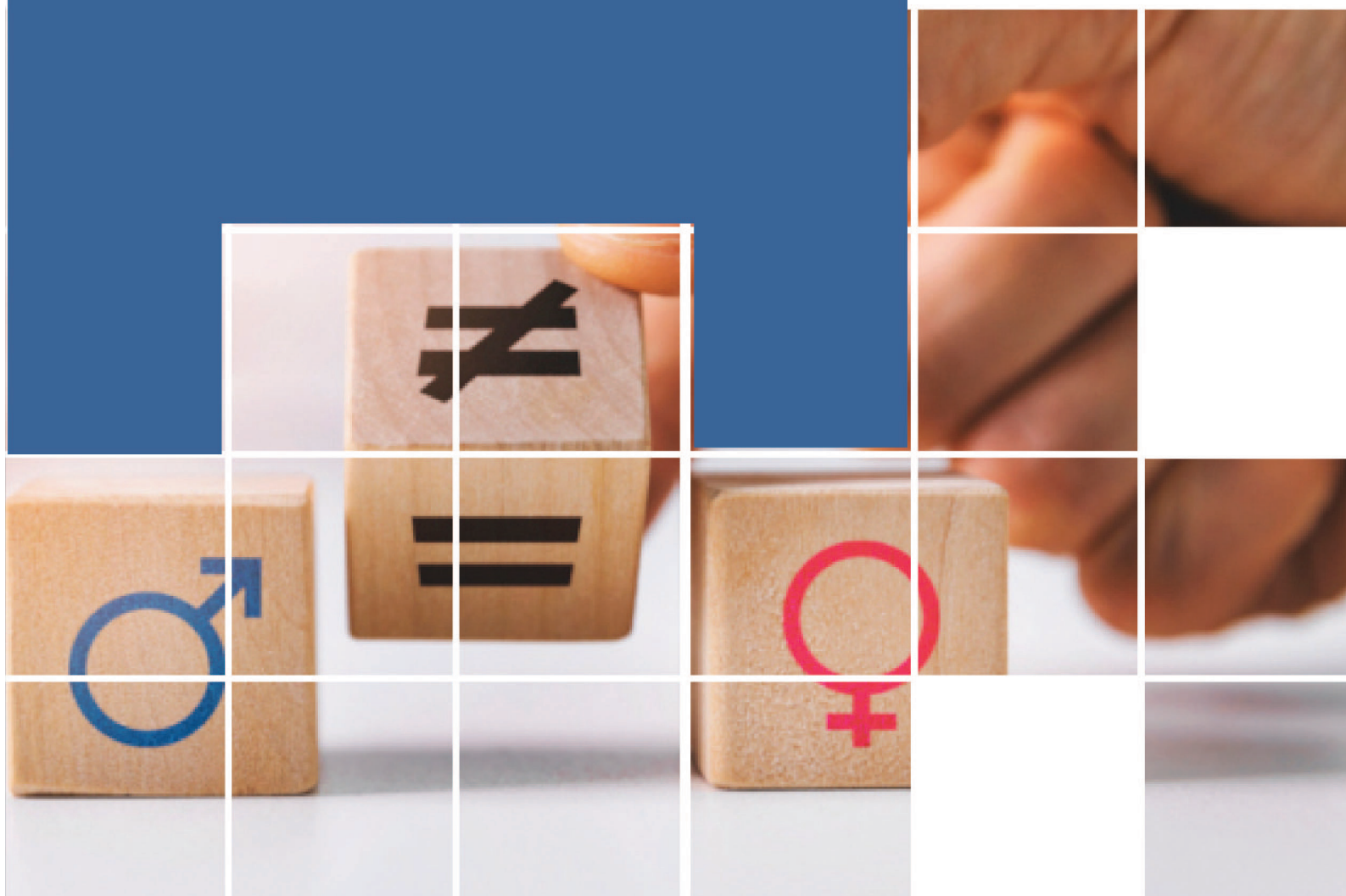


THE EUROPEAN PATH OF BOSNIA AND HERZEGOVINA AND GENDER EQUALITY



2022

INTRODUCTION

Bosnia and Herzegovina (BiH) applied for membership in the European Union (EU) back in 2016. Since then, very little has been done to meet the necessary conditions for further progress on the European path. Moreover, the previous period was marked by numerous government blockades at almost all levels.

