

# Investigations and processing of attacks on journalists and media workers in Bosnia and Herzegovina

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## Introduction

November 2 is celebrated all over the world as International Day to End Impunity for Crimes against Journalists, and in Bosnia and Herzegovina that date is greeted with an unchanged situation compared to previous years. Frequent threats to media freedoms, pressures, threats and open attacks on journalists and other media workers are present in the daily life of Bosnia and Herzegovina, and concrete progress hasn't been made regarding the adequate processing, sanctioning or prevention of these phenomena.

Although journalists, media workers and professional associations warned of the need for a more adequate solution to the legislative framework, which would make the prosecution of those responsible for threats and attacks on journalists more efficient, there was no reaction from the competent legislatures. At the same time, omissions in compliance with existing laws were pointed out, and numerous threats and attacks on journalists and media workers went unpunished.

Representatives of the profession are particularly concerned about the increasing incidence of online violence, and the growing number of threats that journalists receive through social networks and in comments on Internet portals. The perpetrators of such threats generally go unpunished.

According to the **Organization for Security and Co-operation in Europe (OSCE)** 2012 Journalists' Safety Guidebook, national governments are called on to take the necessary steps to protect the physical safety and security of journalists who face threats of violence. That obligation calls for coordinated and consistent State policies and practices.

- States must ensure that their laws, administrative and judicial systems protect and promote freedom of expression as well as protect the lives and professional rights of journalists. Elected politicians and all who hold high office are called on to demonstrate their unequivocal commitment to respecting press freedom and the safety of journalists. Politicians and officials should not abuse their status by speaking in a derogatory or insulting way about journalists or the media. Such language, when used by leading public figures, can encourage extremists to view journalists as targets to be silenced or attacked. Senior political leaders therefore have a special responsibility not to use intemperate or inappropriate language – the Guidebook states<sup>1</sup>.

The OSCE warning, which corresponds to the recommendations of the European Union, is an obligation for BiH, not only in the context of creating better conditions for the development of media and media freedoms, but also for the continuation of the path to membership in the European Union.

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<sup>1</sup> <https://www.osce.org/files/f/documents/d/7/85777.pdf>

## Legal frameworks

In the criminal laws in BiH, the media are not recognized as a profession of importance and a profession that needs special protection.



Members of the Board of Directors of the **Association "BH Journalists"** at the sixth regular session, held on May 11, 2019 in Sarajevo, adopted proposals for amendments to the Criminal Code of FBiH, namely Article 183 - Endangering security and Article 358 - Preventing an official in performing official duties, as well as the new Article 358a - Preventing journalists from performing their professional duties. The session also adopted amendments to the Criminal Code of BiH, the Criminal Code of the

Brčko District of BiH, as well as the Criminal Code of Republika Srpska.

- Association "BH Journalists" sent to the governments of FBiH and Republika Srpska, and the Government of Brčko District amendments to criminal laws, to articles related to endangering security, in order to nominally introduce journalists to those laws as a profession that needs special and more effective protection from assault and other crimes. We sent the same amendments to the deputies in the entity parliaments and the Assembly of Brčko District. There were no adequate responses to our initiative, except that they assessed it as positive in the Government of Brčko District and by the PDP representatives in the National Assembly of Republika Srpska - said the Secretary General of the Association "BH Journalists" Borka Rudic.

In April 2019, members of the House of Representatives of the FBiH Parliament adopted the Initiative to amend the FBiH Criminal Code with provisions that, according to the proponents, would protect journalists while doing their job.

- The amendments to the law will most likely treat the attack on journalists only as an attack on health workers, ie it will enter the same segment of the Criminal Code. Specific prison sentences of three months to five years have been proposed, depending on the gravity of the crime - said the submitter of the initiative, the representative of the Social Democratic Party of BiH, **Senaid Begić**<sup>2</sup>.

Although the initiative was adopted 18 months ago, it has not yet been implemented, and concrete proposals to amend the existing legal solution have not yet been presented to parliamentarians.

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<sup>2</sup> <https://www.cin.ba/usvojena-inicijativa-za-zastitu-novinarar/>

- In the next few sessions after that initiative, I initiated that the amendments to the Criminal Code be included on the agenda. I think that in the next five or six sessions we tried to add that item to the agenda, but we never had the necessary majority, ie the majority made up of SDA, HDZBiH and the Democratic Front never allowed it to be on the agenda - Begić confirmed.

