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## Editorial

During the last decade, Free Media Help Line has registered 91 cases of endangering journalists' safety in Bosnia and Herzegovina, including physical assaults and attacks, death threats and endangering the property of certain media houses. Only 22 cases were concluded to the benefit of journalists and media houses and even 37 cases were neither investigated professionally nor processed through our judiciary system and its mechanisms and tools.

Journalists in BiH, facing safety challenges during their work, encounter numerous obstacles, as far as the actions taken by our investigative and judiciary institutions are concerned. Threats and verbal assaults, including many failures to punish and fine assaulters and/or attackers that assault (attack) journalists, significantly impact journalists' work, because of their effects and consequences, especially when it comes to the selection of related topics that journalists should report about. Besides, journalists, due to assaults they experience, have to get involved and be part of legal court proceedings and these proceedings often take a lot of precious time (they particularly take a lot of time during the preparing process) and there are also significant and equally demanding procedural based questions (these questions also take a lot of time), since they prevent media professionals to perform their professional journalists' duties.

Consequences of failure to sanction, punish or fine criminal felonies and/or deeds, committed against journalists, display a common feeling of uncertainty, unsafe feeling, and fear, and additionally result in the emerging of self – censorship, segregations, dividing and conflicts within media community; create degradation and decline of professional quality and media credibility, also including the rise of the devaluation of fundamental democratic values. Courts and prosecutors' offices, including state bodies, may contribute in improving and advancing journalists' safety, by implementing and applying the existing provisions of criminal laws and by fulfilling international duties and obligations, during the investigations and processing of the cases of assaults and attacks committed against journalists.

This edition of E – Bulletin, implemented as part of mutual and joint project of EU and Council of Europe titled "Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX)", shall question how we can advance journalists' safety in BiH. It will also question the role of state bodies during the investigations and processing of criminal felonies committed against journalists, including the fulfillment of international duties and obligations and ways of advancing the legal representation of journalists in front of national courts during the criminal proceedings.

53rd E-Journalist edition shall include the articles and texts written by **Semir Mustafić**, Zurnal.info journalist, **Svetozar Bajić**, Banjaluka Elemental Court judge, **Zeljka Sulc**, OSCE Mission to BiH spokesperson, and **Edin Ibrahimović**, special adviser with the Institution of Human Rights Ombudsman/Ombudsmen in BiH.

*Arman Fazlić, E-journalist Editor*

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## Life - danger country: 7th force representatives – third rate citizens

By: Semir Mustafić

“State (country) provides criminals with the protection. This is a life – danger country”, claims Milanka Babic – Kovacevic, a female journalist working for “Direkt”, the city of Gacko local web site.

“I have reported threats directed against me at least 15 times and 30 times the threats were explicit. I have 5 cases undergoing court procedure at the moment”, stated Dragan Bursac, journalist working for BUKA (local) web site and Al Jazeera Balkans regional TV house.

“I experienced horrible things and there were many of them with state body officials confronting with me and including assaults by certain bullies, or I should say, local wannabe sheriffs”, Refik Vejsilagic, Federal Television cameraman recalls the images and situations he had gone through on the professional field.

“This state cannot impose sanctions against those who have been attacking and assaulting journalist and media staff, because it is the state that has actually been attacking and assaulting”, explained Avdo Avdic, Zurnal magazine journalist.

These sentences and statements best outline the present state and situation, as far as journalism in Bosnia and Herzegovina is concerned and they particularly outline investigative reporting. Threats, insults, offences, verbal and physical assaults, degrading and devaluing journalists display just some of many terms that journalists face on daily basis whilst performing their duties and during their daily work. Circumstances are even more extreme since you, as journalist, are often exposed to surrounding pressures imposed by the members of local community (or even members of your society in general), particularly if you are engaged as journalist in smaller communities, like the case of Milanka Babic – Kovacevic, a female journalist working for “Direkt”, the city of Gacko local web site.

Mrs. Babic – Kovacevic was recently verbally assaulted at the bank office in the city of Trebinje, because of the story she had previously released regarding the tragic traffic accident where three persons had lost their lives. This case has been subject to court procedure for over a decade and its conclusion is nowhere near the end.

“Mladjo Zelenovic, a person whose name has been listed on the international warrant list and also person, who had also previously been convicted, verbally assaulted me at the bank office in Gacko. He was yelling at me in public and his body language clearly indicated his aggressive intentions as he openly threatened me shouting:”I could kill you now”, Babic – Kovacevic recalls this accident.

This female journalist reported the entire case to official authorities, including Free Media Help Line, as part of the BH Journalists Association. She claimed that she was not frightened by threats coming from certain people, although she did feel uncomfortable though.