In October this year, in its Country report on Bosnia and Herzegovina the European Commission (EC) recommended to EU member states to grant BiH candidate status conditionally. The Council of the EU, that is, all the members, will make a unanimous decision on conditional candidate status in December this year.

The EC Country report on BiH for this year is relatively negative, concluding that no progress has been made in key areas, including gender equality. The report emphasized that the pandemic had the most negative effects on women.

Network of civil society organizations (CSO) “Women’s Advocacy Group”¹ comprised of 18 organizations from all over Bosnia and Herzegovina has been continuously monitoring the process of European integration for several years, strengthening the voice of civil society and advocating the integration of women’s views and perspectives in these processes. This includes making comments on the EC Report on BiH’s progress on the European path, advocating in Brussels before the EU institutions, harmonizing domestic legislation with European legislation, and discussing reform processes of BiH on the European path with civil society and citizens.

As indicated in the analysis and recommendations made by the Women’s Advocacy Group on the last Country Report, women in BiH are continuously underrepresented in the legislative and executive powers from one election cycle to the next. The 40% participation quota from the BiH Gender Equality Act is still not being implemented, nor are other regulations being harmonized with this law, all of which contributes to the continuous exclusion of women from political processes and active participation in important decision-making.

The exclusion of women from political participation is also reflected in places of economic power. Thus, discrimination of women through the inconsistent application of labor and anti-discrimination legislation prevents women from fully enjoying their economic and social rights, especially when it comes to the protection of the rights of female workers, with a focus on the unsatisfactory impact of labor inspection activities.

In the Republika Srpska (RS), only partial progress has been made in harmonizing legislation with the aim of ensuring the protection of survivors and the prosecution of violence against women and gender-based violence in accordance with the mandatory standards of the Istanbul Convention (IC), while the Federation of BiH (FBiH) only recently started the process of amending legislation.

Roma women are generally discriminated against for belonging to the Roma ethnic group, and within the Roma community for being women. This double discrimination is further aggravated by the exposure of Roma women to social exclusion.

1 PRAVA ZA SVE / Rights for All (Sarajevo) – coordinating organization, Association “Land of Children in BiH” (Tuzla), Association “Žena BiH” (Mostar), Center for Support Organizations CENSOR (Tuzla), Center for Women’s Rights (Zenica), CURE Foundation (Sarajevo), Foundation for Women’s Empowerment (Sarajevo), Foundation of Local Democracy (Sarajevo), Helsinki Citizens’ Assembly Banja Luka, ICVA - Initiative and Civil Action (Sarajevo), INFOHOUSE Foundation (Sarajevo), Network for Building Peace (Sarajevo), Roma Women’s Association “Better Future” Tuzla, Trade and Service Workers Union of BiH, United Women Foundation Banja Luka, Women’s Association SEKA Goražde, Association „Dignitet” Mostar and Association „Jabiheu” Sarajevo.

POLITICAL PARTICIPATION

In Bosnia and Herzegovina, from one election cycle to the next, the data consistently show unequal representation of women in the bodies of the legislative and executive powers. The 40% participation quota from the Law on Gender Equality in BiH is still not being implemented, and the other regulations are not being harmonized with this law either. All this contributes to the continuous exclusion of women from political processes and active participation in important decision-making.

These inequalities are further beefed up by the fact that women in political parties have very little or no influence on the creation of election lists, they are usually somewhere in the middle or at the bottom of the candidate lists, which lowers their chances of being elected. In fact, many women are on the lists merely to meet the formal legal obligation on mandatory quota of both sexes.

To establish gender equality, it is necessary to increase the gender quota to 50% in the BiH Election Law, with the principle of alternating the order of candidates on electoral lists. Besides, it is very important to establish in the same law an obligation that the missing number of elected women up to 40% should be filled from the compensation lists.

