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## Editorial

**Criminal Laws and protection of journalists: Can one hate and assault others without any consequences?**



According to many experts, Bosnia and Herzegovina is a country with some of the best possible written laws in Europe and wider, as experts often proudly like to claim. Despite the fact that we lack behind in many segments, in comparison with European Union member states, due to a comprehensive and long – lasting reform of our judiciary system (supported widely by the international community), most of our laws are in conformance with, what we often refer to, “European values”. The problem of course is the fact that we live in the state where laws are not applicable in practice and are generally not obeyed either, and this even includes the verdicts passed by the constitutional courts, so as a result, not even detailed and precise laws can be implemented in practice and reality. This is the case with hate speech occurrence in BiH.

According to Criminal Law in BiH, a person could be sentenced with three months up to three years of prison for spreading and sharing ethnic and religious hate, while the Entities and Brcko District laws define a five years sentence for identical crime committed. There has been a limited number of probations or conditional discharges passed by the local BiH courts based on instigating or encouraging ethnic, religious or racial intolerance on the internet. No person has so far been sued for spreading or sharing hate speech – especially when this kind of speech was targeted and aimed against journalists, since they have always been one of the primary “targets”. An exception to the above mentioned can be seen in the case of the verdict passed by the Municipal Court of Visoko from 2016, where Elvin Krijestorac was sentenced to one year for making threats, endangering safety and spreading hate speech all aimed and directed against Irma Antonija Plavcic, a local blogger. Legal experts claimed that the reason for having very small and limited number of court proceedings is because the law does not precisely define and determine the term hate speech, so consequently a limited number of people dare to go into the “misty” zone of court proceedings, as far as this particular area is concerned.



## Events

5. September 2019

The Mapiraj.ba Platform: For the first time in BiH, the White Paper on Human Rights

4. September 2019

Spokesman - government employee, journalist and editor

28. August 2019

Minister Katica: The MUP of KS will be involved in the project of the BH Journalists Association

22. August 2019

Unique methodology for monitoring attacks against journalists and court proceedings against the media

21. August 2019

Damir Arnaut, member of the BH Parliament: Make it difficult for politicians to sue journalists for defamation

17. July 2019

Awarded the International Award for freedom of the media

## Media on media

26 August 2019

One year after the attempted murder of journalist Vladimir Kovacevic, motive and commissioners remain unknown

23 August 2019

It's time to move from "Opinions to/Protection of Media Freedoms and-journalists

## Vacancies

Video Recorder / Editor (m / f)

Application deadline: 09/09/2019

[Details](#)

Audio-video and light technician (m / f)

Application deadline: 7/7/2019.

[Details](#)

Nasa stranka, a local political party that, along with their political coalition parties, formed the actual government in Sarajevo Canton, appointed Mr. Kristina Ljevak, as non-political candidate and expert in media field, to the position of acting director of Sarajevo Canton Television (Public Enterprise). Ever since her appointing to this particular position, hate speech directed against Mr. Kristina Ljevak, has not stopped from appearing in media and public.

Kristina Ljevak expresses her views in this E – Bulletin edition regarding the lynch she has been going through and hate speech that even her female workmates had to go through as this hate speech that has never been sanctioned by the official authorities.

As far as the question of the protection of journalists is concerned, including both verbal and physical assaults and attacks, the initiatives for criminal law amendments are recent and actual in the Federation of BiH and the Republic of Srpska as well. This E-Bulletin edition shall post the text about these initiatives according to both experts' and politicians' views.

We shall also present the initiatives regarding the amendments of criminal laws in BiH, Entities and Brcko District that Association of BiH Journalists had addressed to official authorities and political party representatives.

Faruk Durmisevic, federal TV journalist reminds us about some of most familiar cases of assaults and attacks against journalists during the last twelve months period in Bosnia and Herzegovina in his interview for this E – Bulletin edition. He also remarks about the outcomes of these cases and stories, including results that eventual criminal law amendments may produce.

We also talked with Vladimir Kovacevic, BN TV journalist who was brutally beaten and this case was legally treated as murder attempt and as a result District Court of Banja Luka sentenced Marko Colic to four years in prison. Nedeljko Dukic, the second suspect is still on the run and the authorities are still looking for him; however it is rather suspicious that true motifs of this brutal attack have not been detected yet, including the principal persons who had ordered the attack on Mr. Kovacevic.