She emphasized that insecurity and uncertainty in smaller communities, such as Gacko, is much greater than in other larger communities. Being a female journalist and doing investigative reporting, represents a great challenge by its own nature, if we take into consideration the fact that those imposing threats or assaulting female journalists, are in most cases conservative and primitive people, because on one hand, they feel much more comfortable when they threaten female journalists, rather than threatening male journalists on the other hand.

“I somehow believe that criminals completely lack of any kind of honor as this is in contrast with criminal mindset. They (criminals) are indeed cowards because

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### Events

3 May 2018  
BiH citizens trust in media more than politicians

24 April 2018  
OSCE Representative calls for strengthening independence of public service broadcasting and protecting safety of journalists

23 April 2018  
Protection from defamation (libel) possible to advance by standardizing court practices

20 April 2018  
Efficient protection of journalists' rights possible to conduct by strengthening/reinforcing the solidarity, dialogue and self-criticism within journalism

### Media on media

25 April 2018  
Reporters Without Borders (RSF) presents the 2018 press freedom barometer: 62nd place for Bosnia regarding the index of media freedom

17 April 2018  
EC progress report on BiH: No progress made regarding media freedoms

### Vacancies

Public invitation for 2018 Journalist Academy applying. Deadline for application is 20 May 2018

EUROPLAKATBH posts a vacancy post for the following position: DTP Technician. Deadline for application is 2 June 2018



## Free Media Help Line

### Actual cases:

**Political pressure and threats: 8 April 2018** – Magaljinfo.com (local web site) male journalist reported the assault committed by Muhamed Hrnjic, an SBB (political party) local representative. Free Media Help Line sent a notice letter to Maglaj Municipal Council officials.

**Political pressure and threats: 23 April 2018** – Ramo Abidovic, Infoplus.ba, local web site journalist reported an online assault committed by Muhamed Hodzic, an SDA political party commissioner. He reported this case to Kalesija Police Officials.

**Threat** – After Milanka Kovacevic decided to report brutal threat and verbal assault by Mladjo Zelenovic, a person who had been on the international warranty list issued by the MUP of RS, Free Media Help Line sent a notice letter to MUP RS and Police Officials in Gacko.

We were told that this case contained no elements to be legally treated as criminal felony and that the case from now on shall be treated as minor offence. FMHL shall continue to monitor this particular case.

they hit weaker parties and people are often inclinable, as far as the maltreating and bullying of weaker persons is concerned, and this is exactly how they (criminals) treat female population”, added this female journalist from Gacko.

Dragan Bursac, a journalist from Banjaluka city reckons that journalists are unaware of their rights and that reported cases of assaults on journalists represent only an iceberg peak in comparison with massive number of cases where journalists decided not to report assaults because they did not want to disturb peaceful atmosphere and working environment in media houses they worked for. He also believes that every journalist being assaulted must report the case to Free Media Help Line and then additionally report it to official police authorities. Dragan Bursac personally reported most recent assault to official authorities in Banja Luka.

“A person whose identity was well - known (and person whose full name was also well - known) was threatening me several times and was accordingly processed. Police authorities managed to locate him since, surprisingly enough, he was not even attempting to hide from public. This case was then submitted to the Prosecutor’s Office in Banjaluka and the proceedings have, ever since, been going on for about nine months. Consequently, he texted me recently (some seven days ago) and his message was:”As you can see, neither court nor Prosecutors Office can do anything to me”, and I absolutely agreed with him on this, despite the fact that he had previously threatened to kill me”, emphasized Mr. Bursac.

Bursac claimed that journalists in BiH are considered as third rate citizens. It is humiliating that assaults on journalists are not legally considered and treated as assaults on official authorities, even though we have witnessed that cases with “plain civilians” have been processed much faster and more accurate, comparing to cases where journalists have been involved, that is, threatened or assaulted.

Avdo Avdic, Zurnal, info magazine investigative reporter has been facing threats and assaults for years because of his work. He believes only people (with no firm and solid political background or interest – based group) charged for assaults on journalists have been processed legally in decent period of time. Last threats that Mr. Avdic faced were directed by the bodyguard of Gordana Tadic, a chief state prosecutor.

“I experienced two assaults by the bodyguard of Gordana Tadic (a chief state prosecutor). First time, it happened at Mrs. Tadic’s home in the town of Zivince and he did not threaten me directly then; instead he warned me that I should not behave in “such way” and should not make records about chief prosecutor either. Second time, it occurred in Prosecutor’s Office at the facilities of Court of BiH, when he approached me in the corridor and, in front of all the witnesses there, told me the following:”Do you want to see what it looks like when I f...k?”