The same is the epilogue of a similar proposal for amendments to the Criminal Code of the Republika Srpska, which was sent to the procedure by the representative of the Party of Democratic Progress, **Draško Stanivuković**.

- The Legal Council of the PDP City Board has been working on three new laws for weeks, and there is an amendment to the Criminal Code of Republika Srpska in the chapter on crimes against freedoms and rights of citizens, in which we have defined an additional article that treats attacks on journalists as attacks on officials - Stanivuković said for the Srpskainfo portal<sup>3</sup>.

Stanivukovic's proposal included up to three years in prison for attempting to attack journalists, and up to five years in prison for causing bodily harm.

However, in June this year, the National Assembly of the Republika Srpska considered amendments to the Criminal Code, within which it was not accepted to prescribe a special criminal offense - preventing journalists from performing their professional duties.

- The possibility of prescribing the criminal offense, as well as special protection of journalists in performing their activities, will be considered when preconditions are created to include criminal offenses against parts and reputations in the Criminal Code - it is stated in the explanation of the Draft Amendments to the Criminal Code of Republika Srpska.

Public institutions in BiH also do not collect data on threats and attacks on journalists and media workers, but these activities are carried out exclusively by professional organizations. In the **databases for work on cases in the judiciary (CMS)** there is no possibility of recording cases that relate exclusively to threats or attacks on journalists because the databases do not select cases based on the profession of the injured party, given that criminal laws in BiH do not know "Attacks on journalists" as a separate crime.

### **Judicial practice**

According to the data of the Association "BH Journalists", from the beginning of 2018 to October this year, 143 cases of violation of journalists' rights were recorded, including physical attacks and threats.

58 cases of violations of journalists' rights in 2018 were recorded through **The Press Helpline** within the Association "BH Journalists", including six cases of physical attack, 17 cases of threats and nine cases of political pressure. In 2019, the Association of „BH Journalists“ recorded 56 cases of violations of journalists' rights, including nine cases of physical attacks, 21 threats, of which eight death threats and

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<sup>3</sup> <https://srpskainfo.com/ko-im-prijeti-ide-u-zatvor-stanivukovic-predlaze-izmjene-krivicnog-zakona-i-stroge-kazne-za-napade-na-novinare/>

ten cases of political pressure. Since the beginning of 2020, 29 new cases have been registered. In 2019, the institution of the Human Rights Ombudsman received 18 complaints from journalists, compared to nine in 2018.

Previous case law, when it comes to prosecuting attacks, has resulted in a sense of insecurity and insecurity among journalists and media workers in BiH. This was also pointed out on October 12, 2020, at the hearing of representatives of journalist associations before the Temporary Investigation Commission of the House of Representatives of the Parliamentary Assembly of BiH for determining the situation in judicial institutions.

On that occasion, the President of the **Banja Luka Journalists' Club**, Siniša Vukelić, warned that attacks on journalists are not punished effectively, and that the penalties for attackers are inappropriately low or that they are even acquitted.

- I have a feeling that the judiciary treats journalists as enemies of this country and someone who needs to be investigated, and not to be partners in the common part of the road to the goal of being a better society and things changing for the better - said Vukelić<sup>4</sup>.

Such assessments are confirmed by one of the latest epilogues of lawsuits related to threats to journalists. The District Public Prosecutor's Office in Banja Luka rejected the appeal of the editor-in-chief of the eTrafika portal, **Vanja Stokić**, which confirmed the order to suspend the investigation against Goran Živanović, who threatened Vanja Stokić with "beheading" on Facebook on May 23 this year<sup>5</sup>.



**Threats to journalist Vanja Stokić**

<sup>4</sup> <https://detektor.ba/2020/10/12/istrazna-komisija-zbog-stanja-u-pravosudju-novinari-se-osjecaju-nesigurno-i-nezasticeno/>

<sup>5</sup> [https://www.etratika.net/drustvo/74518/prijetnje-urednici-etratike-odsijekao-bih-ti-glavu/?fbclid=IwAR0I2FHXMDDF\\_KasgeO1bHX-7rh8jO3NcJXQ9Df15XEA4sRf8bTZFQzCisg](https://www.etratika.net/drustvo/74518/prijetnje-urednici-etratike-odsijekao-bih-ti-glavu/?fbclid=IwAR0I2FHXMDDF_KasgeO1bHX-7rh8jO3NcJXQ9Df15XEA4sRf8bTZFQzCisg)

Prosecutor Tatjana Ninković suspended the investigation against Živanović, and explained her decision with a thesis on threats as "expressing dissatisfaction and personal opinion".