In this E – Bulletin edition, the provisions of the existing criminal laws have also been analyzed by Senad Pizovic, local lawyer. Mr. Pizovic explains why the protection of media staff, in terms of criminal and legal framework boundaries, represents and should be considered as general and genuine public interest. With the intention to acquire legal interpretation, as far as the questions of BiH criminal laws and the protection of journalists are concerned, we have contacted around ten local judges and lawyers and asked them to express their own opinions in regard with this issue. Interestingly enough, not one of them was willing to write down their own views about this rather sensitive issue and they justified their neglecting by stating that they were "not familiar enough with this particular subject" and that they only had experience with journalists during law proceedings. This perhaps best illustrates that it is time for some changes in this field, including the legislation, prosecutorial and court practice.

*By: Maja Radević*



## Hate is always the same, it is just about tiny differences in style and scope of illiterateness

By: Kristina Ljevak

My female workmates and colleagues have often been described as sluts, second – hand woman and some politicians wanted “to swim in their blue eyes”. They were also described as whores and foreign mercenaries. All professional references they had were neglected and most of them (and serious war – time reporting experience) and the fact that they had been dealing with some of the biggest Bosnian and Herzegovinian political, criminal (if these two need to be separated at all) and other countless affairs; the fact that they often had to get up and get changed from pajamas into cloths and report live from Belgrade after Radovan Karadzic was arrested; that they had to follow not only “local”, but also other types of combats, battles and live wars. When they managed to advance their career, some people would often bring their career progress in connection with love affairs with certain male persons, discrediting thus their own success. After all, what is woman with guts, (and I shall not use other term) unless she is supported by men in the Balkan region?

No person has even been prosecuted for hate speech, encouraged, instigated open lynch and defamations/libeling, since all of these had been directed and addressed against my female colleagues and editors.

### Woman should (not) be in journalism

This time I shall particularly write down about women, but I shall not forget the fact that even men working in the field of journalism, (and I refer to those men with their own dignity); men working in this misfortunate country where we vastly wrapped up the profession of journalism into sticky mud, have never found easy to work in this specific branch and area. However, it appears much easier to through the same mud on women instead. Woman should not get involved in journalism in the first place, including public scene or move away from any other place farther from her kitchen ovens and small kids. Recently, our colleague Dalija Hasanbegovic – Konakovic was criticized for having obtained a diploma with Roman Catholic memo inserted on top of it. Unless I am mistaken, she had, after getting the “non – believer” diploma, managed to acquire many other diplomas on international levels. They would most probably be happier should she have never be awarded with any diploma; and perhaps she should have stayed close to the above mentioned kitchen oven, work on tiny embroidery, instead of being most recognized face on one of the most prestigious TV house in the region. Additional problem, as far as Dalija Hasanbegovic – Konakovic is concerned, was the perception others have about her, as being legal wife to one of the local politicians where she should (in their own opinion) be deprived of rights to act as solely independent woman and her right to be valued through her personal and professional results; shortly to be a person by all means instead of merely being a wife.

I have been away from the sludge for nearly two decades when they managed to put me there, as oppose to my female colleagues, that is, politically – biased female reporters. I simply loved the art but I knew that I had lacked in discipline to become a solo pianist career and that my temper could only fit into the dynamics of journalism after which I managed to combine two loves into a single one; journalist who would follow art events and venues. And it was very nice and I somehow felt protected in this field. I would interview Jergovic, Hemon, deceased Predrag Lucic or Borka Pavicevic; I would have a chat with Boro Cosic about the philosophy of human existence; make a journey to Cannes or Venice evoking happy times etc. Every meet-

*“The lynch I have been experiencing and that derives from right – wing media houses and individuals that are also belong to right – wing political parties, had initially been created based on my name and my engagement and activism within the LGBT community”*

## Free Media Help Line

### Actual cases:

#### 1. Nermin Demirovic, journalist Dnevni Avaz, Threats / Pressures

- In inbox facebook messenger from Alen Tesic's foreigners were instructed threats against the Dnevni Avaz journalist Nermin Demirovic. The line for help reporters sent a memo Centar Police Station, Sarajevo to examine reported threats. Ministry of Internal Affairs Sarajevo Canton has delivered it to us information that they have submitted the item Sarajevo Cantonal Prosecutor's Office to act. We sent an inquiry Sarajevo Cantonal Prosecutor's Office (08/26/2019.) Reply of KT Sarajevo that the item was formed under T09 0 KTA 0146197 19 and yes no final prosecution has yet been made decision (09/02/2019)

#### 2. Meliha Smajkić, newcomer Dnevni Avaz, Physical Assault

-While photographing the butcher The "Husic" to which the explosive was thrown device, Melihi reporters Smajkic approached the butcher shop and with a twist of his hand he forced that delete photos. Help line she referred the reporters appearances by members of the MNC MUP who has publicly stated that there is no need to investigate attacks on journalists. The Mostar Police Department is us informed that the attacker was Merdanis Husic wrote a misdemeanor order to disturb public order and peace and was fined u amounting to 400,00 KM (18.06.2019.) The office of the Commissar of the Croatian Ministry of Internal Affairs is us informed that he was against police officer of the Ministry of Internal Affairs of HNK initiated disciplinary proceedings in accordance applicable legal provisions (06.27.2019.)