Mr. Avdic reported entire incident to Cantonal Prosecutor’s Office in Sarajevo. After six months, since the case had been legally reported, no one was prosecuted, despite the fact that there were witnesses and video surveillance that would surely confirm all allegations and claims filed in by Mr. Avdic. Although, according to Criminal Law provisions, specific investigations, cases or proceedings may last over six months period.

Zurnal magazine journalist has been a target and subject to numerous assaults for over two decades of his work, and court proceedings were completed and terminated in two cases only.

“While working on the story about terrorism in Sandzak region, we had been threatened by Abid Podbicanin and Izudin Crnovrsanin. The Police arrested both of them after our call. Podbicanin later died while fighting in Syria as a member of ISIS terrorist and military group and Crnovrsanin was recently convicted for terrorism in Serbia and additionally sentenced to several year prison punishment, upon his return from Syria as well. Another case included Sadik Bahtic, who at the time of this incident was an MP. Mr. Bahtic literally forced out Refik Vejsilagic, a Federal Television camera-

*In cases of assaults and threats, purposely directed against journalists, cameramen have always been people left on the margins, since their work was minimized, including their great contribution in the entire reporting process.*



*The state failed to establish functional and legal framework that would provide protection for journalists from eventual assaults, that is, our state failed to pay particular attention to the protection of journalism as professional occupation.*



man, from the Press Conference. He was later convicted for misdemeanor and was fined with miserable BAM 300.00 – 400.00 fine, concluded Mr. Avdic.

If we take journalism through television, no story could be conducted without the work of cameramen. In cases of assaults and threats, purposely directed against journalists, cameramen have always been people left on the margins, since their work was minimized, including their great contribution in the entire reporting process. Refik Vejsilagic has been a long time cameraman working for the Federal Television and his trade is also considered and defined as the 7th force.

“TV Journalism is not one man story only; in fact it’s a team work consisting of driver, cameraman and myself. However, I would not go into these kinds of stories unless I had complete trust in people I have been working with. When you find yourself in a “nowhere land”, the only person you could rely on in that moment is your colleague and workmate. I have always worked with people that have never left me alone and abandon me”, said Mr. Vejsilagic. He added that that he always wanted to show everything that has been happening on the field and around us, by using his camera lenses. He remembered the time when he was video recording for “60 minutes”, a political TV magazine, and anthological scenes. Assault on journalists team in the village of Gluha Bukovica, where this team was making a report on pedophilia affair in Islamic Association, was well – known to wide and general public, by the statement:” Do you want me to “go” through you”, because this threat was directed to FTV cameraman himself.

“This was a story about small and underdeveloped village, with uneducated and completely illiterate people living there. During these moments, adrenalin takes over and you find yourself thinking extremely fast. You seek the closest and shortest possible escape route. This incident was very rough. In this, very unpleasant situation, there was a man, who could have defeated me at glance, and he was standing right in front of me. We were trapped in the house where this little girl, who had been sexually harassed, was living and this house was on top of the village. Who knows what would have happened if they came for us then. Special police arrived later on to evacuate us from this village”, Vejsilagic tells his story.

Currently and depending on a scope of assaults or threats on journalists, this kind of incident should legally be considered and treated as felony or misdemeanor. The state failed to establish functional and legal framework that would provide protection for journalists from eventual assaults, that is, our state failed to pay particular attention to the protection of journalism as professional occupation.

Irisa Cevra, a female lawyer said that criminal laws and their provisions have not clearly defined types of assaults on journalists, as these legal provisions should have provided journalists with protection. Furthermore, she added that official authorities, particularly legislative and judiciary bodies must take larger – scope protection measures in order to provide protection for journalists from possible assaults.

She reckoned that legal framework must be amended and accordingly, assaults on journalists must be clearly defined as felony or criminal deeds and through the law on public peace and order, these assaults must be identified and recognized as special type of criminal felony.

“This kind of recommendation was indicated in Special Report regarding the position and cases of threats and journalists in BiH, issued by the Institution of Human Rights Ombudsman/Ombudsmen of BiH in 2017 and it was supported by the OSCE Mission to BiH.

This report was done in accordance with the international standards by the UN, OSCE, Council of Europe and European Union”, claimed Irisa Cevra, a female lawyer.

High Judicial and Prosecutorial Council of Bosnia and Herzegovina failed to provide answers to the following question: How many assaults and threats have been reported from 2000 till present day and how many cases were concluded too.

“The information on processing criminal felonies is taken from the System for automatic managing of cases in courts and prosecutor’s offices (CMS/TCMS) where the list of criminal felonies is in accordance with current criminal laws in Bosnia and Herzegovina. Bearing in mind that current criminal laws in Bosnia and Herzegovina do not define that criminal felony which, by the nature of the threat or assault, may be executed exclusively against journalists during at the time when they perform their work duties. HJPC (original VSTV) of BiH is ac-

cordingly unable to withdraw such information and data from the CMS/TCMS system”, replied the HJPC officials.