- His threats were addressed to an unspecified person, so that the actions of the suspect Goran Živanović did not achieve the characteristics of the criminal offense of Endangering Security under Article 150, paragraph 1 of the RS Criminal Code, nor the criminal offense of Public Incitement and Incitement to Violence and Hate under Article 359, paragraph 1. of the Criminal Code of the RS, given that the suspect did not publicly call for or provoke and incite violence and hatred - the decision of the District Public Prosecutor's Office states.

According to lawyer **Aleksandar Jokić**, who represented the aggrieved party in this case, the prosecution had to pay more attention to Vanja Stokić's allegations, and to determine whether the threats were real and whether the injured party had grounds for concern for her safety.



- The prosecution has not established any of these facts. Moreover, there was inconsistency in terminology and in the acts taken by the Prosecution, so an order was issued to suspend the investigation, and in order for the investigation to be suspended it had to be initiated and all actions had to be taken to determine who the perpetrator was, what is his profile, is he suitable to do that act and what was the impact of the threat on the injured party - explains Jokić.

He said that the message sent by the District Public Prosecutor's Office in Banja Luka was very negative in the context of freedom of the media and freedom of expression.

- I think that the legal framework is adequate, and that the application of the laws in force is problematic - said Jokić, talking about obstacles to adequate processing of similar cases.

On the other hand, public pressure after one of the most severe cases of endangering the safety of journalists has resulted in greater involvement of judicial institutions in prosecuting those responsible.

In September this year, Nedeljko Dukić from Kneževo signed an agreement with the District Prosecutor's Office in Banja Luka, and admitted to the attempted murder of BN television journalist **Vladimir Kovačević** in exchange for a three-year prison sentence. However, the Banja Luka District Court rejected the

agreement because the trial chamber ruled that the sentence was not large enough, so the trial continued<sup>6</sup>.

Dukić is accused of trying to kill Kovačević together with Marko Čolić from Banja Luka on August 26, 2018. The two of them attacked Kovačević in front of his building in the settlement of Obilićevo in Banja Luka and beat him with metal telescopic batons. Dukić fled after the attack, but surrendered in November 2019. In March this year, the Supreme Court of the Republika Srpska sentenced Marko Čolić to five years in prison. He was previously sentenced by the Banja Luka District Court to four years in prison, but his sentence was increased by an additional 12 months.



***Vladimir Kovacevic after the assassination attempt***

- I have no objections to the course of the trial, the length, sanctions and all procedures. What I resent is that no one is working to discover the orderers. Absolutely no one cares about that, nor does the investigation suggest that they will ever go in that direction - said Kovačević.

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<sup>6</sup> <https://www.rtvbn.com/3992316/odbacena-nagodba-nedeljka-dukica-i-tuzilastva>

Kovačević believes that the District Public Prosecutor's Office in Banja Luka has not at any time shown any indications of its intention to investigate the perpetrators of the attack on him.

- In one of the first conversations with them, I even hinted at who I suspected, but those persons I suspect were never invited, even if they dispel such suspicion with their statements to the Prosecutor's Office. They are absolutely not working on discovering the orderers - said Kovačević.

In 2017, the **Institution of the Human Rights Ombudsman of BiH** published a "Special Report on the Position and Cases of Threats to Journalists in BiH"<sup>7</sup>, in which it warned that in BiH there are no official records of competent public bodies on the number and type of threats and attacks on journalists. The only available data are those available to the Association of "BH Journalists". The process of gathering information on the number and type of threats and attacks on journalists, according to this institution, is of great importance for understanding the scope of the problem and creating the best way to solve it.

Taking into account the fact that judicial institutions in BiH do not keep records based on the profession of injured persons, in search of epilogues of cases related to threats and attacks on journalists, we were forced to submit nominal inquiries based on records of reported attacks and threats to The Press Helpline.

The feedback we received shows that the current practice of the District Public Prosecutor's Office in Banja Luka, as well as other prosecutor's offices in BiH, is not significantly different in relation to the case of threats against journalist Vanja Stokić.