#### 3. Avdo Avdić, Journalist Magazine Journal, Political pressures

- Russian Ambassador to BiH Petar Ivancov is a guest on N1 television stated that journalist Avdo Avdić and magazine magazine with its texts interfere in BiH's internal politics. Commenting on the "hijacking" affair in which the President participated HJPC Milan Tegelti, there is nothing controversial. Board of Directors of the Association BHN issued a press release in which he seeks a public apology Russian ambassador to the Journal press

ing with people that had made brilliant achievements in the field of art would simply make everyone ennobled. You simply get to learn something every time.

In 2008 I began with more serious activism covering the issue of LGBT community. And this also was, despite the battle I had to accept and take, some kind of safe space, surrounding with people with whom share same views, cognition that you are, if nothing else, indeed on the right side (that you are doing good things for generations to come). Taking into consideration that those who have been assaulting LGBT community members had most probably never even been to theatre, let alone watched the TV program covering cultural affairs; I was simply not in their focus at the time. We were far away, as we are even today, and I was (as I am now) the very same person before they had decided to appoint me to the position of an acting director of Sarajevo Canton Public Television. The trouble was that I have no longer been writing about books that public should read or write about theatre plays that public should go and watch; instead I announced the engagement of an independent audit commission that should examine the regularity of business operations during the time of those who had been running this TV house and those that are now political opposition.

### Target placed on the forehead

The lynch I have been experiencing and that derives from right – wing media houses and individuals that are also belong to right – wing political parties, had initially been created based on my name and my engagement and activism within the LGBT community. They only used my name (ethnic origin) as "smoked screen" fearing that they may no longer use political party microphone, which was exactly what they used the TV house (that I now run) for. LGBT activism has also only been used to cover their homophobia that they surely cherish, and yet another opportunity to outline and highlight how they would isolate every single entity that is different from what they consider natural and right. The allegations that I am "gay activist" was posted in certain media source (which should at least not be permitted in the 21st Century) and this allegation was created with the purpose of creating an idea whether I was "just" an activist or a person that prefers same sex or gender. We all know that once you put any person in the LGBT context, you basically draw a target on her/his forehead.

The above mentioned element were sufficient enough for the first wave of lynch, although they simply had to carry on and continue. The purpose of it me being discredited, including the TV station and accordingly the actual Sarajevo Canton governing authorities, that is, the Government in particular and it was part of subversion they have been announcing for September. I should be highly discredited and diminished by September, so no person after me would even think about accepting the managing position, instead of being a puppet to



recent ruling political party.

Bearing in mind that I only paid serious attention to my professional career in my life, so far making no compromises at the cost of my own existential jeopardizing (in what can be seen as my ten years engagement), they simply could not find skeleton in my closet. Therefore, their next stop was my ethnic origin and the question of all questions: „Where were you in 1992?“ I spent the time during this particular period in my family house in Ilidza and we could not have removed the house from this area by mounting wheels on it at the time, though this fact does not disregard the fact that I have been considered chetnik. This is why a friend of mine suggested that I should write a book with remarkable title “I was 12 when I joined chetniks”. They did not even spare my family talking about the period when my mother worked at the Clinical center at the University of Sarajevo. They must have thought that she should have left her kid (me) in Ilidza because every kid has his/her own destiny. Nowadays, I’ve noticed that they decided to Google the following subject “Kristina Ljevak - husband” – and I therefore conclude that he is going to be their next target or they are just checking if there were any male person in my life, or my heart can only be shared with another female person.

### **Why we must not remain silent**

When I try to use humor as my defensive weapon in order to protect myself from public cancer that exists in BiH society, I often say that I feel as being on top of the CNN managing level and that I would, after going through all this, be able to run for the highest possible position and function in GRAS.