Unequal representation of women is visible even after the 2020 Local elections. According to the Central Election Commission (CEC), out of a total of 425 candidates for mayors, only 29 women (6.82%) were nominated relative to 396 men (93.18). Finally, in the 2020 Local elections, only five women were elected mayors.

The situation is similar after the last General elections, which were held on October 5, 2022. According to CEC, women account for 16.7% of the Parliamentary Assembly of BiH (7 women out of a total of 42 candidates). It is similar at the Entity level: women account for 28.6% of the FBiH Parliament, and 18.10% of the RS Assembly.

Currently, until the new government is constituted, women hold only 2 out of 9 ministerial positions in the Council of Ministers, 3 out of 16 in the FBiH Government and 6 out of 16 ministerial positions in the RS Government.

Political parties are mostly funded from the budgets of all government levels. Thus, men and women equally participate in funding of political parties, while men dominate the government. There is no equal treatment for women in election campaigns, they rarely represent parties in public and speak to the media, and they do not have equal opportunities to present themselves or their programs and positions. Political parties must align their internal rules and policies with the Law on Gender Equality and thus ensure equal participation of women and men in political and public life.

The results of the first Gender Barometer for assessing/measuring the gender sensitivity of political parties show that political parties in BiH are gender insensitive. However, of the five key political parties with representatives at the legislative level, *Naša stranka* is the most gender-sensitive political party in BiH, both in terms of women's representation in decision-making bodies (with 46% of women in the Presidency and 43% of women on the Main Board) and in terms of advocating for the improvement of the position of women through legislative activities and readiness to implement the gender component in the Constitution of BiH. They are followed by the SDP BiH, Demokratska fronta, SNSD and Srpska demokratska stranka, as the least gender-sensitive party in BiH².

² In mid-2021, the Helsinki Citizens' Assembly tested a new tool - the Gender Barometer for assessing/measuring the gender sensitivity of political parties (<https://hcabl.org/>). The tool was created to monitor efficiently and arguably the extent to which the key political parties in BiH are truly committed to promoting gender equality - in terms of women's representation in party's decision-making bodies and party documents, advocating for the advancement of women through legislative activities, and the readiness to work on gendering the Constitution of BiH: <http://hcabl.org/rodni-barometar/>

RECOMMENDATIONS:

- Through amendments to the relevant legislation, increase a gender quota to 50% and establish alternating order of candidates(male/female) on electoral lists as a mandatory principle.
- By amending the BiH Election Law, stipulate as an obligation that the missing number of elected women up to 40% be filled in from the compensation lists in accordance with the BiH Gender Equality Act.
- Harmonize the Law on the Council of Ministers of BiH, the Law on Labor of the FBiH Government and the RS Law on Labor of the Government of RS with the Law on Gender Equality in BiH to ensure that composition of the Government cannot be confirmed unless the requirement of a minimum of 40% of women in ministerial positions is met.
- These proposals would certainly lead to the enforcement of gender equality policy and equal representation of women and men, to which most political parties in BiH have committed in their party documents.

ECONOMIC AND SOCIAL RIGHTS

Discrimination of women through the inconsistent application of labor and anti-discrimination legislation prevents women from fully enjoying their economic and social rights, especially when it comes protection of the rights of female workers, with a focus on the unsatisfactory impact of labor inspection activities.

Study on gender-based discrimination in the field of labor and employment covering the period from 2018 to 2021 showed that there has been no significant change in terms of recognizing the forms of gender-based discrimination at workplace, or reporting of such cases.³ The results of the 2021 on-line survey show that 46% of women and 15% of men have experienced some form of gender-based discrimination in their workplace. However, of the persons who experienced such discrimination, 78% of women and 69% of men did not report it to the competent institution.⁴, mainly due to fear of job loss, lengthy court process and difficulties in documenting the cases.

Although in September 2021 the RS adopted the Law on Protection from Harassment at Work⁵, the Law does not recognize specific forms of gender-based harassment and violence in the workplace.