In February this year, the head of the Republika Srpska Representative Office in Russia, Duško Perović, sent open threats to the editorial board of the Capital portal and editor-in-chief **Siniša Vukelić** for publishing a story about Russian investor Rashid Serdarov and „Comsar Energy“. In a phone call to the editorial office, Perović threatened that he himself would "close" the Capital portal if editor Siniša Vukelić once again wrote anything about the work of the company "Comsar Energy", and stressed that this portal would soon "end its work", and editor Vukelić "Better move to Mars." These threats by Perović were recorded on the audio recording of the conversation<sup>8</sup>.

However, the Banja Luka District Public Prosecutor's Office issued an order suspending the investigation against Duško Perović for the criminal offense of Endangering Security under Article 150 (2) of the RS Criminal Code because "the act committed by the suspect is not a criminal offense." According to the response, the injured parties filed a complaint against the prosecutor's decision, which will be considered by the prosecutor's office.

The District Public Prosecutor's Office in Banja Luka acted on two occasions and made prosecutorial decisions related to journalist **Dragan Bursać**. On July 13, 2017, the Prosecutor's Office filed an indictment with a criminal order against Aleksandar Bursać, for the criminal offense of Endangering Security under Article 150, Paragraph 1 of the RS Criminal Code, committed to the detriment of Dragan Bursać. An order

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<sup>7</sup> [https://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2017082415202346eng.pdf](https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2017082415202346eng.pdf)

<sup>8</sup> <https://bhrt.ba/prijetnje-duska-perovica-urednistvu-portala-capital-ba/>

was also issued to suspend the investigation against Dragan Kelečević for the criminal offense of Endangering Security under Article 150, Paragraph 1 of the RS Criminal Code, committed to the detriment of Dragan Bursać.

- Currently in the work of the acting prosecutor is a case related to the report against unidentified persons, for the criminal offense of endangering security under Article 150 paragraph 1 of the Criminal Code of RS, committed to the detriment of Dragan Bursac and others - said in response to the District Public Prosecutor's Office in Banja Luka.

On 13 May 2019, the Prosecution filed an indictment against Mile Pavlović for the criminal offense of Endangering Security under Article 150, Paragraph 1 of the RS Criminal Code, committed to the detriment of **Milkica Milojević**. The indictment was confirmed on July 10, 2019 by the Basic Court in Banja Luka.



The practice is not significantly different in the FBiH entity either. In the case of a physical attack on journalist **Nedžad Latić**, an indictment was filed against Armin Šabanović on July 2, 2018, and the trial before the Municipal Court in Sarajevo is still ongoing and has not received its epilogue.

In November 2017, the journalists of the **Žurnal** portal were verbally threatened by Amir Pašić for publishing the text, but on May 28, 2019, the Sarajevo Canton Prosecutor's Office issued an order that the investigation will not be conducted because "there was no basis for suspicion that the applicant committed a crime." After the appeal against this decision was rejected, the case was

archived.

The Sarajevo Canton Prosecutor's Office assessed that the threats were not a criminal offense in the case of death threats addressed to Dnevni Avaz journalist **Nermin Demirović**, and on October 15, 2019, an order was issued not to conduct an investigation. On January 5, 2016, the Sarajevo Canton Prosecutor's Office issued an order that the investigation will not be conducted in the case of **Sanela Prašović-Gadžo's** report on death threats via the social network Facebook because, they assessed, there was no evidence of a crime. After the appeal against the decision was rejected as unfounded, the case was archived.

The investigation into the attack on the journalist of the Radio Sarajevo portal **Almir Sokolović**, which took place on September 27, 2019, is still ongoing. The attack on the photographer of the **Žurnal** portal, **Adi Kebo**, who was attacked in March 2019 by the President of the Municipal Board of the Party of Democratic Action Novi Grad Sarajevo, Huso Ćesir, is still in the phase of "verifying the allegations from the report", just as in cases related to threats or attacks on **Adis Šušnjar**, **Adi Bebanić**, **Fadil Mandal** and **Nikola Vučić**.