I intentionally do not release and post threatening messages that I receive in my inbox, because this is not my style. I hope I will have enough time to report all these threatening messages to local police authorities. Although I reckon that contents posted and published in local media and web site houses were sufficient enough for police officials. The hate was always the same it is just about tiny differences in style and scope of illiterateness. I have always been saying in other occasions that we are not all build from the same “material” and that people react in different ways to identical situations.

Recently, my colleague with a long lasting experience in his profession told me that he could not recall the case (like mine) and he could not remember that anyone from the field of journalist had been exposed to hate speech with such an intensive level. My intention is certainly to forget the evil, regardless to whom it may be directed. The experience that I have been going through I consider as the opportunity to get familiar with my own strength being aware that the person with more weak personality and dignity would most probably been unable to cope and endure all of this and would eventually end up in neuropsychiatric clinic as their patient. Therefore, because of this (and not because of me it is important to amend and change the law and accordingly legally impose punishments, fines and sanctions against all those who threaten journalist or journalists because threats against journalists should be treated as threats directed against officials (e.g. the police) and disallow anyone form even thinking that they might be able to “enjoy swimming” in our blue eyes or to address us with: “Look at your head?” We must not be silent, we must not stop reacting accepting this that this is the only way, we must not leave journalism or leave our country, because the other (evil side) side is actually hoping for this to happen and our duty is to stop them. My generation was misfortunate and had to spent time in war; they were and still are in transition and this limbo represents where we are at moment. Due to some future generations, we feel obliged to return the dignity to our processual occupation and based on this all to bring those to minimum level since they tend to teach us how to behave.



## When tyrants target “the seventh estate”

By: Faruk Durmišević

Members of “the seventh estate” in Bosnia and Herzegovina are often targeted by tyrants, despots and other assaulters often ending up with physical attacks as the outcome in most cases. Painful experience that clearly displays who the true “powerful force” is and upon whom this force is used was perhaps best illustrated in the case of Vladimir Kovacevic, BN TV local journalist, who had been brutally and physically attacked and beaten.

A year after this brutal attack, this case still evokes shock and disbelief particularly among journalist community members, taking into consideration the fact that Mr. Kovacevic was beaten with metal rods and stick, hit in his head and he was extremely lucky to be alive after all. Justice was partially done because Marko Colic from Banja Luka was recently sentenced to four years in prison for murder attempt against Mr. Kovacevic, BN TV journalist. However, the question whether there were principal persons who had ordered this brutal attack, still remains unsolved and this mystery is exactly what Mr. Kovacevic has been wandering as well.

### Victim as the accused

While we talk about everything that he had to go through during last 12 months period, he tells me that he feels satisfied because the court proceeding finally ended because, according to his opinion, during the court proceeding, he did feel as the accused person, instead of being treated as the victim of this brutal attack. According to him, this whole process seemed as exhausting “rack”.

“I only wished to see this court proceeding finally over. This whole process was very hard for me because I did not feel comfortable entering the court room several times and attend court proceedings because I had to go through this trauma all over again and experience the same incidents several times. Everything seemed very hard for me and sometimes it even felt harder than the attack itself, so I am glad it is over now”, Mr. Kovacevic says with a relief.



Vladimir Kovačević

After being asked why he had been attacked in the first place and why was he picked by Marko Colic as his target, Mr. Kovacevic did not know what to answer.

“Colic had no personal motif to have me murdered (which includes his associate as well); instead there was someone else hiding behind this order. On one hand, I believe that the forthcoming investigation will soon identify and release the identity of a person who gave the order, but on the other hand, I also doubt that the investigation shall

*Vladimir Kovacevic: “I felt like it was me on the defendant’s bench, instead of feeling like the victim. I just wanted to the trial finally ends “*

be pointed to this particular direction”, claims Mr. Kovacevic.

BiH Journalists have for a significant period of time, been outlining and highlighting the need for having better legal protection for journalists allowing and enabling them to do their work freely and undisturbed by any means. The attack on Mr. Kovacevic was the trigger for his journalist workmates and colleagues to demand amendments of the Criminal law from the members of the parliament of the Republic of Srpska (Peoples Assembly), so any attack and assault against journalists could be legally treated as the attack and assault against the official authority.