The consequences caused by the COVID-19 pandemic had a harder impact on women. Governments in both Entities missed an opportunity to address the child care, particularly the vulnerable groups of women, such as health workers (nurses) and single mothers who were left with no alternative during lockdown.

Maternity leave benefits have not been agreed between the Entities or among the cantons in the Federation of Bosnia and Herzegovina, when it comes to the sum, duration and terms of payment.

³ "Gender-Based Discrimination in the Field of Labour in BiH", study by Svjetlana Ramić Marković; Helsinki Citizens' Assembly

⁴ 683 people participated in the on-line survey. In addition to the survey, the research is based on an analysis of the legal framework, responses from institutions and NGOs to a questionnaire designed for research, in-depth interviews with victims of discrimination (16) and interviews with relevant actors in charge of protection against discrimination (34). See: Gender-based discrimination in the field of work in BiH, Banja Luka: Helsinki parlament građana Banja Luka, Available at: http://hcabl.org/wp-content/uploads/2022/03/RodnoZasnovanaDiskriminacijaBiH_web.pdf

⁵ Official Gazette of RS no. 90/2021

The 2022 EC Country Report on BiH reintroduced an official recommendation on a uniform minimum level of maternity leave benefits and protection throughout the country, starting by harmonizing the definitions of maternity, paternity and parental leave. This recommendation was missing in the 2021 Country Report on BiH.

There is a general lack of responsiveness to the need for economic empowerment of women, especially vulnerable groups of women, in all relevant laws and policies. The FBiH Employment Strategy for the period 2021-2027 has not yet been adopted. The proposed strategy, which was considered at the end of 2021, positioned women only as a general category without taking into account the multiple marginalized women and the difficulties they face.

Women in BiH do not participate equally in making economic decisions. There are no women in management positions in public enterprises at the state level. In the Brčko District (BD), only one out of four public enterprises is headed by a woman. Only 4% of women hold management positions in RS, in contrast to 16.6% in the Federation of BiH. When it comes to board members in all four companies owned by BiH, women account for about 26%. Women make up 10.5% of the board members in the public companies in Brčko District. The situation is no better in the Entities either. In public companies in the RS, women make up 15% of board members, in contrast to 22.5% in the FBiH⁶.

At the end of 2022, a partial Gender Equality Index for BiH was created for the first time, with complete information for two domains (Knowledge and Power), and data for three sub-domains (Work, Health Status and Access to Health Care).⁷ There has been some improvement in the collection of gender-disaggregated data, especially at the BiH level through the publication of the regular newsletter "Women and Men in BiH", especially when it comes to available data on wages in different sectors, but data collection could still be improved in different sectors, such as in the field of labor transition, data on women from minority and marginalized groups, etc.

RECOMMENDATIONS:

- Establish a regular system of collecting detailed statistics disaggregated by gender at all of Statistics, especially in the field of employment, salaries and benefits, by individual sector: employment, professional development and promotion, and participation in decision-making and governance.
- When drafting policies and laws in the areas of labor, employment and social system, the impact of all these policies on women must be assessed. New policies must include the system of mandatory and regular monitoring and reporting on their implementation.
- Labor and employment laws and policies must respond to the need to strike a balance between work and private life for parents and custodians, and in particular should recognize the need to invest in childcare facilities and the like.
- The new Employment Strategy of the FBiH must include a gender perspective, and specifically it should include marginalized women in employment/self-employment activities.

⁶ Representation of women in management positions of public companies in BiH, Prava za sve [Rights for all, 2022; <https://pravazasve.ba/bs/wp-content/uploads/sites/5/2022/03/Prava-za-sve-Rodna-analiza-N.pdf>

⁷ BiH is below the average in the EU, e.g. for Knowledge 4 points, and Work nearly 20 points below the average.
Source: <https://bhas.gov.ba/News/Read/66>