The Prosecutor's Office of Zenica-Doboj Canton has, in the period from 2015 until today, as they confirmed to us, formed a total of four cases related to attacks on journalists. In three cases, an order was issued not to conduct investigations, while in one case an indictment was filed against one person for the criminal offense of Endangering Security under Article 183 of the FBiH Criminal Code, committed to the detriment of journalist **Dino Pašalić**.

The last case of attack in this canton took place on June 5, when a member of the Party of Democratic Activity (A-SDA) Sulejman Spahić physically attacked RTV Zenica journalist **Sinan Gluhić** in the center of Zenica for criticizing cantonal minister Arnel Isak (A-SDA). We did not receive information from the Prosecutor's Office of Zenica-Doboj Canton about the epilogue of this case, although the Ministry of Internal Affairs of Zenica-Doboj Canton submitted a report against Spahić.

- After documenting the crime, a report against S. S. was submitted to the Cantonal Prosecutor's Office due to the existence of grounds for suspicion that he committed the crime "Endangering Security" - said the spokeswoman of the Ministry of Interior of Zenica-Doboj Canton Aldina Ahmić<sup>9</sup>.

In 2016, the Municipal Court in Visoko sentenced Elvin Kriještorac to one year in prison for threatening, endangering safety and hate speech against blogger **Irma Antonija Plavčić**.

In the same period, the Central Bosnia Canton Prosecutor's Office opened a case related to threats against journalists. In that case, an indictment was filed against the suspect Alen Karičić for the criminal offense of Endangering Security under Article 183, Paragraph 2 of the FBiH Criminal Code.

- The crime was committed in such a way that Karičić sent a mobile phone message to employees of the information portal **Klix.ba** Š. D. and M. E. with the threat "fu\*\* You motherf\*\*\*, lift my ban, I will throw a bomb at you", which caused anxiety and fear for their own lives. The case ended with the passing of a conviction by the Municipal Court in Travnik - it is stated in the response of the Prosecutor's Office of the Central Bosnia Canton.

The Prosecutor's Office of Una-Sana Canton had the opportunity to submit information relating exclusively to Bihać, and in that city in the period from 2015 to date, no reports have been received relating to crimes committed to the detriment of journalists, or where journalists appear as injured persons. The same is the case with the Prosecutor's Office of the Herzegovina-Neretva Canton, from which they confirmed to us that they did not have any cases related to threats and attacks on journalists.

### **Experiences from the world and the region**

According to **Reporters Without Borders**, in 2020 alone, 27 journalists and three media workers were killed, while in 2019, 40 journalists and three media workers were killed<sup>10</sup>.

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<sup>9</sup> <https://zenicainfo.ba/2020/06/08/dostavljen-izvjestaj-tuzilastvu-zdk-spahic-osumnjicen-za-krivicno-djelo-ugrozavanje-sigurnosti/>

<sup>10</sup> <https://rsf.org/en/barometer>

That pressures and harassment of journalists are still present in Europe is confirmed by the allegations from the book "A mission to inform - Journalists at risk speak out"<sup>11</sup>, published in 2020 by the Council of Europe.

It is a research project on intimidation of journalists in Europe, signed by Marilyn Clark and William Horsley, which complements the 2017 study "Journalists under pressure. Unwarranted interference, fear and self-censorship in Europe". The book's preface states that in all Council of Europe member states, journalists face police intimidation and legal harassment, harassment, physical violence and threats, and more recently, online harassment. The book is based on interviews with 20 journalists from 18 different countries, including Maltese journalist Daphne Caruana Galizia, who was interviewed 10 days before the assassination.

During the presentation of the book, the Secretary General of the European Federation of Journalists, Ricardo Gutiérrez, reminded that there are still 36 unsolved cases of murders and disappearances of journalists in Europe. Of these 36 cases submitted to the Council of Europe Platform for the Protection of Journalism and Safety of Journalists, states responded to only 10 cases.

The European Court of Human Rights has ruled that states have a duty to protect freedom of expression and the rights of journalists who face threats of violence or other retaliation for their work. This court found in several cases that a state had violated the European Convention on Human Rights by failing to protect the lives and freedom of expression of journalists who had been threatened or killed. The European Court also found that some states violated the European Convention on Human Rights by failing to conduct effective investigations into the killings of journalists.