“We expect from the governing official authorities of the Republic of Srpska to arrest all attackers on journalists. We also expect newly appointed members of the parliament to amend Criminal Law of the Republic of Srpska during their first assembly meeting session and urgently as well, so the attackers on journalists would be even more punished than it is the case at present. New Criminal law should contain new provision where any assault and attack on media staff would be treated and legally considered equally as the assault



Marko Čolić

*Justice was partially done because Marko Colic from Banja Luka was recently sentenced to four years in prison for murder attempt against Mr. Kovacevic, BN TV journalist. However, the question whether there were principal persons who had ordered this brutal attack, still remains unsolved and this mystery is exactly what Mr. Kovacevic has been wandering as well.*

and attack on official authority and this would result in greater fines for assaulters and attackers and cases would consequently be resolved much quicker than it is the case at present. Most parties whose members are now members of the People’s Assembly (Parliament) of the Republic of Srpska had promised that they would make these amendments during their pre – election campaign. Opposition political parties had done this earlier, and SNSD did it immediately after the attack on Mr. Vladimir Kovacevic, said Sinisa Vukelic, president of Banja Luka journalist club in November 2018

The situation in the other part of our country is not any better, as far as the protection of journalists is concerned. In the Federation of Bosnia and Herzegovina, according to interoperation and view of Bakir Izetbegovic, the leader of the Party of Democratic Action (SDA), the assault on the cameraman was actually “the assault on his recording camera”, which has already happened to Adi Kebo, a journalist of Zurnal magazine who had been video recording the factory premises owned by Huso Cesir, president of the Municipal Council of SDA in the Municipality of Novi Grad Sarajevo.

“During last year we were targets countless times by both judiciary institutions and political parties and their representatives. We have reacted and pointed out the necessity of imposing serious actions by the official institutions in processing and sanctioning the perpetrators and assaulters on journalists. The result of their neglecting and insufficient and serious approach to this growing an increasing problem and issue, resulted in an increasing number of assaults on journalists and media representatives and open obstruction of media representatives during their reporting”, stated Eldin Karic, (executive director of the Center for Media Development and Analysis), after the assault on Adi Kebo.

After this incident, the Parliament of the Federation of BiH accepted the initiative by the members of the SDP (Social Democratic Party) clearly stating that assaults and attacks on journalists shall from then on be considered and legally treated as assaults and attacks on official authorities. The path from the initiative itself to criminal law amendments is long, but the question is whether the status of “official authorities” for journalists could represent a “double jeopardy”, that is, to pass the message to general public that journalists must have a “special treatment”, so they could not be obstructed and do their work freely. Besides, the question is to what extent the recommended initiatives would be implemented through Entity criminal laws, taking into consideration that journalists (by the nature of their work) perform



Huso Ćesir

their duties throughout BiH, regardless where their main and head offices are. Does this mean that Criminal law should primarily and firstly be regulated on the state level, so it could treat assaults and attacks on journalists accordingly and then pass this new legislation onto lower governing levels?

The question is what exactly shall be comprehended under the “attack on journalists” term, because here we do not refer to physical assaults only. Countless number of journalists in BiH are exposed to verbal assaults on daily basis and this does indeed represent one of the leading factors that creates stressful situations, nervousness, anxiety etc., and according to medical experts, these factors also represent the trigger causing other health and medical problems due to which the journalists in BiH unfortunately pass away at very young age.

Unfortunately, verbal assaults have practically become usual “weapon” of all those that are unsatisfied with journalist reports and I personally was exposed to identical situation. Dissatisfaction of elected and appointed officials is often manifested by phone calls to editing offices, that is, phone calls directed to editors, including the addressing of the unsatisfied persons to all journalists with often very unpleasant voice, threats and shouting as well. Denials and other types of confuting the posted or published quotes deriving from journalists’ reports and articles (texts) have, for most local figures coming from all segments of public lives, been rather unknown term. Their “arguments” are personally demonstrated followed by threatening and other types of pressure imposed against journalists, their work, as well as other media staff.

### **Chauvinist comments in social media**

One of the most appropriate places for exposing, releasing and posting professional and personal frustrations, including encouraging and instigating hate speech directed against journalists are definitely social media sources. This represents the worst possible way and Arijana Saracevic – Helac, our female colleague and regional journalist had to learn this hard way and experience it (along with her colleague Sanela Prasovic) on her own skin at the end of 2017 when one of the employees at the Presidency of BiH referred to these two ladies (on his face book profile) as to a “second hand and used staff”. Apart from condemning, mostly coming from journalist community and short – lasting public interest in terms of various comments as a reflection to this case, there was no official reaction and sanctions imposed by the officials and the above mentioned person engaged with the Presidency cabinet (“official authority”) continue to perform his work undisturbedly as if nothing had happened. And my female colleagues are even nowadays targets to chauvinist, horrible and malicious comments posted by male population and these comments often refer to

*We journalists are often not even aware that the job we do is actually very risky and dangerous because it is not easy to defend ourselves from different ways of “exposing dissatisfaction”, which is what we have demonstrated in this text as well. We still cannot rely on adequate legal protection*



their physical appearance.