The only statistical information regarding assaults and threats directed against journalists in BiH are available in publication “Indicators of the level of media freedoms and journalists’ safety” issued by the Association of BiH Journalists. Pursuant to this information and data provided, during the period between 2013 until 2016, there were 65 registered cases of verbal threats, 21 cases of physical assaults, seven cases of death threats, and 15 cases of mobbing and 35 cases of miscellaneous discrimination. During the period between 2013 and 2017, there were 217 cases of assaults on media houses, syndicates, work unions, Press Council and other online media houses. Only 15% of cases had been investigated and resolved. According to information provided by Free Media Help Line, during the period between 2006 and 2016, there were 495 cases of threats or assaults on journalists.

“I do this because I like and enjoy doing this kind of work and I exceptionally respect this profession. I like people I work with as well and consider them as my family members. All my friends are directly related with the field of journalism. This is my life no matter what good I can get from it and I do not consider doing anything else in my life”, concluded Refik Vejsilagic, a Federal Television cameraman.

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## Journalists’ position as the damaged party during court procedures

By: Svetozar Bajić

If journalists’ safety is jeopardized by any criminal deed (felony) committed by certain suspects or the accused, journalists, during the court procedure, are treated as the damaged party. The damaged party is a person or persons whom personal or material right was violated or jeopardized, as a result of committed criminal deed (felony). Typical criminal deed (felony) committed against journalists include the following:

- “Minor Injury” (Anyone causing minor injuries to another person or persons or slightly violates his/her health, shall be fined or imprisoned for one year”), identical for Criminal Law of the Republic of Srpska and Criminal Law of the Federation of BiH”.
- “Major Injury” (Anyone causing major injuries to another person or persons or anyone who vastly violates his/her health, shall be fined or imprisoned for six months up to five years”), identical for Criminal Law of the Republic of Srpska and Criminal Law of the Federation of BiH”
- “Endangering Safety” (Anyone endangering the safety of a person or persons imposing serious threats that he/she or close members of their families, friends or relatives will be killed, seriously injured, deliberated or kidnapped or harmed by setting a fire, explosion or any other commonly known dangerous action or material, shall be fined or imprisoned for one year pursuant to Criminal Law of the Republic of Srpska / (Anyone endangering the safety of a person or persons with serious threats of assaulting and attacking the life or body of this person or disturbing the public with his/her deeds, shall be imprisoned up to six months, pursuant to Criminal Law of the Federation of BiH)
- “Damaging the property” (Anyone destroying, damaging or making the property of other parties unused, shall be fined or imposed for up to two years, pursuant to Criminal Law of the Republic of Srpska) / (Anyone damaging, destroying or making the property of other party unused, shall be fined or imprisoned for up to six months, pursuant to Criminal Law of the Federation of BiH).



*Any citizen or journalist is entitled and has the right to report criminal deed (felony) to local prosecutor either in written or personally. If the report is done personally, a person making the report shall be warned to eventual consequences for false reporting.*

- “Violation of Free Expression” (Anyone denying or delimiting freedom of expression or public exposure, foundation of public informing institutions, freedom of press or other means of public informing, shall be fined or imprisoned for up to one year) / (This felony is not defined according to the Criminal Law of the Federation of BiH).

- “Averting the publishing, distribution of printed material and broadcasting the program” (Anyone illegally averting publishing, selling or distribution of books, newspapers or other printed material or averting manufacturing and broadcasting of radio or television program, shall be fined or imprisoned for up to one year, pursuant to Criminal Law of the Republic of Srpska) / (Anyone illegally averting publishing, selling or distribution of books, newspapers or other printed material or averting manufacturing and broadcasting of radio or television program, shall be fined or imprisoned for up to one year, pursuant to Criminal Law of the Federation of BiH).

And in more complex cases:

- “Constraint” (Anyone using the force or seriously threatens the other party to do or not do to, or make him/her suffer in any way, shall be fined or imprisoned for up to one year) / (This felony is not defined according to Criminal Law of the Federation of BiH).