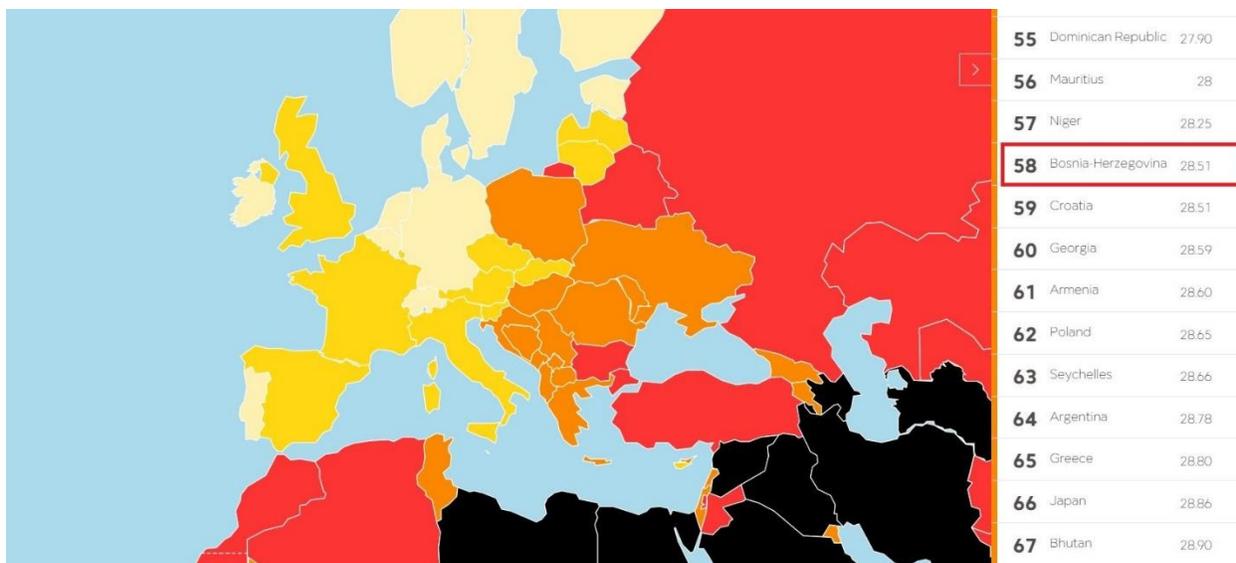
Insufficiently efficient processing of attacks on journalists is a problem faced by media workers throughout the Western Balkans region. Journalists and media workers in BiH are in an even more favorable position compared to their colleagues from Serbia, if we take into account the number of reported attacks, but also the relevant international reports.

According to this year's Reporters Without Borders World Media Freedom Index, BiH ranks 58th<sup>12</sup>, while Serbia ranks 93rd. Croatia ranks 59th, Northern Macedonia 92nd, Albania 84th and Montenegro 105th.

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<sup>11</sup> <https://www.coe.int/en/web/freedom-expression/-/a-mission-to-inform-journalists-at-risk-speak-out-a-new-book-on-the-safety-of-journalists-to-be-launched-on-14-october-2020>

<sup>12</sup> <https://rsf.org/en/bosnia-herzegovina>



### **2020 World Press Freedom Index**

According to data from the database [www.safejournalists.net](http://www.safejournalists.net) of the **Regional Platform for advocating media freedom and journalists' safety is a network of journalist associations and media trade unions in Western Balkans**<sup>13</sup>, more than one-third of all attacks on journalists in the region in the last five years have been registered in Serbia.

The Report of **the Protector of Citizens Zoran Pašalić** for 2019, which highlights "increasingly frequent and brutal attacks on the media", also testifies to the poor state of journalistic freedoms in Serbia<sup>14</sup>.

**The Independent Association of Journalists of Serbia** recorded 119 attacks in its database in 2019, while from the beginning of this year to the middle of May, six physical attacks were reported, as many attacks on property, 42 cases of various pressures and 18 threats, ie verbal attacks.

- Cases of threats, intimidation and violence against journalists remain a source of serious concern, especially at local level - it is stated in the latest Report of the European Commission for Serbia<sup>15</sup>.

According to the data of the **Republic Public Prosecutor's Office**, in 2019, 59 cases of attacks on journalists were reported to the prosecutor's offices, out of which criminal charges were rejected in 12 cases. Five cases ended with the attacker being convicted, while 42 cases are still being processed. Five of them are in court, 33 are in pre-trial proceedings, and in four attacks the attackers have not been identified.