We journalists are often not even aware that the job we do is actually very risky and dangerous because it is not easy to defend ourselves from different ways of “exposing dissatisfaction”, which is what we have demonstrated in this text as well. We still cannot rely on adequate legal protection, because in the system of twisted reality that we live in, journalists are often targets of the judiciary system, instead of being protected by the same system.

Finally, the question that should make us all think is: “If tomorrow afternoon somebody ends up being dead, would we as society finally realize the seriousness of this situation?”



## Protection of media representatives in relation with criminal laws represent general public interest

By: *Senad Pizović*

“The press should share the information and any idea about political issues and questions, as well other themes and topics that represent general public interest. Press is not only obliged to share the information, but the public has the right to receive these information”<sup>1</sup>

The question is to what extent our society has provided the conditions for media staff and representatives to perform their duties and tasks, based to the above mentioned and quoted decision brought by the European Court for Human Rights, without being obstructed and without imposed pressure and stress.

Best possible answer to this question is the fact that in criminal laws of BiH (Entity, state and Brcko District level) do not even recognize media representatives as professional occupation important to general public and do not recognize media reporting as professional occupation that should be protected. Because of this fact we have had awkward situations such as: “I will go through your body” (threats against the cameraman of local TV house in 2009) or threats like: „What the f... are your recording in the f...n public space” (threats against cameraman followed by few punches directed against local web site cameraman in 2019). There were many cases of physical assaults and attacks against media representatives, however it was only the most noted cases that managed to be released in public and most cases often concluded with “much ado about nothing”, as the old saying quotes.

Media representatives have been primary targets and their safety has been endangered and jeopardized, because it is the media houses that (by applying their investigative reporting) managed to detect and discover anomalies in our society. These kind of anomalies and discrepancies are outlined as criminal offences only after they are released and posted in media. In the situation where we currently are, that is, the situation where media representatives have absolutely no special protection in relation with criminal laws in BiH, it appears inevitable that the persons that have been subject to media reporting shall at least demonstrate violence towards media reporters, that is, they shall most probably find socially unacceptable way to create and instigate conflict with media representatives.

Due to all of the above mentioned, it is urgently necessary and required to pass the amendments of criminal laws in BiH so media representatives could have special treatment from the legal point of view. There have been agitations in public, suggesting and recommending that media representatives should be legally treated as official authorities. For the sake of reminding, the official authority status would result in sharper punishments, sanctions and fines in cases of assaults or

*In the situation where we currently are, where media representatives have absolutely no special protection in relation with criminal laws in BiH, it appears inevitable that the persons that have been subject to media reporting shall at least demonstrate violence towards media reporters*

attacks on media representatives, but the question is would this solution be efficient in terms of preventing such incidents, that is, would ordinary citizen be able to comprehend the meaning of an official authority. Therefore, the idea is that, apart from official authority status, the amendments of criminal law in BiH would define and regard assaults and attacks on journalist as special crimes. This special criminal offence would define that, for instance, any person that demonstrates rough detracting, including insulting and offending media representatives, directing threats towards media representative, his/her family members, relatives and close persons, during their reporting on regular basis, and any person that injures media representative during their work shall be fined with at least one year in prison.

By introducing special criminal offence as described above, general public would soon realize that media representatives are finally protected and this would serve as preventive method from potential assaults and attacks on media representatives.

Relying on referent law, Republic of Serbia had in 2009 passed amendments of Criminal Legislation of the Republic of Serbia and media professionals were thus categorized as professional workers with legal provisions legally recognizing media reporting as professional occupation with public interest status. In other terms, they were verified as official authorities<sup>2</sup>. The Criminal Law in the Republic of Croatia also defines criminal offence of violating the right to freedom of expression and expression of thoughts and opinions<sup>3</sup>, and this law specially treats any threats directed against journalists and the law also specifies punishments and fines for this kind of violation against perpetrators with sentence from six months to 5 years in prison<sup>4</sup>.

Public interest also requires the amendments of criminal laws in BiH in order to allow and enable media representatives to perform their duties in non-obstructive way, undisturbed and uninterrupted and by applying fundamental common sense and logic it would not be possible to find opportunistic opinions why media representatives should seek their protection through criminal laws in BiH. This kind of protection shall contribute in better reporting, regarding events and venues of general public interest, because journalists would thus not be obstructed and would be able to do their work without imposed pressure and stress, including fear that emerges as a result of revenge of those that are subject to journalists' reporting. The question is why does it take so long to pass these amendments as far as BiH legislation is concerned?

