojima je oduzeta ili ograničena poslovna sposobnost* (Custody of Deprived or Disabled Persons) (Borjana Miković).

It should be noted that not all master's theses and doctoral dissertations were entered in the COBISS register of publications on time. We also assume that the final number of theses on human rights and fundamental freedoms, completed at public and private universities across the country, is much higher.

At the end of this article, it is noteworthy to mention that during the global pandemic, the University of Zenica's Faculty of Law organized debates and discussions on the impact of measures of state bodies and whether they constitute a violation of human rights and fundamental freedoms within existing courses for its master's and doctoral students on several occasions.

Several different institutions, such as state organs, international organizations and embassies in Bosnia and Herzegovina (e.g. The Embassy of the United States of America), continuously monitor the protection of human rights and fundamental freedoms in the country. Several of them are mentioned in this report. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina publishes annual reports⁴¹ as well as special reports on the protection of human rights of certain categories of persons, such as migrants, people from the LGBTIQ community, juvenile delinquents and journalists.⁴² This institution also issues recommendations on certain subject matters.⁴³

On the website of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, certain reports by international and domestic bodies discussing specific groups of issues in regard to human rights implementation could be found.⁴⁴ Reports on different aspects of human rights and freedoms with respect to Bosnia and Herzegovina are adequately available on the website of the OSCE Mission to Bosnia and Herzegovina.⁴⁵ And, lastly, the Council of Europe issues its publications on subject matters within its competencies. All these publications, along with ongoing and finalized projects in regard to Bosnia and Herzegovina or those who include this country, are available on their website.⁴⁶ The Sarajevo

41 www.ombudsmen.gov.ba/documents/obmdudsmen_doc2019030109434379eng.pdf (Annual Report for 2018) (last accessed 1 September 2019).

42 www.ombudsmen.gov.ba/Dokumenti.aspx?id=28&tip=4&lang=EN (List of Special Reports) (last accessed 2 September 2019).

43 www.ombudsmen.gov.ba/Dokumenti.aspx?id=7&tip=3&lang=EN (List of Recommendations) (last accessed 2 September 2019).

44 www.mhrr.gov.ba/ljudska_prava/default.aspx?id=8&langTag=bs-BA (last accessed 2 September 2019).

45 www.osce.org/mission-to-bosnia-and-herzegovina; www.oscebih.org (last accessed 2 September 2019).

46 www.coe.int/en/web/sarajevo/publications; www.coe.int/en/web/sarajevo/completed-projects (last accessed 2 September 2019).

Enis Omerović & Lejla Zilić

Open Centre annually publishes the *Pink Reports within Human Rights Series* – on its website, a reader can find the *Annual Report on the State of Human Rights of LGBTI People in Bosnia and Herzegovina*.⁴⁷

6 Conclusion

From the above, we can conclude that human rights occupy a considerable portion of the legal discourse taking place in Bosnia and Herzegovina. Though judicial practice is primarily focused on resolving procedural issues tied to the efficacy of the judicial system as well as the questions of the discrimination found in the Constitution of the state and various difficulties of implementing the European Court of Human Rights' decisions (which are in relation to discrimination), scientific papers, master's theses and doctoral dissertations as well as events organized in the country cover a wide variety of human rights topics.

It is particularly important to note that, for the period this report covers, not all theses and doctoral dissertations have been entered into COBISS in a timely manner, and it is safe to assume that the actual number of theses and dissertations is higher than what is presented in this report.

The matter of compiling theses for a report is further complicated by the absence of a central COBISS, the creation of which could be a consideration for the improvement of the academic and legal community within the country.

47 <http://soc.ba/en/publications/edition-human-rights/> (last accessed 3 September 2019).