There is no unique database on all types of attacks on journalists in Serbia either, but the institution of the Protector of Citizens announced the possibility of creating a systematized database in which already

<sup>13</sup> <https://safejournalists.net/ba/homepage/>

<sup>14</sup> <http://rs.n1info.com/Vesti/a583167/lzvestaj-Zastitnika-gradjana-za-2019.-o-medijima.html>

<sup>15</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/serbia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/serbia_report_2020.pdf)

recorded data from that institution, professional associations and the public prosecutor's office would be entered.

When it comes to the legal framework dealing with the issue of attacks on journalists and media workers, in 2009 the Republic of Serbia adopted amendments to the Criminal Code which included the media among professions with the status of activities of public importance, ie media professionals were granted official status. Endangering the safety of a media worker is prescribed by these amendments as a criminal offense.

The situation is somewhat better in the neighboring Republic of Croatia, but even there, according to the latest European Commission Rule of Law Report<sup>16</sup>, journalists face numerous threats on the Internet, hate speech, death threats and physical attacks.

According to the Report, state bodies often do not respond in a timely manner to threats and attacks on journalists, despite the existence of a legal framework that opens room for adequate reactions.

In Croatia, the Criminal Code prescribes as a criminal offense a violation of freedom of opinion and expression, and especially treats a threat addressed to a media worker, and for this criminal offense provides for imprisonment for a term of six months to five years. However, such a legal framework is not applied adequately.

- In reality, things work much differently. In the last five years, we have had about 50 cases of threats and attacks on journalists in the records of the **Croatian Journalists' Association**. Most of these perpetrators or those who ordered them remained unknown - **Hrvoje Zovko**, president of the Croatian Journalists' Association, told Al Jazeera Balkans in May 2019<sup>17</sup>.

The European Commission warned that the protection of journalists is not explicitly defined by legislation, and that mechanisms accessible to all citizens are applied.

In 2018, the Government of Montenegro formed a commission that deals with the investigation of attacks on journalists and media workers, which gave recommendations which, according to the Trade Union of Media of Montenegro, the competent institutions do not adhere to.

On May 8, 2018, an attempted murder of journalist **Olivera Lakić** was recorded in Montenegro. The police identified the attackers, but the case was suddenly reclassified by the Podgorica Higher Prosecutor's Office as "inflicting grievous bodily harm", although the attackers wounded Lakić with a shot from a firearm, and although the assassination attempt was an initial qualification. The case has not yet received a legal epilogue.

### **An obligation on the European path**

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<sup>16</sup> [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_20\\_1757](https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_1757)

<sup>17</sup> <http://balkans.aljazeera.net/video/kontekst-novinari-sluzbene-osobe>

**The Opinion of the European Commission on BiH's application for membership in the European Union**<sup>18</sup>, which was published on May 29, 2019, points out that the reasons for concern are violence, threats and political pressure directed at journalists.

- The protection of journalists and the investigative and judicial follow-up to threats and attacks against them are inadequate - the Opinion states.

One of the 14 key priorities of the European Commission, which BiH needs to meet in order to obtain candidate status for membership in the European Union, is to guarantee freedom of expression and of the media and the protection of journalists, especially by ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers.

Significant attention to intimidation of journalists, and physical and verbal attacks on them is also paid in the accompanying **Analytical Report of the European Commission**<sup>19</sup>, which points out that they take place without a systematic institutional response and effective protective measures. The Bosnian authorities, according to the European Commission, often downplay the intimidation of journalists, and the government's response, including public condemnation, is weak.

- The police and the judiciary need to ensure impartial, prompt, thorough, independent and effective investigations and prosecutions in cases of threats and violence against journalists and media workers. Journalists under threat need to be ensured adequate police protection. The authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against the media, and should refrain from making statements that may create an environment not conducive to freedom of expression.

- The police and the judiciary must ensure impartial, prompt, thorough, independent and efficient investigations and prosecutions in cases of threats and violence against journalists and media workers - the Analytical Report said.

Just over 16 months later, the BiH authorities have not done much to implement the European Commission's recommendations. This is confirmed by the latest **BiH Report**<sup>20</sup>, published on October 6, 2020, which states that no progress has been made in the reporting period in guaranteeing freedom of expression and of the media, and the protection of journalists by ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers.