VIOLENCE AGAINST WOMEN / GENDER-BASED VIOLENCE

Bosnia and Herzegovina has made limited progress in harmonizing legislation to ensure the protection of survivors and the prosecution of violence against women and gender-based violence, as contained in the mandatory standards of the Istanbul Convention⁸. The processes of revising the current criminal legislation and legislation on domestic violence at the Entity level are slow⁹. On the positive side, the Draft Criminal Code of the Federation of Bosnia and Herzegovina included some of the criminal offenses regulated by the Istanbul Convention¹⁰. However, in the Draft the murder of a woman by a family member, a close person or an extramarital partner or by a person who previously abused her is not directly referred to as a criminal offense of femicide. It is important to specify femicide in the law as an offense in its own right, which would enable that such a qualification be considered as an aggravating circumstance. In this way, it would be possible to monitor these criminal acts, which can ultimately result in better protection of women. Brčko District continues to maintain the dual norming of domestic violence, as a misdemeanor and a criminal offense. Furthermore, the Entity's criminal procedure codes (CPCs) still do not recognize the term "victim of a criminal act". This creates legal uncertainty, prevents efficient access to justice, and the recognition of victims of gender-based violence and domestic violence as victims who need special support and protection within the framework of criminal proceedings against perpetrators of violence, in order to improve their position, prevent secondary traumatization, victimization and repetition of violence¹¹.

According to information women victims of violence shared with women's CSOs that provide specialized support services for victims of violence, the response of professionals in public institutions reflects deep-rooted stereotypes that affect adequate protection and support for women who have survived violence.¹² The monitoring results indicate that professionals in public institutions responsible for providing protection do not undergo mandatory and continuous training aimed at improving the work approach to victims of violence and implementation of obligations prescribed by law. Most training courses are organized sporadically, in cooperation with UN agencies and women's CSOs that are active in the prevention and fight against violence against women. The lack of an institutional and systemic approach to the training of professionals directly affects their inadequate response and the reluctance of survivors to report repeated cases of violence.

Specialized support and assistance services for victims of violence are limited, and they are provided by women's CSOs that do not have enough staff or support from the public budget. The BiH authorities have taken positive steps to improve the public budget financing of safe houses throughout the country, however, the available resources are insufficient and are not allocated on a regular basis.¹³ Entity/cantonal/municipal authorities apply different approaches regarding the budget allocations for safe houses, and many women's CSOs that run safe houses (especially in FBiH) and specialized services in BiH continuously struggle with the lack of funds to maintain services. Neither of the two helplines (1264

8 BiH signed and ratified the Istanbul Convention in 2013, and it entered into force on August 1, 2014. More information on state reporting and alternative reports of CSOs is available here: [https://www.coe.int/en/web/istanbul-convention/Bosnia and Herzegovina](https://www.coe.int/en/web/istanbul-convention/Bosnia%20and%20Herzegovina)

9 Currently, the Federation of Bosnia and Herzegovina is amending the Criminal Code and the Law on Protection from Domestic Violence, both of which are in the drafting phase. Public consultations on the draft laws are still ongoing.

10 The new criminal offenses included in the Draft Criminal Code of the FBiH are: female genital mutilation, forced sterilization, stalking, sexual harassment and forced marriage. The Draft law also includes the definition of consent to sexual activity in relation to the definition of the criminal act of rape. The full text of the Draft Criminal Code of the FBiH (in the official languages in BiH) is available at: <https://www.paragraf.ba/nacrti-i-prijedlozi/nacrt-zakona-o-izmjenama-i-dopunama-krivnog-zakona-federacije-bih.pdf>

11 Currently, Entity Criminal Procedure Codes recognize only the term "injured party", with limited rights in criminal proceedings.

12 For example, providing direct legal and psychosocial support to women who have survived violence, Fondacija Udružene žene [the United Women's Foundation] has identified cases where a doctor specialist stated in official records that a rape victim had a "low cut on her shirt"; that a prosecutor refused to inform the victim about the course of the criminal proceedings against the perpetrator; that the social worker consistently sided with the abuser and often visited the area to check the perpetrator's reports that the victim behaved as an "unfit mother and neglected the children", etc.