- “Kidnapping” (Anyone using the force, threats, deceit or in any other way take away or keep someone against his/her will, with the purpose to extort money from him/her or extort money from third party or any other material benefit or to force him/her to do, not to do or suffer from something, shall be fine or imprisoned for one to eight years, pursuant to Criminal Law of the Republic of Srpska) / (Anyone illegally holding someone against his/her will or take his/her freedom or limits his/her moves with the purpose of forcing him/her to do or not to do something or to make him/her suffer in any way, shall be imprisoned for six months up to one year, pursuant to Criminal Law of the Federation of BiH)

- “Murder”(Anyone killing other person shall be imprisoned for at least five years), identical for both Criminal Law of the Republic of Srpska and Criminal Law of the Federation of BiH

Any citizen or journalist is entitled and has the right to report criminal deed (felony) to local prosecutor either in written or personally. If the report is done personally, a person making the report shall be warned to eventual consequences for false reporting. Personal reporting shall be followed by an official report and if the report is done by the phone, the official recording shall be done as well. If the report is submitted to the local court or authorized officials (the police), once they receive it, they will accordingly forward it directly to the authorized prosecutor. In cases of physical or mental injury, it is crucial that journalists (possibly immediately), as the damaged party, report the injury to local medical center and keep all medical records regarding this injury, including photos taken by the nearest photo shop (photos of injuries made by the authorized photographer shop). As far as other evidence is concerned, it would be strongly advisable to keep all necessary evidence, including threatening messages on the phone, letters, and e-mails and so on, and all mentioned evidence must be submitted to authorized officials and to the local prosecutor for further investigation. If there is suspicion that certain criminal deed (felony) was done, authorized officials or local prosecutor may by ex officio launch an investigation, which shall include the interrogation of the suspect, including interrogation of both damaged party and witness or witnesses, as they may also include required inspection and event reconstruction, collection of material evidence and required documents,





*If there is suspicion that certain criminal deed (felony) was done, authorized officials or local prosecutor may by ex officio launch an investigation, which shall include the interrogation of the suspect, including interrogation of both damaged party and witness or witnesses, as they may also include required inspection and event reconstruction, collection of material evidence and required documents, and consequently they may order required expertise as well.*

and consequently they may order required expertise as well. Prosecutor may order investigation; if there is suspicion that criminal deed (felony) was done. Investigation orders are imposed by the prosecutor where the prosecutor shall indicate the circumstances which should be subject to investigation and accordingly, prosecutor shall require actions for further investigation accordingly. Prosecutor shall disapprove the investigation if the report and associated documents, confirm that the reported criminal deed | (felony) cannot be legally considered and treated as the official criminal deed (felony) and if there is no suspicion that the suspect did not commit the alleged criminal deed (felony); also if the event is legally considered and treated as disused case; or if the criminal deed (felony) comprised of amnesty or pardoning; or if there are other circumstances that may exclude criminal prosecution. Regarding the non-implementation of the investigation, the prosecutor shall report the damaged party and the person submitting the claim within three days. The damaged party and the person submitting the report are legally entitled to make an appeal within eight days to the Prosecutors Office. Prosecutor concludes the investigation when he/she determines that the issue and case has been clarified, so the indictment can be raised. If the investigation is not finished within six months, from the date when the investigation order was brought, certain measures shall be taken, in order to terminate the case with the involvement of the prosecutor's collegiums and their opinion. After pressing charges, the indictment is submitted to the court for legal confirmation, and if the indictment is confirmed, the accused is called to plead guilty, and the damaged party should be invited to plead, regarding the property legal demand and claims.

If the accused party denies the guilt, the court schedules the main hearing, where suitor's party presents the evidence, followed by the evidence presented by the defendant's side, and when the damaged party is called to appear, witnesses are also called to be heard and interrogated directly and with cross – examination method by the prosecutor and the damaged party or his legal solicitor, regarding the circumstances of the criminal deed (felony) allegations, when, in case of explanation of their allegations, their statements from the investigation process, given to the police or prosecutor, can be used as evidence. During the main hearing, the statement given by the journalist (as the damaged party) is crucial evidence, which, in accordance, in other objective evidence (expertise, photos, items, medical records and so on) and subjective evidence (statements given by other witnesses from the investigation process and from main hearings) has significant power for determining the facts crucial for the success of the indictment, during the entire criminal procedure. We should mention that, if the witness is regularly called to appear, but fails to appear without prior notice and excuse for his absence, the judge may order the officials to bring the witness to the court by the use of force. On the other hand, if the witness is also regularly called to appear and also fails to appear, the judge may apply the fine. During the court procedure, after common questions, raised by the judge (first name, surname, occupation, date of birth etc), the witness is called to state every fact known to him/her regarding the case, and he will be asked questions due to checking procedure and because of additional issues and eventual explanations required. After direct interrogation (by the prosecutor) and cross – examining process (by the defendant's side); the journalist (as the damaged party) shall be asked and required to answer the questions asked by the prosecutor or the court officials, weather he/she demands property and legal (compensational) claim against the accused. Property and legal claim may relate to compensational claims, returning of items or cancellation of certain legal actions. The recommendation for accepting the