<sup>1</sup>European Court of Human rights, *Centro Europe 7 s.r.l. and Di Stefano vs Italy* (Application no. 38433/19 item 131), *Handyside vs United Kingdom* (Application no. 5493/76)

<sup>2</sup>Article 138. Item 3. Criminal Law of the Republic of Serbia

<sup>3</sup>Article 127. Criminal Law of the Republic of Croatia

<sup>4</sup>Article 139. Item 3. Criminal Law of the Republic of Croatia

### **What do experts and politicians say: From recommendations to sharper punishments to “what is the point of all of this if you get beaten”**

In April this year, members of the Parliament of the Federation of BiH accepted the initiative regarding the Amendments of the Criminal Law of the Federation of BiH through legal provisions that would protect journalists whilst doing and performing their duties and work.

This initiative was launched by Social Democratic Party Representative Club members (SDP) and immediate cause for launching this initiative was the attack by Huso Cesir, reputable member of the Party of Democratic Action (SDA) against Adi Kebo, male journalist and cameraman working for Zurnal (local online magazine).

SDP initiative in the Parliament of the Federation of BiH was supported by 54 out of 74 parliament members. It is interesting that secret voting was initially held (electronic voting system), with only 41



*“With current initiatives in the FBiH and RS for attacking journalists prison sentences were suggested from three months to five years, depending on the gravity of the offense”*

members supporting the initiative at first. It was only after the request demanded by the Social Democratic Party Representative Club members (SDP) for individual voting, that they somehow managed to gather and collect the majority of votes in the Parliament, not including parliament members of SDA and HDZ political parties.

“The Amendments shall treat assaults and attacks on journalists uniquely and identically as assaults and attacks on public health workers, that is, the Amendments shall get into the same segment of Criminal Law. They recommended concrete prison sentences lasting from three months to five years, depending on the scope of criminal offence”, Senaid Begic, (one of the initiators of the Initiative) said.

The Initiative was supported by Democratic Front (DF), SBB and Nasa Stranka (Our Party) who particularly emphasized the importance of passing these Amendments.

“These Amendments are important, particularly in relation with the society that we live in, where public expression and journalists’ work have become degraded. Journalists should be able to have access to information from numerous sources and should communicate with all people and they should thus be protected, just as any other official authorities. Of course, Nasa Stranka shall support these Amendments and this is the situation where we all should support journalists unconditionally”, Mirsad Camdzic, (member of Nasa Stranka) outlined.

Ismet Omanovic, SDA member said for “Oslobodjenje” (daily newspaper) that this kind of law “should perhaps be subject to wider public debate and should involve lawyers, solicitors, legal experts, but also media representatives”. He added that media freedom is “the issue that absolutely deserves thorough attention” and that this freedom has no alternative.

Despite principle support by all parliamentary political parties, everything has, for the time being, remained as mere initiative. The situation is similar in the Republic of Srpska, where the framework of amendments of the Criminal Law was directed to parliamentary procedure, although we still have to wait for parliament members to express their views in regard with this issue.

Drasko Stanivukovic, member of Party of Political Progress (PDP) claimed that the team of legal experts from this party managed to define legal provisions that media community had been insisting on (in the Republic of Srpska) and they related to freedoms and journalists’ rights.

According to these provisions, anyone jeopardizing or endangering the safety of journalists by directing threats, shall be fined financially

or sentenced up to three years in prison, and in case of criminal offence against journalist, in respect with journalists doing their work, the perpetrator/s shall be punished with six months up to five years prison sentence.

“The purpose of this issue is to equalize assaults/attacks on journalists with assaults/attacks on official authorities. It is clear that journalists are not legally official authorities, so this is why we did not change the chapter covering the assaults/attacks on official authorities; instead we only altered the part of criminal chapter covering the issue of freedom of civil rights”, explained Stanivukovic.



Media professionals and associations dealing with the protection of journalists' rights in BiH principally supported the above mentioned initiatives.

Milorad Labus, President of the Association of Journalists in the Republic of Srpska claimed that journalists have often been presented in BiH public as crucial culprits and villains causing poor and insufficient work of many state institutions, agencies, offices Etc....

“I believe that if assaults and attacks on journalists were treated as assaults and attacks on official authorities that there would be no such undesired and unwanted scenes and that journalists should accordingly be recognized as persons that represent the public consciousness and persons that must be there to do their work”, Labus reckons.