13 At the end of 2021, the Ministry of Human Rights and Refugees of BiH allocated BAM 100,000 from the state budget for eight safe houses (BAM 12,500 per safe house) to support housing of women victims of violence and operating costs of the safe houses. In the meeting with women's CSOs organized for the signing of agreement, Miloš Lučić, Minister for Human Resources and Refugees stated that the Ministry will advocate that a recurring budget item be kept for this purpose in the public budget at the BiH level.

for RS, 1265 for FBiH) is available to all women and girls on an equal basis.¹⁴ They function thanks to the great effort and contribution of CSOs, whose staff are often not paid for providing helpline counseling¹⁵.

BiH still does not have a unified methodology and practice for regular and systematic data collection on all forms of gender-based violence. The CEDAW Committee requested that BiH should establish a uniform data collection system on all forms of gender-based violence in the State party, disaggregated by age, ethnicity, disability, type of violence and relationship between the perpetrator and the victim. Domestic violence data are collected at the level of individual institutions that are recognized as subjects of protection, but not in line with the recommendations of the CEDAW Committee. Data on other forms of gender-based violence are sporadically collected at the level of individual institutions, and are used to a very limited extent for planning and implementing specific measures and activities aimed at supporting survivors, as well as preventing and combating violence.

RECOMMENDATIONS:

- Ensure harmonization of criminal codes and laws on domestic violence protection at all levels of government with international standards, especially the Istanbul Convention and the EU Directive on Victims' Rights 2012/29/EU in order to improve the protection of women victims of violence as well as their access to justice;
- Ensure a systemic institutional approach to capacity building and raising the awareness of professionals in the areas of protection against violence against women. Include this in training programs that are supported from the public budgets and make them mandatory for all professionals who work with victims of violence. Also, programs should include experiences of CSOs that provide specialized services to victims of violence.
- Ensure continuous support of CSOs in providing specialized assistance and support services to women and children victims of violence, including financing of these services through regular planning and distribution of public budget funds at all levels of government.
- Ensure that official statistics and databases include all forms of violence against women based on a common methodology. It is necessary that these data are regularly collected and publicly available, and that they are used to improve public policies.

¹⁴ The competent authorities cover the cost of the license for emergency numbers with telephone operators (Mtel and BiH Telekom), but these numbers are accessible only to women who call the number from the same telephone network, and the calls are free. Calls from the third telephone operator in BiH (Eronet) are not possible.

¹⁵ Some women's CSOs that provide support to the SOS helpline for victims of violence occasionally manage to cover the fees for helpline counselors through project funds and grants received from international donors. Otherwise, in order for helpline support to remain available to women and girls in need, members of the professional staff of women's CSOs volunteer in their free time.

VIOLATION OF THE RIGHTS OF ROMA WOMEN AND MULTIPLE DISCRIMINATION

Roma women are generally discriminated against for belonging to the Roma ethnic group, and within the Roma community for being women. This double discrimination is further aggravated by the exposure of Roma women to social exclusion. They do not have access to education, employment, and very often health care, which makes them particularly vulnerable to various forms of gender-based violence. Data from the 2019 survey show that 75.1% of Roma women live in poverty, without any income, without health insurance and without basic education¹⁶.

Problems in the access of Roma children to regular classes are multi-layered: insufficient communication between school and parents, early drop-out, lack of timely reaction schools and centers for social work, etc. The data collected for the purpose of drafting the BiH Action Plan for the social inclusion of Roma for the period 2021-2025 show that the percentage of Roma children included in the education system is still extremely low. Only 4% of Roma children are included in preschool education, while the rate of children included in primary and secondary education is only 35%. Traditionally, families decide to primarily educate male children, which is why a significant number of Roma women remain deprived of education. Unfortunately, all of this results in fewer opportunities to find a job and thus the impossibility of achieving economic independence, social security, lack of health insurance, etc.