- Political pressure, intimidation and harassment towards journalists, including physical and verbal attacks continued during the reporting period, without appropriate institutional follow-up - the European Commission stated.

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<sup>18</sup> [http://dei.gov.ba/dei/direkcija/sektor\\_strategija/Upitnik/misljenje/default.aspx?id=21758&langTag=bs-BA](http://dei.gov.ba/dei/direkcija/sektor_strategija/Upitnik/misljenje/default.aspx?id=21758&langTag=bs-BA)

<sup>19</sup> [http://dei.gov.ba/dei/direkcija/sektor\\_strategija/Upitnik/misljenje/default.aspx?id=21759&langTag=bs-BA](http://dei.gov.ba/dei/direkcija/sektor_strategija/Upitnik/misljenje/default.aspx?id=21759&langTag=bs-BA)

<sup>20</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/bosnia\\_and\\_herzegovina\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/bosnia_and_herzegovina_report_2020.pdf)

Therefore, as one of the recommendations of BiH, if it wants to gain candidate status for membership in the European Union, the repeated obligation to ensure the protection of journalists and systematic monitoring of threats and violence against them in the next year.

### **Recommendations**

Past practice indicates that those responsible for making threats or attacks on journalists and media workers are either not prosecuted at all, or, at best, are not prosecuted in a sufficiently efficient and expeditious manner.

In order to improve this area, it is necessary, according to the representatives of professional associations, to change the approach in prosecuting those responsible for threats and attacks on journalists, but not by changing the legal framework in the way it was done with proposals for parliamentary procedures. These initiatives, explains the Secretary General of the Association "BH Journalists" Borka Rudić, went in the direction of treating journalists as "officials" and to protect themselves like all other officials, such as police, firefighters or doctors.

- The Association "BH Journalists" does not seek the status of officials for journalists, nor ways of protection in this way. Journalism is a free profession, important in informing citizens and strengthening democracy, and their protection really requires a different and more efficient treatment of the judiciary. We simply want journalists to be protected from attacks, threats, especially death threats and violent prevention in performing professional tasks in a more efficient way, through faster sanctioning of attackers and access to justice for journalists - said Rudić.

Research by the Association „BH Journalists“ shows that only one third of crimes against journalists are resolved in their favor, and that prosecutors are a particularly weak link in the protection of journalists, which should, after police investigations into attacks and threats, and sometimes ex officio, file a criminal complaint against those responsible for the attacks and threats.

- Unfortunately, they don't!" Therefore, "BH journalists" believe that the nominal introduction of journalists into criminal law and a more precise definition of acts of attack and threats to journalists as criminal acts could contribute to different behavior of prosecutors and much greater efficiency in processing these attacks. If nothing else, then we would have more grounds to initiate appeal proceedings against the refusal of prosecutors to prosecute attacks on journalists or file criminal charges against those who send explicit death threats to journalists and their families - concludes Rudić.

The Institution of the Human Rights Ombudsman of BiH in the "Special Report on the Status and Cases of Threats against Journalists in BiH" from 2017 recommended the High Judicial and Prosecutorial Council of BiH to consider upgrading the existing CMS system to ensure the introduction of data on victims, witnesses and the parties to the case.

According to the Ombudsman Institution, this would ensure keeping record of profiles of individuals exposed to certain types of criminal offences as well as of those of perpetrators.

The Entity Ministries of Justice and the Brčko District Judicial Commission were recommended to consider defining an attack against a journalist as a criminal offence in criminal codes or as a serious criminal offence of attacks against an official person on duty, and to consider defining an attack against a journalist as a separate public safety offence in public safety laws.

In its report, the Institution of the Human Rights Ombudsman also recommended to the Centres for Training Judges and Prosecutors to organize professional training sessions specifically about the importance of processing criminal offences against journalists.

Changing practices in dealing with threats and attacks on journalists is not only an obligation of the state in the context of ensuring freedom of speech and media, protecting journalists and media workers or strengthening the rule of law, but also one of the key obligations in foreign policy, in the context of the integration into the European Union. The importance of steps forward in this field is evidenced by the fact that it is included among the 14 key priorities of the European Commission that are set before BiH.

However, despite the declarative commitment of all political structures in BiH to European integration and the fulfillment of conditions that contribute to progress on that path, concrete progress in this field is lacking.