*Damaged party may challenge the verdict only based on the court's decision and regarding to the costs and expenses of criminal deed (felony) and the decision made, regarding the legal and property claims. The damaged party may appeal against the verdict passed, during the first instance procedure, within 15 days from the day of the submission of verdict process.*

property and legal requests (demands) may be submitted no later than by the end of the main hearing, that is, until the hearing when the sanctions expected are to be passed before the court, and the person authorized to submit this claim (damaged party or his legal solicitor) is obliged to mark his/her claim and submit the required evidence. If the authorized person fails to submit the request for property and legal compensation claim during the criminal procedure until the indictment is confirmed, he/she shall be informed that this claim can be submitted until the end of hearing, that is, until the sanctions are imposed. Prosecutor is legally mandatory to collect the evidence, regarding legal and property claims in relation with the criminal deed (felony) and he shall cooperate with the damaged and, pursuant to circumstances provided, he shall interrogate the suspect, that is, the accused party. Items used as the evidence shall be exempted temporarily and, after the completion of this procedure, they shall be returned to their original owner or the damaged party. If these items are needed by the owner, they can be returned to him/her, even prior to the termination of the procedure, but the owner will have to return them, if required. During the main hearing and during the court procedure, the prosecutor, not the damaged person, shall present all the evidence available; otherwise, the court shall reject this evidence. After having the process of evidence procedure completed, the judges, that is, the chairman of the court council shall call the prosecutor, the damaged party, the defendant, and the accused party to give their final statements. The accused party is always the last in this line; that is, in giving the statement. The court shall make the final decision regarding the legal and property claims. The court may, during the verdict process, where the court declares the accused guilty, make decision and allocate (in full) the legal and property claim to the damaged party or the court may impose partial decision regarding the legal and property claim, and leave and forward the rest to the civil procedure trial. If the information regarding the criminal deed (felony) do not provide reliable basis for complete or partial verdict, the court shall direct the damaged party, advising him/her that he/she could claim his/her legal and property claim in the civil procedure trial. Once the court passes the verdict with the accused party proclaimed not guilty or if the appeal is rejected, the damaged party shall be directed to civil procedure process, in order to claim his/her legal and property claim.

Damaged party may challenge the verdict only based on the court's decision and regarding to the costs and expenses of criminal deed (felony) and the decision made, regarding the legal and property claims. The damaged party may appeal against the verdict passed, during the first instance procedure, within 15 days from the day of the submission of verdict process. The appeal is submitted to the court that had passed the first instance verdict in several copies for the court, including the opposite party so they can accordingly reply.

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## The Role and Responsibilities of OSCE Participating States and Media Freedoms in Bosnia and Herzegovina

By: Željka Šulc

BiH is still facing challenges in the field of media freedoms and liberties, including an increasing number of assaults and threats, directed against journalists (and particularly assaults directed against female journalists), unstable system of public broadcasting service, especially regarding its financing sustainability, and generally common poor quality of reporting, including the auto and self – censorship of journalists. During the past period, OSCE Media Freedom representative and OSCE Mission to BiH officials, condemned assaults on journalists and assaults on media liberties in BiH, as we also emphasized (several times) the challenges we encounter and face daily, regarding media freedoms in this country. OSCE still express their concerns in regard with financial sustainability of public broadcasters, which was what had advocated and interceded for, several times during the most recent period.

The role that media houses have in democratic societies and transitional societies is crucial and we should all accordingly make significant efforts and attempts, in order to improve media freedoms and liberties in BiH. Media houses, serving public interests, should not be exposed to pressures; political, economic or any other types of pressures. These types of pressures deprave key role that media have in objective and professional information providing directed to general public, regarding the facts and information that concern their everyday lives.

In 21st century, any functional and democratic state must provide full guarantees for media freedoms and journalists' safety and the state must be the first that should condemn every single attack and assault on journalists or assault on freedom of expression.

Principles used by the OSCE, as far as media freedoms are concerned, are contained in certain number of duties and responsibilities, presented in the following publication: ["Duties and responsibilities of Participating – states: media freedoms, freedom of expression, free information flow 1975 – 2017"](#).<sup>1</sup>

All relevant decisions, in regard with media freedoms are collected in this publication. These decisions derived from the agreements signed between OSCE Participating states. In context of journalists' safety in BiH, I'd again like to emphasize the role, duties and responsibilities of other OSCE Participating states, also outlined in the OSCE [Guidebook on Journalists' Safety](#). In the first chapter of this Guidebook, the authors indicated that the safety of journalists was an urgent issue for OSCE participating States, because the scale of violence against journalists, including murders and attacks leading to serious injuries, has grown significantly over recent years with far-reaching and damaging effects adding the following:

- „All OSCE participating States are publicly committed to ensuring high standards of justice, and it is significant that in 1994, in the OSCE Budapest Summit Declaration, they condemned all attacks on journalists and pledged to hold those responsible for such attacks accountable.“
- „In 1997 OSCE participating States established a mechanism to promote this principle, the Office of the Representative on Freedom of the Media. The Representative on Freedom of the Media has worked since then with a mandate to concentrate on rapid response to serious non-compliance with OSCE principles and commitments by participating States in respect of freedom of expression and free media.“
- „As recently as in 2009, the OSCE Parliamentary Assembly, meeting in Vilnius, passed a Resolution urging participating States to investigate threats and acts of violence against journalists effectively, especially those aimed at intimidating journalists' independent reporting, and to prosecute those responsible.“

Guidebook also referred to professional standards in media work and self – regulating mechanisms and required journalists and media houses to conform their work to high professional standards at any moment given and also invited participating states to sustain from owning or controlling media organizations and

*In 21st century, any functional and democratic state must provide full guarantees for media freedoms and journalists' safety and the state must be the first that should condemn every single attack and assault on journalists or assault on freedom of expression.*

1 4th edition issued by the Office of OSCE representative for media freedoms.



*Participating states have been recommended to sustain from passing new provisions of criminal laws that may limit the scope of freedom of expression and participating states have also been suggested to focus on the implementation of new laws conformed to international standards regarding the protection of human rights.*

it also, provided recommendation that media self – regulation should be implemented through press council. Guidebook also highlighted measures required for development and building of trust and safety between the police authorities and media which has already been implemented in certain countries and I am proud to say that Bosnia and Herzegovina has been amongst these countries. We in the OSCE Mission to BiH have recently begun with the organization of several courses covering this issue and we sincerely hoped that these guidelines shall be supplemented by the end of the year.

The question of assaults on journalists in online sphere has been analyzed in special chapter of Guidebook. This chapter outlined that assaults on journalists, both male and female journalists and media staff, represented direct assault on freedom of expression and media liberties. Participating states have been recommended to sustain from passing new provisions of criminal laws that may limit the scope of freedom of expression and participating states have also been suggested to focus on the implementation of new laws conformed to international standards regarding the protection of human rights. Guidebook also directed a recommendation to media organizations urging them to pass guidelines regarding the identification of assaults and threats directed against journalists in online sphere.

Apart from above mentioned principles and other principles presented in the above mentioned publications, along with marking the World Press Freedom Day in 2018, OSCE participating states and OSCE Mission to BiH still expressed their concerns regarding to an increasing number of assaults on female journalists, described in yet another publication issued by the OSCE titled: [“Safety of female journalists in online sphere”](#), which also contained several recommendations on how to fight against this occurrence.

Bosnia and Herzegovina is a full member state of OSCE and it has duties and responsibilities to obey certain rules deriving from this membership.

I'd like to use this opportunity and on behalf of OSCE Mission to BiH to invite all political representatives and BiH public to show respect towards journalists and their efforts and intentions to provide all citizens of BiH with professional and accurate information regarding all problems considered as general public interests. Naturally, journalists at the same time, are obliged to fulfill and obey all professional standards bounding them to objective, unbiased and fact – based reporting. Having this in mind and in addition with similar projects, we shall, in cooperation with Press Council and Association of BiH Journalists, including also other institutions and individuals expressing interests in media freedoms and liberties, continue with organizing set of activities contributing the advancement of the situation concerning media freedoms and liberties in BiH.

Happy World Press Freedom Day to all of us.

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*The Institution of Ombudsman/Ombudsmen equally treats all parties that seek aid and professional help, but it is also completely aware of the significance that journalists have in a democratic society, and aware that journalists are, due to their public role, more exposed in public than others. Therefore, if there is a case of an assault on journalists, and if the assaulter or assaulters get away with this, we must be aware that this may increase the belief with general public that some crimes could remain intact and consequently it could make the public remain silent when they should raise their voices instead, it could also reduce public critics, diminish their attitudes etc and all because of their fear of eventual and undesired consequences.*

## The Institution of Human Rights Ombudsman/Ombudsmen of Bosnia and Herzegovina:

### Protection of journalists and media freedoms

By: Edin Ibrahimefendić

The Institution of Human Rights Ombudsman/Ombudsmen of Bosnia and Herzegovina (hereinafter The Institution of Ombudsman/Ombudsmen) was established in 1996 and during the period of last 20 years and its establishment, there have been many changes, including the joining of entity level Institutions of Ombudsman/Ombudsmen and enlarging their area of responsibilities, such as during the Law on Protection against Defamation, passed in 2009.

While taking the scope of work by the Institution of Ombudsman/Ombudsmen into serious analysis and consideration, in terms of the protection of journalists' rights, and including the safety aspect in particular, it is important to bear in mind that legal framework, under which the Institution of Ombudsman/Ombudsmen operates, and which is primarily defined by the Law on Ombudsman/Ombudsmen for Human rights of Bosnia and Herzegovina, the Law on Protection against Discrimination and partially, laws defining free access to information and other appointing to governing ruling positions, including ministries, governments and other appointing as well.