Gender inequality in employment is also present regardless of age and profession. The data show that about 13% of Roma women are employed, compared to 39% of Roma men¹⁷. In the field of employment, it is necessary to change the methodology for allocation of employment and self-employment incentives. Competent employment offices allocate very little funds. The assessment made by the Roma Women's

Network shows that funds for self-employment are insufficient to start sustainable business, hence Roma women do not benefit from these funds. It is particularly important to encourage Roma women through continuous campaigns to apply for positions in areas where they are insufficiently or not at all represented, for example in the police, judiciary, higher education, medical institutions, etc.

The socio-political participation of Roma women is extremely low, even in bodies representing the interests of Roma men and women in BiH. Public calls for appointments in these bodies are not transparent and very often women do not have timely information about appointments.

Findings of the comparative review of available data and an independent analysis coincide with the experiences of Roma women's associations¹⁸ and they reveal that in the Roma community early marriage is to a large extent represented. The percentage of Roma girls who get married before the age of 18 is 48.3%, compared to 9.5% of non-Roma girls. Girls who marry early are more exposed to violence, become mothers earlier, have more children and less chance to continue their education and become economically stronger. Child marriage also carries the risk of early pregnancy, which can lead to serious health consequences for both mother and child. The risk is very high due to insufficient access to health services.

According to available research conducted by associations of Roma women: 45.1% of Roma women were exposed to violence, including multiple forms of violence, and 47% believe that they should stay married to a violent husband. As many as 34% of Roma children witnessed physical violence against their mother by their father or their mother's partner, while 50% of Roma women are restricted in their movement, i.e. require the permission of the partner/husband¹⁹.

16 In 2019, the association of Romani women "Bolja budućnost" from Tuzla, in cooperation with the Romani women's network "Uspjeh", carried out research on a sample of one thousand Romani women.

17 Platform for the improvement of the rights and position of Roma women in BiH 2020, Association of Roma women "Bolja budućnost" Tuzla

18 Ibid.

19 Research on gender-based violence against Roma women in Bosnia and Herzegovina, <https://www.bolja-buducnost.org/index.php/bs/o-nama/dokumenti/summary/3-istrazivanja/5-istrazivanje-o-rodno-zasnovanom-nasilju-nad-romkinjama-u-bih>

Despite the available data, prejudices about Roma women in BiH society are often taken as a valid and justified opinion about Roma life, culture and tradition. These prejudices are reflected in the violation of the rights of Roma women and the tolerance of domestic violence, early marriages, human trafficking and child labor. Society sees all this as part of the Roma tradition, and not as a serious violation of the law and human rights and freedoms. The research shows that the municipal protocols for handling cases of domestic violence did not include the perspective or experiences of Roma women. Also, in safe houses for women and children victims of violence keep there should be precise statistics on the accommodation of Roma women. Currently, it is not possible to determine the exact number of Roma women exposed to violence, because statistics are not kept in institutions and safe houses.

RECOMMENDATIONS:

- Ensure gender equality in the process of drafting strategic documents and action plans for Roma men and women in the field of health, housing, employment and education, and change the methodology for drafting strategic documents to introduce mandatory monitoring of their implementation.
- Introduce specially designed sustainable employment/self-employment schemes for Roma women.
- Introduce specific measures applicable in Roma communities into the existing policies, strategies and plans related to the prevention of domestic violence.
- Introduce special measures for the prevention of child arranged marriages in the existing legislation, as well as in the strategy for the fight against human trafficking.
- Initiate the adoption of an appropriate program document for the prevention of discrimination and antigypsyism²⁰.

²⁰ Antigypsyism is a relatively new term for an old social phenomenon, the hatred, marginalization and oppression of Roma in the world. Antigypsyism is specific form of racism against Roma, Sinti and others who are stigmatized as "Gypsies" in the world.



PRAVA ZA SVE is a BiH civil society organisation active in the field of human rights protection and advocacy aimed at creating a fair and democratic society based on human rights principles. PRAVA ZA SVE seeks public responsibility for respect, protection and exercise of human rights for all; seeks justice for victims of human rights violations; promotes equal opportunities for all, irrespective of sex or gender, disability, race or minority status, sexual or gender orientation or any other difference; supports development and empowerment of excluded groups and communities.

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