Ljiljana Zurovac, executive director of the Press Council of BiH thinks that it would be necessary to protect journalists due to an increasing number of assaults and attacks on journalists.

“It is necessary to conduct legal procedures against all persons that assault and attack journalists and obstruct them from doing their work on the field and in institutions.

Recently, we have witnessed countless assaults and attacks by different people against journalists while they had been collecting and getting information; while they had been taking photos or video recording in public areas. Many people do not understand that journalism and reporting represents general public interest”, Zurovac outlined during the interview for “Oslobodjenje” (local newspaper).

While Zurovac believes that criminal law amendments would improve the situation on the field, as far as the protection of journalists is concerned during their filed work, not everyone agreed with her.

During the interview for Radio Free Europe, Eldin Karic, editor at Zurnal (local online magazine), emphasized these initiatives had been completely unnecessary.

“I cannot understand why someone would be given a special status and treatment. Nobody has the right to assault or attack them, regardless of who they are, what they do or what kind of status they have”, Karic said.

Few legal experts that we spoke with shared similar opinion, Although they did not want to talk about this issue officially, some of our interviewers believed that the law by itself would not impose significant changes in reality and practice, as long as the politicians themselves (and other public figures) do not change their personal views and attitudes towards journalists, since they often degrade and publically humiliate journalists.

*Drasko Stanivukovic:  
“The purpose of this issue is to equalize assaults/attacks on journalists with assaults/attacks on official authorities. It is clear that journalists are not legally official authorities, so this is why we did not change the chapter covering the assaults/attacks on official authorities; instead we only altered the part of criminal chapter covering the issue of freedom of civil rights”*

## WHAT KIND OF CHANGES CAN AMENDMENTS OF CRIMINAL LAW IMPOSE

According to information provided by the Association of BiH journalists, only 27% of cases had been resolved in BiH courts to the benefit of journalists. We registered 121 criminal offence for the period between 2012 and 2018.



Members of the Board of Directors of the BH Journalists Association, during their regular VI meeting session, held on 11 May 2019 in Sarajevo, supported the recommendations regarding the Amendments of the Criminal Law of the Federation of BiH, particularly Article 183 – Endangering the safety and Article 358 – Obstructing official authority in doing their official work, including the added Article, that is, Article 358a – Obstructing journalists from performing their professional duty. During this session, participants supported the Amendments of the Criminal Law of BiH, Criminal Law of Brcko District and Criminal Law of the Republic of Srpska. Marko Divkovic, president of the Association of BiH

Journalists, Sinisa Vukelic, President of Banja Luka journalists club and Faruk Kajtaz, president of Mostar Journalists club, during the press conference that was held on the same day, presented the media with the idea and recommendations in regard with the above mentioned amendments of criminal laws at the state level, including Entity levels (Federation of BiH, Republic of Srpska and Brcko District).

Association of BiH Journalists forwarded these recommendations to all official institutions, local governments and parliaments, including the People's Assembly of the Republic of Srpska and also to all political parties in Bosnia and Herzegovina.

## NIVES JUKIĆ, THE INSTITUTION OF HUMAN RIGHTS OMBUDSMAN/OMBUDSMEN OF BIH

### Advance the existing Legal Framework, but also Define journalists scope of work

Do you believe that amendments of Criminal Laws in BiH are necessary in order to provide more efficient criminal – based protection of journalists – as victims of miscellaneous criminal offences?

“No doubt that it is necessary to advance the existing legal framework with the purpose of increasing the level of journalists’ protection. Let me remind you that in 2017, the Institution of Human Rights Ombudsman/Ombudsmen of BiH had in its special report (regarding the position of journalists and threats directed against them), exposed several recommendations that related to this specific field. One of those recommendations included the following:” It is necessary to take



into consideration that assaults and attacks on journalists shall be defined within criminal laws as special criminal offence or as severe criminal assaults/attacks against official authorities in performing their official duty. Assaults/attacks on journalists shall be taken into consideration and defined within legal laws pursuant to public peace and order as special offence of public peace and order...”

What is your opinion and view regarding actual initiatives in the Federation of BiH and Republic of Srpska requesting that assaults and attacks on journalists should be treated as assaults and attacks on official authorities?

- I supported this initiative, but I believe that journalists' scope of work should also be defined, that is, it must be clear exactly when and to what extent we can confirm the obstruction of journalists' work or under what circumstances are journalists assaulted or attacked

## Impressum

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