The Institution of Ombudsman/Ombudsmen is aware of journalists' special role, including other media staff, in establishing and developing a society dedicated to the rule of law and high degree of the protection of human rights and freedoms, with special focus on subjects and cases that may be considered and treated as assaults on journalists and other media workers.

The Institution of Ombudsman/Ombudsmen equally treats all parties that seek aid and professional help, but it is also completely aware of the significance that journalists have in a democratic society, and aware that journalists are, due to their public role, more exposed in public than others. Therefore, if there is a case of an assault on journalists, and if the assaulter or assaulters get away with this, we must be aware that this may increase the belief with general public that some crimes could remain intact and consequently it could make the public remain silent when they should raise their voices instead, it could also reduce public critics, diminish their attitudes etc and all because of their fear of eventual and undesired consequences. Hence, when we speak about fining, sanctions and punishing the assaulters on journalists, we must be familiar with the public perception and other effects. Failing to fine, sanction or punish the assaulter on journalists, inevitable leads to the reduction of democracy level in any society.

During the cases which could be considered as assaults on journalists, jeopardizing and endangering their safety or some other type of violation of their rights, including discriminatory behavior, the Institution of Ombudsman/Ombudsmen instigate and leads the investigation in these particular cases. While working on particular cases, they do not reveal the identity of journalists being subject to assault or assaults or reveal the identity journalists whose safe had been endangered. The Institution of Ombudsman/Ombudsmen demanded from official authorities, mostly of from the police, information regarding all actions taken, that is, has been following the proceedings.

On the other hand, in cases when journalists have been threatened or insulted in public areas (of course we are aware of the fact that the definition of public space or public area has been evolving on daily basis), or threatened or offended at work and if we could identify these cases as violation of rules related to discrimination ban or imposing discrimination and unequal position, the Institution of Ombudsman/Ombudsmen shall launch the investigation and respond in accordance with their competences.

We often hear many critics in public attempting to diminish the role of the Institution of Ombudsman/Ombudsmen, by outlining that its role is less important than the role of other institutions, because it only issues recommendations or releases its views and these are considered as optional and unbounded and therefore, they are considered as less important in comparison with, for instance, verdicts passed by local courts.





We consider these kinds of opinions and views rather wrong. The purpose of meanings and recommendations is to indicate the violation of rights of an individual or group and point out to those held responsible about the measures necessary in order to eliminate these violations since they, apart from admitting the occurrence of violation of rights of certain victims, also represent and display the nature and way of how these violations should be terminated. In any event, in cases where recommendations are not implemented and if court proceedings emerge, recommendations or opinions provided by the Institution of Ombudsman/Ombudsmen officials, may be used as evidence during the court process.

Naturally, as far as the safety of journalists is concerned, the Institution of Ombudsman/Ombudsmen have so far, (from the moment of case opening) whether according to journalist appeal or by appeal filed in by the authorized official (association or lawyer), tended to, pursuant to their competences, follow the work and proceedings by the official authorized bodies involved.

Institution of Ombudsman/Ombudsmen officials are aware of the fact that the number of cases they receive or number of cases they open each year (and which relates to the question of journalists' safety), is relatively small (during the past period until present, this number ranges between few tens of cases on an annual level), in comparison with the range of this specific problem (issue) and the outspread of this occurrence, they have decided to be more active as far as this particular issue is concerned.

Accordingly, in 2017 the Institution of Ombudsman/Ombudsmen issued a Special report on the positions and cases of threats against journalists in Bosnia and Herzegovina and they have also, through their work, established regular contacts with associations representing journalists and media staff in order to get closer to journalists.

One of the most frequent questions that we face today (when we speak about the safety of journalists) is certainly the prevalence of these cases, percentage, and specificity etc.

Sometimes, the information does not reflect the real and actual situation for many reasons.

The first reason is surely the fact that particular number of endangering journalists' safety cases is not reported and thus remains unregistered officially.

Still, continual work and actions taken by Free Media Help Line, including other platforms gathering and collecting relevant information and data in Bosnia and Herzegovina, may provide us with clearer picture, as far as this specific issue is concerned

At the end, when we talk about journalists' safety, we cannot focus on the number of assaults against journalists alone, in terms of creating a conception or idea regarding the acceptable or unacceptable number of assaults. Every single assault and every endangering of journalists' safety requires serious approach and attention. Also, regardless to eventual sanctions that may be imposed in these cases (against those held responsible), it is significant and important that the society condemns such assaults and supports journalists in their work.

## Impressum

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